

**Scituate Board of Health Meeting  
Monday, February 12, 2018  
Selectman Hearing Room  
6:00 P.M.**

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

**OTHERS PRESENT:** Ms. Jennifer Keefe, Director, Public Health  
Ms. Joan Schmid, Administrative Assistant

**6:00 MEETING CALLED TO ORDER/ACCEPTANCE OF AGENDA**

**Mr. Whyte called the meeting to order at 6:02 p.m.**

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

**SCHEDULED ITEMS**

*Discuss/Vote: Septic System Design Hearing - 87 Glades Road - Morse Engineering representing homeowner request for installation of a septic system requiring local upgrades/variances*

Mr. Gregory Morse from Morse Engineering and Ms. Doris Crary, the property owner of 87 Glades Road, attended the Board meeting. Mr. Morse stated this is the third septic system design for a septic system that has failed at 87 Glades Road. The previous septic design plan had a tight tank with 500% of daily flow. There was a contractor hired, who did not think it was physically possible to install the tight tank. Therefore, he did not take the job. The second contractor requested a new septic design for two smaller tight tanks adding to the one that was currently on site. The second contractor did not think it was feasible to install three tight tanks and did not take the job.

The third contractor was hired and requested a new septic design with one single 3,000 gallon tight tank instead of the previously proposed 5,500 gallon tight tank. The engineer stated that the tight tank comes in two pieces and is easier to maneuver. Therefore, Mr. Morse stated that they are requesting a variance for the 3,000 tight tank, which would reduce the required a 500% capacity to a 340% capacity with an alarm, pumping contract and a deed restriction. This tight tank will be pumped more frequently. The Board asked for the location of the alarm for the system. Mr. Morse responded that it will be inside and it will sound at 3/5<sup>th</sup> capacity. This will give time for tenants to call the owner to have the tight tank pumped.

The Board asked why the design plan identifies it as a “temporary”. Mr. Morse explained that to be fully compliant with Title 5, they are designing a tight tank; however, if the building is to be razed, they will install a septic system under a newly constructed structure with room for a leaching field beneath it. The Board stated that they were asking this question to make sure they understood the intent of the owner.

Ms. Crary asked if the abutters had time to provide comments. There were no abutters that attended this meeting. Ms. Keefe stated that the abutters were notified and she has been in touch with the Conservation Commission notifying them of the design change.

A motion was made and seconded with all in favor to approve the septic system repair plan with the following variances requested:

- 1) Reduction in the required setback between the tight tank and property line from 10 feet to a minimum of 5.0 feet, as identified on the plan dated January 28, 2018.
- 2) Reduction from the 500% design requirement for capacity to 340%

The system needs to be installed and a certificate of compliance issued within 30 days of this meeting. A deed restriction and an operation and maintenance contract are needed in advance of the Board of Health issuing the certificate of compliance.

*Discuss/Vote: Septic System Non-compliance with 310 CMR 15.000, The State Environmental Code, Title 5 and 105 CMR 410.000, the Massachusetts State Sanitary Code, Chapter II; 1 Tilden Ave, Power*

Ms. Keefe sent a letter on August 31, 2015 to Mr. James Power, Jr in care of Lizbeth Pease in West Brookfield, Massachusetts notifying them that the Columbia Gas Company responded to a report of a gas leak and encountered the sewage disposal system servicing the dwelling at 1 Tilden Avenue. Ms. Keefe was called to the property and on her arrival she observed the septic system, which appeared to be comprised of a PVC pipe exiting the dwelling that discharged to a metal drum approximately 12 to 18 inches beneath a manhole cover. At this time, she spoke to the occupant of the home, Mr. Power, who was ordered to have the system pumped so that the gas company could complete the necessary repairs to the gas lines. Ms. Keefe stated in the letter that the sewage disposal system that services the dwelling does not comply with the State Environmental Code, Title 5. Therefore, it is in failure and the owner was ordered to submit an upgrade plan for the system for the property within 30 days. Ms. Keefe had a telephone conversation with Ms. Pease, who indicated that she had legal issues with Columbia Gas Company for damaging their system and wanted them to pay for the upgrade. Ms. Keefe stated that nothing came of it and she sent another letter on December 11, 2015 informing Mr. Power and Ms. Pease that she had not received a design plan for a Title 5 compliant system although she had several phone calls from members of the family following receipt of the August 31, 2015 letter.

Ms. Keefe sent another letter on August 17, 2017 and noticed through review of the Assessor's database that there was a transfer of property ownership in October 2015 to Mr. Thomas Power, 1 Tilden Avenue. Ms. Pease was no longer listed on the assessor's card. An additional letter was hand served by a constable on December 18, 2017. Mr. James Power, the occupant, signed that letter. Ms. Keefe stated that the failed system was identified 2 ½ years prior to now with no progress to upgrade and Ms. Pease is no longer the point of contact.

Mr. James Power, the occupant of 1 Tilden Avenue, attended the meeting. He stated that he received the letter addressed to him and Mr. Thomas Power dated January 24, 2018 informing them that the Board was discussing the matter at this meeting. Mr. James Power stated that he is one of seven siblings and does not have any contact information for his brother, Thomas Power, who lives in Hawaii. Mr. James Power did not know that the Assessor had Thomas listed as the current owner and stated that the home is in a family trust that was left to the seven siblings by his parents.

Ms. Keefe stated that she had a conversation with Mr. James Power after the December 18, 2017 letter was received. Ms. Keefe noted that this is also a housing code violation and since Mr. James Power is the occupant she sent the letter to both Mr. Thomas Power and Mr. James Power. The Board asked Mr. Power if there are other family members that use the home. James stated that his siblings and family use the home in the summer, especially his sister, Kathleen. James stated that he is having difficulty with members of his family helping him out with the property and the septic system issue.

The Board asked Mr. Power who pays the taxes on the home and Mr. James Power confirmed that he has been paying the taxes. Mr. Power stated that he has left messages for his family members and no one is calling him back. James also stated that he has reached out to Mr. Greg Morse at Morse Engineering. The Board asked if there is Town sewer in the area and Ms. Keefe confirmed that Tilden Avenue is in the Glades Road area of North Scituate and there is no sewer available in this area of the Town.

The Board asked Mr. Power if the system is bubbling over and Mr. Power confirmed that it is not. He has it pumped regularly and he is working on financing but none of his siblings will help out. Ms. Keefe confirmed that she had several conversations with Mr. James Power and he has been in contact with Mr. Morse but no contractor work has been executed to date. Ms. Keefe stated that this is a housing code violation and Mr. James Power is not the owner but the occupant. Housing Court might help address the legal issue.

Mr. James Power stated that there is no mailing address or telephone number for Thomas Power. He does not know how ownership changed behind his back but as far as he knows the deed is still in a family trust.

The Board said they are pleased that Mr. Power spoke to an engineer. Ms. Keefe said that the home sits on the entire lot with a small amount of real estate. She further indicated that the options are limited, since there are physical limitations for the septic system location. The home is not elevated so the system could not go under it and the property lines are 1-2 feet from the structure. The Board asked Mr. Power if he has a relationship with his brother. Mr. Power said that he does not and he has not seen his brother Thomas in years.

The Board informed Mr. Power that the Board of Health prefers not to condemn the home but can and therefore remove the occupant to protect public health. The system has failed and there are questions about the legal owner, but the Board of Health needs to keep the public health interest first. The Board is glad to see forward progress. Mr. Power mentioned that he spoke to some contractors, who informed him that it would cost \$40,000. The Board noted that it may only be \$5,000-\$10,000. Ms. Keefe stated that a contractor would need to see a plan before they give a quote for the work and there is no plan for the septic system.

Ms. Keefe suggested to Mr. Power that he call the Mass DEP about the grant program and get the financial requirements, since there is a certain threshold. The Board noted that the Conservation Commission also needs to get involved to review the septic plan. Mr. Power stated that Mr. Morse indicated that there is no guarantee that a contractor will do the work and his siblings are not contributing. Ms. Keefe stated that the engineer that designs the septic plan will look at the property lines and potential easements. Mr. Power stated that he gets along with his neighbors but his siblings do not.

Ms. Keefe said that she will speak to Mr. Power about a contact at MassDEP for the grant funding, give him the housing court contacts, and give him a list of engineers.

The Board wanted Mr. Power to know that they have seen this issue in the past with other occupants of homes and wanted him to be aware that the current owner could put the home up for sale and then he is no longer the occupant of the home. Mr. Power said that he did not sign off on anything and there is not a single owner. Mr. Power said that his niece told him he is still listed on the deed. The Board stated this is when legal counsel comes in and even though Mr. James Power is willing to put the money into fixing the system, they suggested that he seek a housing lawyer. The Board stated that the current owner is responsible for fixing the septic system and that according to available records is Thomas Power, who was not in attendance at the meeting. Mr. James Power stated that his family probably wants him out so they can have the home to themselves.

The Board made a motion and it was seconded with all in favor to continue for 45 days until the March 26, 2018 meeting.

The Board thanked Mr. Power for attending the meeting to discuss.

## **NEW BUSINESS**

### *Director's Report*

Ms. Keefe informed the Board that there have been forty-four food inspections since the beginning of the year. Critical violations included expired food, coolers not holding the correct temperature, dishwashers not sanitizing, and food not held at the appropriate temperature. There also have been a number of temporary food permit events for both small and large events.

There are two new housing cases for a total of eleven and two nuisance cases with one closed and one new one since the last meeting.

Ms. Keefe noted there is one less environmental release and she just received the closure documentation from a home heating oil spill.

Ms. Keefe noted that there is one outstanding septic operation and maintenance repair needed and four outstanding operation and maintenance contracts, which is unchanged from the last meeting.

There are fourteen septic system failures or systems that conditionally passed with one being issued a certificate of compliance since the last meeting. Two of the failed systems were before the Board at tonight's meeting and two to be installed and issued a certificate of compliance.

Ms. Keefe is reviewing septic system design plans that have been received on January 25th or later. There have been six new septic system plans received in the last six days.

## **OLD BUSINESS**

None

## **OTHER BUSINESS**

### *Administrative Invoice Approvals*

The Board reviewed and signed the administrative invoices for approval.

### *Meeting Minutes Approvals- January 17, 2018*

The Board reviewed the meeting minutes for January 17, 2018. There was a motion made and seconded with all in favor of accepting the January 17, 2018 meeting minutes.

## **ADJOURNMENT:**

A motion was made and seconded with all in favor at 6:50pm.

## **LIST OF DOCUMENTS PRESENTED:**

A copy of December 26, 2017 letter to Dennis Badore and Doris Crary, Trustees of 87 Glades Road.

A copy of August 31, 2015 letter to Mr. James F. Power, Jr, c/o Lizbeth Pease for 1 Tilden Avenue.

A copy of December 11, 2015 letter to Mr. James F. Power, Jr, c/o Lizbeth Pease for 1 Tilden Avenue.

A copy of August 17, 2017 letter to Mr. Thomas Power for 1 Tilden Avenue.

A copy of the hand delivered December 18, 2017 letter to Mr. Thomas Joseph Power, owner of 1 Tilden Avenue and Mr. James Power, occupant of 1 Tilden Avenue.

A copy of January 24, 2018 letter to Mr. Thomas Joseph Power, owner, of 1 Tilden Avenue and Mr. James Power, occupant, of 1 Tilden Avenue.