

Scituate Board of Health Meeting
June 12, 2017
Scituate Town Hall- Selectman's Hearing Room
6:00 P.M.

MEMBERS PRESENT: Mr. Steve Pansey, Chairman
Mr. Doug Whyte, BOH Member
Mr. Russell Clark, BOH Member

OTHERS PRESENT: Ms. Jennifer Keefe, Director, Public Health

Mr. Pansey called the meeting to order at 6:01pm

Acceptance of the Agenda- A motion was made and seconded with all in favor of accepting the agenda.

Scheduled Items:

Discuss/Vote: Non-Compliance with Town of Scituate Board of Health Supplementary Rules and Regulations for Disposal of Sanitary Sewage, Septic Pro Inc.

Mr. Michael Walsh, from Septic Pro, Inc. attended the meeting to discuss the noncompliance with the local regulation for not submitting pump and haul records on a monthly basis since 2016. Ms. Keefe informed the Board that one of the regulation requirements is for pump and haul permit holders to submit the pump and haul records no later than 10th day of the following month. The regulation also identifies what information is needed on the records. Ms. Keefe noted that it has been a difficult process getting records from Septic Pro starting in 2016 and continues in 2017. After Ms. Keefe's numerous attempts to communicate the request to submit the pump and haul records to Septic Pro in person, via letter, via email, and via telephone call messages, the office routinely does not receive the pump and haul records. Ms. Keefe noted that since she did not receive any pump and haul records since January 2017 she informed Septic Pro in May that they needed to attend the Board meeting to discuss the violations.

The Board informed Mr. Walsh that they did not want to come down hard and do not want to take his business away but Ms. Keefe needs the pumping records and they need to be complete. The Board informed Mr. Walsh that he needs to do a better job. Mr. Walsh agreed. The Board also informed Mr. Walsh that he needs to respond to requests from Ms. Keefe and to provide what is being requested. The Board also noted that Mr. Walsh did not attend the last meeting and they were giving him the opportunity to attend because they do not want to revoke his permit. It is the last thing the Board wants to do to any business. Mr. Walsh thanked the Board. The Board asked Mr. Walsh if there was a problem with submitting the records. Mr. Walsh indicated that he has over extended himself and it was procrastination on his part. The Board noted that everyone has things to do but asked that he please respond to Ms. Keefe if his records will be late.

The Board asked Ms. Keefe where they stand with Septic Pro's records and the company is now up to date. Mr. Walsh presented one from January with an approximate volume pumped because it was a sewage break and he was pumping from the ground surface and it was hard to determine the volume. He had given the report to the Town's sewer department. The Board asked Mr. Walsh if he is clear on what is needed on the forms for Ms. Keefe. Mr. Walsh responded that he does know what is needed. Mr. Walsh noted that there was one that he needed to complete that did not have the owner name noted. Ms. Keefe wants to be clear to Septic Pro that the permit allows him to drive sewage through the town and any time Septic Pro pumps or moves waste that record needs to be sent to the office. Ms. Keefe noted that the Town sewer department needs the records but the Board of Health office also needs a copy of the records. If the pump and haul comes from a sewer break clean up, the Board of Health needs accurate records. The January case in particular was important information for Ms. Keefe. It allows the Board of Health to do additional work with other people and without appropriate records

the Board of Health cannot do the work needed. Mr. Walsh apologized for the lack of records provided to the Board of Health.

The Board stressed to Mr. Walsh that when Mr. Keefe asks for information then Septic Pro needs to give the information requested to Ms. Keefe just like everyone else does. The Board also noted that these are rules and regulations and these are records that need to be kept on a monthly basis. The Board noted that Septic Pro is not the only one that required submit records to the office and wanted to let Mr. Walsh know that they are not singling out Septic Pro.

Ms. Keefe informed the Board that she now has the January through May 2017 records and the June records are needed by July 10, 2017. Ms. Keefe also informed Mr. Walsh that if Septic Pro does not pump and haul during a particular month then a simple email to Ms. Keefe indicating “no pumping” that month is acceptable. Ms. Keefe also noted that these records help home owners to identify when their systems were last pumped. If there are accurate records the office can give the owners the information they need. The Board also noted that it is also good business and would also be beneficial to Septic Pro if there is a change in home ownership, then the new owner may likely continue to be business with the previous pump and hauler.

NEW BUSINESS:

Directors Report

Ms. Keefe gave an update on the following items:

- There are eight private well applications with six being received since the last meeting. These six are trying to get in before the new regulations go into effect. These are the last to be accepted and reviewed under the prior private well requirements.
- The pools are being inspected with two pools still outstanding and follow up with records of lab results will need to be submitted every other month by each pool.
- There is one camp application received and were currently getting all the final pieces together with the applicant so they are up and running once the school concludes for the year.
- The Board of Health is preparing for the beach season and Ms. Keefe is in the process of coordinating with the Recreation Department. The beach sampling signs went to the beaches with two exceptions. The office is working with Highway Department on the last two location signs and working with the lab on sampling.
- There are eight housing and five nuisance cases with no new cases received.
- There are six environmental cases with one new one on Country Way. A truck drove one way down Country Way releasing diesel fuel. DPW sanded the roads and the fire department and MassDEP responded. Ms. Keefe noted that when she was out doing inspections she noticed sand on the roads which is unusual this time of year. She made the call to DPW before anyone could reach her in the office. MassDEP also communicated with the Board of Health. Clean Harbors waalso quickly responded and Ms. Keefe will follow up with getting copies of the reports. The roads were sanded for a safety reason rather than for environmental reason.
- Septic is very busy with new and revised plans, certificate of compliance requests and eleven failures. There is one less failure that is now repaired and one almost complete with the certificate of compliance outstanding. There are four not necessarily working toward compliance and needs to follow-up.
- There were twenty one food inspections but she does not have the specifics to report. The office is active with permitting farmer’s market, temporary events, soft serve ice cream tracking, and permitted two new food establishments in the last several weeks.

OTHER BUSINESS:

Discuss/Vote: Adoption of Town of Scituate Private Well Regulation - Ms. Jennifer Keefe, Director of Public Health

Ms. Keefe informed the Board that she made edits to the final version she sent on Friday, June 9th for their review. Ms. Keefe noted that the intention was to adopt and vote on the regulations at tonight's meeting.

Ms. Keefe noted that the notice has been published in the Scituate Mariner and Patriot Ledger on June 1, 2017. Ms. Keefe noted that the private well regulations sent to the Board on Friday have been updated slightly since then. Ms. Keefe gave the Board the final version and noted the following changes: Section 2.0- first line under abandoned well- changed "criterion" to "criteria" and removed the extra spaces to be consistent with the other lists in the regulation, under the numbered items from one and six; on page two, the second line, number one, she removed the extra comma after contact information; page six, number 6, second to last line, changed "Approval for installation of" to "A permit for a private well" since a permit is needed for well decommissioning and repairs.

Ms. Keefe made note that after discussions with DPW engineering and the Board's comments from the last meeting, the cross reference to Title 5 septic failure was removed. After thought, the regulation does not want to conflict with Title 5, but wants to focus on what the well user/well owner needs to do in a given situation. In the appendix, for treatment, if there is an elevated bacteria level, then the owner of the private well needs to identify and address the issue.

If an owner is having a Title 5 inspection, then the Title 5 inspector needs to sample the well. If there is problem with levels needs to work out a solution with the owner per Title 5.

On page 8, she removed the extra space between 8.4 and 8.5; 8.5, last line use to say by the BOH, replace with the "Board," which is defined. In 8.9, she removed the space between statement and the list for formatting,

On page 8, item 8.12 was missing a few words and added from the previous version. "If the private well from a private well that serves as the drinking water supply for a building does not meet required concentration...." The rest of the sentence was missing words and put back in "following laboratory analysis at any time," and continued with rest of sentence- "the Board of Health may require that property owner provide an alternative approved source of drinking water for the inhabitants of the building served by the well."

On page 9, item 8.14 used to be 8.15 and she fixed the number. Item 9.1, third line down she removed an extra space. On page 9, item 10.2, she removed spaces. On page 13, item 21, Ms. Keefe cleaned it up removing red lines and making it a clean version, updated the date effective published in newspaper and filed with the Board of Health and MassDEP; appendix A, page 14, she cleaned it up and removed highlighting. She noted that a statement about treatment was added, contacting a well water expert there and in table 1 and table 2.

On page 16, table 2, the limit for Gross Alpha Screen was 15 pCi/L, however, looking at the figure on page 17, the initial value should be 5 because if it is greater than 5, radium must be analyzed. The Gross Alpha Screen was updated to 5 pCi/L on table 2. If the gross alpha screen is greater than 15pCi/L, then uranium.

The Board asked if anyone in audience had comments regarding the private well regulations. Mr. Bjorkland attended the meeting and mentioned that Ms. Keefe does not want to conflict with what the State is doing. He asked the question regarding Section 4.2- "Only one well per building is allowed. Further, no private well shall be used to supply more than one single family dwelling." Mr. Bjorkland asked if he put in a duplex then he cannot put in private well? Ms. Keefe re-read 4.2. She gave an example that if you have five homes using the same well you are putting five homes at risk instead of one if there is a problem with the drinking supply. If one well goes bad you have affected all five homes. Ms. Keefe noted to the best of her knowledge that MassDEP is not supportive of shared wells. Mr. Bjorkland noted that he would assume that with the new regulation that the

well water would be tested every year and therefore not putting people at risk. The Board noted that if the well goes bad five homes would be affected instead of one. If homes have separate wells, the chances of contamination are less. Ms. Keefe asked that if the well sits on one property and one of the homes gets sold then what happens to the supply for the others? The Board also noted if the well goes down 300 feet and the well loses water, then five houses do not have water.

Mr. Bjorkland asked if he was an investor, can he put in a well for both families in a duplex even if it is only one building. The Board noted that they can request a variance. The Board will deal with these instances when they come up and will deal with circumstances that arise from the private well regulation.

Mr. Bjorkland also had a question about septic. If his neighbor comes to the Board for variance to put in a well ninety nine feet from his septic system and they get the variance and something happens to their well, then his septic system would it be in failure. The Board indicated that they may not give the variance and this is a hypothetical circumstance. The Board noted that at the end of the regulation that it can be supplemented and revised by the Board. Mr. Bjorkland noted that a variance can be revoked and the Board confirmed.

Ms. Keefe noted that Mr. Bjorkland has the draft version with Section 4.8, which was removed in the final. Ms. Keefe noted that it was removed so Title 5 can deal with Title 5 and the well regulation can deal with the well. Ms. Keefe had a conversation with DPW Engineering to brainstorm that topic. The original intent was to provide the crossover between Title 5 and the well regulation. Ms. Keefe noted that in Appendix A, the source notes that if the well is sampled and has exceedances its well owner's responsibility is to find out why and treat the well. Through the course of the well owner doing due diligence, he/she may find out that the next door neighbor has a septic system that is 65 years old. The well is not necessarily the reason for the septic failure. The well owner needs to address the well problem. Mr. Bjorkland indicated that he was glad that this was removed from the regulation. Mr. Bjorkland apologized he should have come to more meetings through the process.

The Board asked Mr. Bjorkland if he wanted to review the current version and Mr. Bjorkland indicated that he would not be able to review it during tonight's meeting. The Board confirmed that what he discussed was removed from the current version. Mr. Bjorkland asked if the Board would hold off on voting until the next meeting. The Board stated that they have been working on the regulation for a very long time and Mr. Bjorkland had just started reviewing it. The Board asked Mr. Bjorkland how many of the houses he is currently developing have a private well installed. Mr. Bjorkland indicated that he currently is not proposing any wells and he is at the meeting to make sure that it does not hurt people in Scituate. He indicated that he was at the meeting to look out for the people coming for a well application and he does not think that people in the town have read the draft regulation cover to cover. The Board has addressed the clean version and informed Mr. Bjorkland that they are not hurting people in Scituate but looking out for the health of the people in the Town.

Ms. Keefe made note that the Board has meet twelve times regarding drafting this regulation and has been informing home owners in the last three months who come in to the office to submit applications that this regulation is going to be put in place. The office has been providing the "big picture" items with the draft being available so they understand currently what is required or owners can wait to install the well but will know what will be their responsibility later on including the transfer of property with sampling requirements needed. Ms. Keefe also noted that the state will be updating their guidelines for private wells.

Ms. Keefe also stated that many towns are putting requirements for sampling upon property transfer and Scituate is following the lead. Ms. Keefe has had numerous conversations with the State regarding their guidelines. Ms. Keefe noted that anyone requesting information regarding well installation is alerted on the major items being proposed. There are a lot of well applications coming in and the engineers are looking at our draft setbacks so they can implement in the plans in advance.

The Board noted that they have been more health oriented in drafting up the new regulation. Mr. Bjorkland apologized for only having an old draft of the private well regulations. He asked for clarification on, Section 4.5(9), "The grade adjacent to a well shall slope at least 2% to prevent accumulation of surface water. Provisions should be made to minimize surface water." The Board said the well driller will know the regulation and how far grading needs to be away from the well and that the installers know best on capping the top of the well. The Board noted that they need to trust the engineer and well driller, and this regulation is to give guidance. Ms. Keefe read the Section 7.1-" The private well shall be installed by a certified well driller, who should take into consideration the methods detailed in the EPA's Manual of Water Well Construction Practices and MassDEP's Private Well Guidelines, and any other applicable requirements regarding well installation." This is the certified well driller's professional's judgement in terms of best practices.

The Board noted that they had professional well drillers come in to give information to the Board to discuss these practices. The Board understands that Mr. Bjorkland is questioning this regulation because the people in the Town of Scituate will need to follow it.

Mr. Bjorkland noted that there is no number on his draft copy but when private wells are to be installed they should not be in the 100 year floodplain and is the Board going to tell them they need a variance. Some property owners may not be able to get out of the flood plain.

Ms. Keefe made note that it says "when possible." Ms. Keefe gave an example that when a design engineer comes with multiple septic upgrades, and wants to put it in a backyard they may be required to put it in the front yard, further away from tributary, but locating it in the best possible location. This will be the same for the wells. Mr. Bjorkland is hoping the Board will work with the owners. Mr. Bjorkland noted that the Board in the past 30 years has always worked with the property owners to help with septic systems and hopes the Board will always work with people and ensure it continues with the well regulations.

Mr. Bjorkland made a last comment, and asked what the purpose was for Section 4.4- " A well may not be installed in a Zone A, IWPA, Zone I or Zone II." Ms. Keefe noted the non-siting in IWPA, Zone I, Zone II was supported by MassDEP and it is to protect the Town's drinking water supply. Mr. Bjorkland made note that a person in these areas cannot put in a well but the water under an owner's property can be treated and sold back to the people. Ms. Keefe noted that she is not interested in what water is being sold. This is one topic that was discussed by the Board and as the health agent she was asked to speak to other communities and also to MassDEP. Through all those conversations these things were supported by the work done in other communities and MassDEP and their guidelines. The Board from the beginning of this process wanted to go along with the State guidelines. The Board said that Ms. Keefe did the due diligence with other communities including coastal towns with septic systems, combining other well regulations, the MassDEP guidelines, and this Board went with the information received and applied what works for the Town of Scituate. Ms. Keefe added that MassDEP and other communities are supportive of the IWPA, Zone I and Zone II exclusions. The Board added Zone A because of the Town's reservoir and the trucks, fuels and installations of the well in that area. Ms. Keefe's conversations with the MassDEP did not support or not support the Zone A exclusion and the MassDEP was leaving it up to the Town to decide. Some communities do not have a Zone A and that is why the Board wanted to look in to all communities.

The Board asked if they wanted time to review per Mr. Bjorkland's request. The Board did not want to offend anyone but wanted to move forward with voting on the regulation since they have been working on them a very long time. Ms. Keefe said if they find a lot of variances requests before the Board they will revisit the regulation.

Mr. Bjorkland noted that he would like the Board to revisit the regulation if they find in a few years that they have no applications, which would mean that the regulation is too strict and people cannot put in a well.

The Board has these regulations for the protection of public health. The Board heard the stories from the well drillers and other communities, people getting sick from running through sprinklers, filling pools, and/or

feeding their chickens. The Board may be strict with the regulation for those in town that want to have a well for irrigation and have to sample it as a potable well. The Board may be overcompensating with portions of the regulation but the Board would rather keep children and people safe. The well drillers that came to this Board asked the Board for this regulation and the Board feels it is the right thing to do from a health standpoint and water resource. There were people in that did not want any wells in Scituate. Mr. Bjorkland is not against the test process and disagrees with not being able to have irrigation system on a town water source if the irrigation well had time requirements it will be done properly and save water.

There was a motion made and seconded with all in favor to adopt the Town of Scituate private well regulation as set forth on June 12, 2017. All of the Board members signed the private well regulation.

The Board asked if anyone in the audience has a question. Mr. Keith Walo, 200 Country Way, indicated that he was at the meeting for observation but wanted to know if the private well regulation meets the open meeting law. Ms. Keefe noted that the Board has had twelve meetings and a copy is always available to anyone of what was discussed at those meetings. Ms. Keefe also noted that there is no specific requirement under MGL as to the length of time requirement for the public to review the regulation prior to adoption. The Mass General Law requirement is that the Board of Health must publish a legal notice to local newspapers including a summary of the proposed regulation and the proposed adoption date which was published June 1st, 2017.

LIST OF DOCUMENTS:

Meeting Minutes Approvals – May 15, 2017 and May 31, 2017- These minutes will be sent to the next Board meeting.

Administrative Invoices

ADJOURNMENT:

A motion was made and seconded with all in favor. At 7:00pm