**Scituate Board of Health Meeting**

**February 12, 2015**

**GAR Hall**

**MEMBERS PRESENT:** Mr. Russell Clark, Chairman

Mr. Michael Vazza, Member

Mr. Steven Pansey, Member

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

Ms. Susan Tice, Health Department

**7:00 PM** Open Meeting-Mr. Russell Clark opened the meeting at 7:00 PM

Public Hearing 5 Williamsburg Lane-Title 5 Septic hearing regarding

variance request-Mr. Gregory Morse representing homeowner

Greg Morse from Morse Engineering introduces himself and explains he is presenting a variance request for the septic design at 5 Williamsburg Lane on behalf of Elaine and Ken Bongarzone. He last spoke of this property at the BOH Meeting on December 22 where it was determined that the BOH Members wanted feedback from the Town’s Water Department and Water Resource Committee before deciding on this variance.

According to Mr. Morse, the variance he is requesting meets the standards required by the water resource committee and he explains he has revised plans that address the comments brought up by the Town’s Engineering Department. They include a revised floor plan to show 3 bedrooms, labeling the invert on the head wall and correcting the mislabeled horizons to accurately identify the B and C horizons. They also added a 2nd benchmark. Mr. Morse submitted a letter to the BOH regarding the variance on November 14 outlining the requirements. Mr. Morse explained that the property is 21,461 square feet and is entirely upland area and not flood plain. He has proposed a 3 bedroom home with access to Williamsburg Lane and explained they would install an alternative Microfast septic system instead of a traditional septic system due to the tributary and associated Town setbacks. He explained the lot was created in 1955 and in 1970 the owners granted the Town an easement for a drainage pipe which then caused the tributary to exist on the property. He explained that according to current zoning bylaws, the Town requires a 150 foot no disturb buffer zone, which encompasses the whole lot. Their current plan does not comply with the new bylaw because the lot was created before the buffer zone was created; therefore, they have filed a separate variance with the Zoning Board of Appeals and are meeting next week. Mr. Morse stressed that tonight they are seeking approval for a variance from the BOH solely for the installation of the septic system component. Mr. Morse cited Title 5 Section 15.410 as the reason the variance is being submitted and that he would meet the burden of proof. Mr. Morse stated that denying the applicant this variance would prevent the property owners from building any type of system and would render the lot unbuildable and would be manifestly unjust because they cannot comply with the 200 foot setbacks for the septic system due to the location of the tributary.

Jennifer Keefe questioned if the lot was deemed a buildable lot in 1955. Mr. Morse confirmed and explained that the owners granted the Town the easement for $1.00 in 1970 which caused the tributary.

Mr. Clark asked where the drainage went before 1970. Mr. Morse explained that it was overland flow and with the easement it produced a channel, which made it a tributary.

Mr. Clark asked if there was any fill on this land. Mr. Morse said there was some fill on the property but the land was tested. Mr. Clark stated he walked the property and felt the grading was peculiar. Mr. Pansey asked if the lots that are owned by Doug Sheerin also abut the tributary. Mr. Morse replied that the properties do abut the tributary but because they were new lots they were designed to comply with the bylaw.

Mr. Vazza asked how long the Bongarzones have owned the property. Mr. Morse replied the property has been in the family since 1955. Mr. Clark expressed his concern about how long it took them to decide they were going to develop the lot. He said there were a lot of gaps between the bylaws that were passed and now asked why they didn’t develop the land sooner knowing the laws were changing. Mr. Pansey said the Bongarzones should not be punished for waiting as private circumstances can change. Mr. Clark asked Ms. Keefe what happened at the Water Resource Committee meeting. Ms. Keefe stated that they met on Tuesday. This evening she gave Mr. Morse a copy to read and explained the committee was against developing this property 2 to 1. She explained she has not received anything official from Mr. Clarkeson of the Water Resource Committee. Mr. Vazza noted that the concerns of the Water Resource Committee were debatable because the decision was close. Mr. Clark stated he was concerned by granting this variance, they would be opening Pandora’s Box for developing other new lots so he takes this decision seriously. Mr. Clark stated he understood that Mr. Morse designed an appropriate septic system for the lot but he still doesn’t understand why the Bongarzones have waited so long to develop it. Mr. Morse stated that these were all valid points but the variance was mostly about the buffer zone. Mr. Morse reiterated that they were there tonight to talk about the septic alone.

Mr. Vazza stated zoning was not in their purview. The concerns associated with Title 5 are addressed with the Fast system. The question is whether it meets the hardship case. Mr. Pansey stated that this would be a serious variance if it was granted because the septic system would be located half the distance of where it would normally be installed. Mr. Vazza states that he believes this is a hardship case and he puts a lot of weight on the fact that the tributary was manmade; they weren’t flipping a house; that the land has been in the family for generations; and the tributary was a result of the easement the family granted to the Town of Scituate. Mr. Pansey sees a case for both sides. Mr. Vazza states again that he believes this is a hardship case and does not think this would be a precedent setting variance. Mr. Morse states that Title 5 and Mass DEP envisioned this type of variance coming before the local authorities and if the burden of proof is met, the local authorities can reduce the setback distance to 100 feet. Mr. Clark states he is not happy about the fill. He knows the system designed wll work, but he does not like where it is located. Mr. Vazza states that they are really here to talk about the system itself and its location.

Mr. Vazza would like an update on the FAST system. Mr. Morse explains that the tank has an initial settling zone, which settles out the scum and sludge with a second compartment, which is similar to an egg crate made of plastic. On the surface a blower pumps the waste through and provides enhanced treatment of the effluent which then goes to the distribution box and then to 2 leaching trenches. The Microfast system has been out since 1995 and has been approved by the Mass DEP as a general use denitrification system. This is not even in a Nitrogen sensitive area but the design adds extra insurance because of the tributary. This property is within a Zone II because those areas are associated with public wells. It is not in a Zone A because it is not a nitrogen sensitive area near a surface water body. This system provides a nitrogen sensitive system, which is not even necessary for this property. He provided the Water Resource Committee the nitrogen loading calculations on the site. If there was a conventional septic system, the runoff water to the reservoir would have 19.1 parts per million of nitrogen and with the Microfast system there would be 9.8 parts per million, which meets the drinking water standard. Mr. Clark asked if it is not a nitrogen sensitive area, why they are recommending installing this system. Mr. Morse stated this provides extra insurance with the FAST system because they are requesting the variance. Ms. Keefe agrees there are there is reduction in nitrogen on this site but not necessarily once it reaches the reservoir as it could come in contact with other pollutants along the way. Mr. Pansey asks about the Water Resource Committee report, the discussion on the Microfast system, and its requirements for a maintenance contract and how that works.

Mr. Morse explained there would be a deed restriction, which requires a maintenance contract and that the system would be inspected semiannually by a licensed wastewater treatment operator and a report would be sent to the BOH. The Water Resource Commission also asked how the BOH knows the owners are maintaining the system. Ms. Keefe explained the BOH usually has to educate new owners about the requirement for the maintenance contract. It has to be inspected twice a year and if their contract expires the BOH is notified by the septic inspection company that the contract has lapsed. It is the BOH responsibility at that time to contact the current owners and have them either renew the contract with the existing company or sign a new contract with a new company. It is also the responsibility of a realtor to explain to any new owner buying a home with an alternative system that this maintenance contract is a requirement of the system. Ms. Keefe confirmed this with Ms. Bongarzone as she is a realtor in Scituate. Ms. Bongarzone said it was part of the code of ethics for realtors to inform the owners about maintenance contracts.

Mr. Clark asked if there were any questions or comments.

Steve Bjorkland of 15 Captain Daniel Litchfield Lane introduced himself and wanted to explain that he has a Microfast system and is familiar and hasn’t had any problems with the system.

Mr. Bjorkland stated that the tributary is the real issue, and because it took so long to identify the tributary, the Bongarzone’s probably could not have proceeded much faster with regard to asking for the variance. They are constrained due to the size of the lot but are proposing a system that meets MassDEP regulations for the 100 foot buffer. He did not expect that the BOH would be approached with the same type of variance request, and he believes the situation is unique enough to approve the variance.

The BOH Members discuss that it meets Title 5 criteria for the variance.

Jennifer Keefe asked Greg Morse about what the installer would do if something occurs while installing the system and is there enough of a buffer to make the system fit? Mr. Morse said there is actually 110 feet to the leaching field and 100 feet to the reserve area.

Mr. Clark asked if there were any other questions or comments.

Eileen Bongarzone identified herself as the owner of 5 Williamsburg Lane and asked if she could explain further why they waited to develop this piece of property. She stated that they waited because of retirement and somewhat regrets not developing the lot in 2013 when they had the original septic system approval. It was a traditional system, which would have cost a lot less but with the discovery of the tributary, she is happy that the Microfast system will protect the water. Mr. Clark thanked her for her input.

Mr. Pansey put forth the motion to grant a variance for 5 Williamsburg Lane to put their septic system no less than 100 feet from the tributary in the corner of the lot, including a deed restriction, and requiring a contract to maintain and inspect the alternative system twice a year with the assurance that the maintenance contract will follow from owner to owner.

Mr. Vazza 2nd the motion.

All in favor, Unanimous, Motion Accepted.

Mr. Morse and the Bongarzones thanked the Board members.

Mr. Clark asked Ms. Keefe to present the Directors Report.

Ms. Keefe said she wanted to update the Board on what has been happening in and out of the office. In the past the Health Department has been a support mechanism for the operations conducted by the EMD/Fire Department for the shelter. As of January 2015, the Health Department is responsible for running the shelter. The department is responsible for coordination of medical personal and volunteers, setup, staging, breakdown etc. which is a new role. During the Juno storm there were 22 residents, 2 dogs and 1 bird. The shelter was open Monday evening, January 26 through Wednesday afternoon, January 28. We want to thank Staples and the Inn for their generous supplies and Selectman Maura Curran for mobilizing so many wonderful volunteers to shovel in order for our seniors to return to their homes and to help dismantle shelter operations. She thanked the following staff for their help: Maura Glancy, Pat Gallivan, Kim Stewart, Laura Minier, Nancy Durfee, Kathleen McCarthy, school food service and the amazing custodians as well as Sean McCarthy, Kevin Kelly, Chrissy Chessia. She also thanked the local nurses, MRC volunteers, CERT, and SANDS. The department submitted our shelter costs to the EMD so they could be submitted to MEMA for potential reimbursement. There were 300 volunteer hours.

The department is currently working on a property with a failed septic and has been in contact with the current owner to have the septic system pumped until it can be repaired properly. The Conservation Commission is also involved because the effluent is affecting the wetland across the street.

At the beginning of the year the department worked with Scituate FACTS coalition, Scitute Police and John Roser at Scituate TV to make an Opiate PSA to urge residents to be safe over the holidays.

There are currently two active housing complaints that are perceived landlord/occupant issues and one is likely to end up in the court system.

Sue Tice has taken on the job of documenting and following up on compliance for Servesafe and Allergen Awareness associated with food permitting. She is coordinating Chokesafe certifications for the establishments that seat 25 or more not currently in compliance with this permit requirement. She has been coordinating a training class instructed by Mark Donovan, EMT and Jamie Miller at the Pub at Widow’s walk to host the event, which will take place Wednesday, February 25, 2015.

The Department received a call regarding from a driller to install a geothermal well and are going to investigate whether it is under the purview of the BOH. We have his contact information and he said he would keep the department informed regarding his progress.

The department is responsible for implementing an Emergency Preparedness Grant and part of the responsibility is an emergency binder to make information accessible in the event of public health emergency. Sue Tice has been working with the consultant to update local resources, such as pharmacies, nurses, hospitals, emergency personnel in Scituate and many other resources in case of a biological, chemical or radiological emergency. It has not been updated since 2008.

The department has gotten permission to put a piece of furniture outside of the office to make public health information available to anyone who comes in to Town Hall. Sue Tice has been gathering pamphlets and booklets so the department can become a good resource for public health information. Finally Jenn Keefe explains that she has provided a hard copy of the Annual Report, which she had previously emailed to the BOH Members. She would appreciate their comments and approval as it is due this week. They discuss the contents and how the public nurse tracks diseases and Mr. Clark thanks Jennifer for the report and all of her hard work.

The Well Regulations will be discussed at the next meeting due to the inclement weather.

Administrative Approvals: Purchase Orders

Ms. Keefe distributes regulations for the BOH

Department as requested by Board Members.

Meeting adjourned: 8:20pm