

**Scituate Board of Health Meeting
Monday, July 30, 2018
Selectman Hearing Room
6:00 P.M.**

MEMBERS PRESENT: Mr. Doug Whyte, Chairman
Mr. Russell Clark, BOH Member
Wendy Oleksiak, 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 and opening the meeting.

SCHEDULED ITEMS

Discuss/Vote: Septic System Design Hearing – 127 Ann Vinal Road– Morse Engineering Company, Inc. representing homeowner request for installation of a septic system requiring local upgrades/variances.

Mr. Gregory Morse from Morse Engineering attended the meeting on behalf of the owner. Mr. Morse said it is a septic system upgrade project for 127 Ann Vinal Road. Mr. Morse said they were before the Board in May to discuss several local upgrade approvals and they attended the Conservation Commission meeting in June. Mr. Morse stated they have made some septic system plan changes from the Conservation Commission meeting and are requesting updated local upgrades and variances. Mr. Morse stated it is still a two bedroom house with wetlands in the back and a cesspool that failed Title 5. The new septic system proposal is to locate the septic system in the front of the yard with a leaching chamber bed. Mr. Morse stated that the Conservation Commission wanted to reroute the water service from the south side to the north side of the property with a gravel trench to the side of the property due to the abutting neighbor's concern with drainage. Local upgrade approvals requested include: 1) Reduction in the setback between the SAS and the foundation wall from the required 20 feet to 14 feet, 2) Reduction in the setback between the septic tank and pump chamber and the water service from the required 10 feet to 3 feet, 3) Use of sieve analysis instead of perc test, 4) Reduction in the setback between the drain (swale/trench) and the septic tank and pump chamber from the required 5 feet to 3 feet.

The following local variances requested: 1) Reduction in the setback between the septic tank and pump chamber and the property line from the required 10 feet to 7 feet, 2) Reduction in the setback between the SAS and the property line from the required 10 feet to 7 feet.

Mr. Morse said this is not new construction. There is an existing home in a tough wetland area with a failed septic system they are trying to bring into Title 5 compliance.

The Board asked Ms. Keefe if she has any concerns and Ms. Keefe had no concerns. The Board noted that this property is in a tough location. Mr. Morse said the Conservation Commission has approved the plan.

Mr. Steve Coombs from 129 Ann Vinal Road attended the meeting. He indicated that his home has windows six inches above the ground level and asked Mr. Morse if he had the capability to remediate if it leaks and he has fecal bacteria leaking into the cellar. Mr. Morse said he would have to know where it was coming from. Mr. Coombs said the proposed septic system will be four to three feet from his property line. Mr. Morse said the

septic tank is located eleven feet from his property line which is within the ten foot Title 5 requirement. Mr. Morse said the soil absorption system is located twenty eight feet from his foundation which is within the twenty foot Title 5 requirement and complies with Title 5 requirements. Mr. Whyte said the plan meets the Title 5 requirements. Mr. Coombs asked if it will be remediated if it leaks into his cellar. Mr. Morse said he would not and if Mr. Coombs had a problem he would need to speak to the Board of Health.

Mr. Paul Mendes of 121 Ann Vinal Road attended the meeting. Mr. Mendes asked Mr. Morse if the set backs are ten feet from the property line or the foundation. Mr. Morse said Title 5 setbacks are 10 feet from property line and ten feet from the foundation. Mr. Morse said he proposed a 7 foot setback from the property line. Mr. Mendes asked Mr. Morse where the proposed wall is located. Mr. Morse said the wall is two feet from Mr. Mendes' property line. Mr. Morse asked Mr. Mendes if he permitted a project with a wetland on his own property. Mr. Mendes said he did. Mr. Morse said he understood that the wetland had been either filled or altered and therefore there are no longer wetlands on that side of the property. Mr. Morse said that the Conservation Commission had been out to the property and confirmed that a wetland does not exist on Mr. Mendes' property line. Mr. Mendes showed the Board pictures of puddles on his property line. Mr. Morse said that puddles are not wetlands. The Board said the Conservation Commission went out to the property and noted that Mr. Mendes showed these pictures at a previous Board meeting. Mr. Mendes indicated he had a professional wetland expert identify it as wetlands. Mr. Morse said he used Brad Holmes, a professional wetland scientist. Mr. Morse said there are a lot of factors that go into determining wetlands. Mr. Mendes asked again how far away the wall will be from his property line. Mr. Morse said the wall will be two feet off the property line and the septic system is seven feet from the property line. Ms. Keefe said there is no Title 5 setback to a wall and the Title 5 setbacks are distances from tanks, property lines, and leaching fields. She also said the Board is required to review to the Title 5 regulations and the State regulations allow for the Board of Health to reduce these setbacks based on a priority list and the setbacks do not include a wall setback. Ms. Keefe said the Board cannot make a determination that the wall is not acceptable.

Mr. Mendes said there was a cease on the property. Ms. Keefe said there is a cease associated with building construction. She said it is the jurisdiction of the building department and the Board cannot rule on the building. Mr. Mendes is concerned about where the water will go. Mr. Whyte said the Conservation Commission had already been out to the property and approved the plan.

Ms. Oleksiak said if Mr. Mendes was concerned about safety, the purpose of the meeting was to ensure that everyone is protected and this meets Title 5 regulations. She also said this new system is much safer than the current system located in the back wetlands. Mr. Mendes said if this plan goes through the water will have no place to go. Mr. Whyte said the water was there before the property was sold and it did not happen because of work on the property. Mr. Mendes said the water just sits there and said it will get worse. Mr. Morse noted that Mr. Mendes said it already fills up with water. Mr. Morse said the retaining wall was designed so there is free flowing passage of water and these changes were made as a result of Mr. Mendes comments at the Conservation Commission meeting.

Ms. Oleksiak asked Mr. Morse to explain the swale to Mr. Mendes. Mr. Morse described the swale on the plan to Mr. Mendes. Mr. Whyte reiterated that Mr. Mendes said they have always had water. Mr. Mendes is concerned about the ground water just sitting there and he thinks it will be worse. Ms. Keefe said the goal is to replace the current cesspool to a Title 5 system in the front to get it out of the wetlands. Ms. Oleksiak reiterated this is a proposed safe septic system being planned for the property. The Board said Mr. Mendes should speak to the Conservation Commission about the wetlands and building department regarding the building.

Mr. Clark said something had to be done on the property with the failed septic system and the engineer has proposed a septic system that he said will work with the Conservation Commission approval.

Mr. Morse noted that all three of the properties are in a flood plain, and if they flood now they will flood in the future. Mr. Morse said the proposed system was designed to fix the current failed system. Mr. Mendes has a consultant, and he said he will appeal the Conservation Commission decision.

A motion was made and seconded with all in favor of approving the septic system repair plan with the local upgrades requested that include: 1) Reduction in the setback between the SAS and the foundation wall from the required 20 feet to 14 feet 2) Reduction in the setback between the septic tank and pump chamber and the water service from the required 10 feet to 3 feet 3) Use of sieve analysis instead of perc test, 4) Reduction in the setback between the drain (swale/trench) and the septic tank and pump chamber from the required 5 feet to 3 feet. And with the following variances requested: 1) Reduction in the setback between the septic tank and pump chamber and the property line from the required 10 feet to 7 feet, 2) Reduction in the setback between the SAS and the property line from the required 10 feet to 7 feet.

Discuss/Vote: Septic System Design Hearing – 761 Country Way– Morse Engineering Company, Inc. representing homeowner request for installation of a septic system requiring local upgrades/variances.

Mr. Morse from Morse Engineering attended the meeting representing the owner of 761 Country Way. Ms. Keefe noted the green abutter cards were given to her prior to the meeting. Mr. Morse informed the Board the North Scituate property is the white building, which had a store and offices in the past with two one bedroom apartments on the second floor. The building has a cesspool behind the property. The property is located on 2760 square feet. Mr. Morse is proposing a new septic system with a tank in the back of building with one 50 foot long leaching trench. The septic design requires local upgrade approvals, and the owner is requesting two Title 5 variances. Both abutters were notified with one being the MBTA and the other an auto body shop. Mr. Morse showed the Board the plan, building, property line, and the existing cesspool location. The area in back of property is thirty four feet by twenty feet for the proposed new septic system. Mr. Morse said because of the mixed uses in the building the septic tank is required to be a 1500 septic tank with two compartments.

Mr. Morse indicated there is a local upgrade setback needed from the required 10 feet to 2 feet from the property line and the soil absorption system; from the required 10 feet to 5 feet from the septic tank and the property line. The reduction from the required 10 feet to 8 feet from the soil absorption system and the slab foundation of the abutter auto body shop; the reduction from the required 10 feet to 3.1 feet from the property to property foundation; and a local upgraded approval for a 25% size reduction in the soil absorption system. Due to the confined area they could only do one test pit in area, and requesting a local upgrade for only one deep hole in this area. There is a gas line to WPA building with an existing cesspool in that area. Mr. Morse said they are requesting a variance reduction from the required 5 feet to 4 feet from the bottom of the oil absorption system, he indicated the soil is good with less than 2 inch per limited to accommodate the area. He indicated that a reduction for the required over dig of 5 feet will be achieved on majority (75%) of the system with the exception along the back line at 2 feet over dig. Mr. Morse indicated to the Board that without these variances it will be a tight tank.

Ms. Keefe said the original plan was submitted on July 17th and she sent comments to the engineer from her review at the end of the day on July 26th. She had not had a chance to look at the plan that was dropped off before today's meeting. The Board asked Ms. Keefe for her recommendation. Ms. Keefe asked the Board to continue to give her the opportunity to review the new plan and see if anything else is outstanding to come back to the Board with any subsequent revisions. Ms. Keefe said a tight tank is only used as a last resort so she would like some time to review the new plan.

A motion was made and seconded to continue the hearing for the septic repair plan with the variances and local upgrades requested until the meeting scheduled for August 13, 2018.

Discuss/Vote: Non-compliance of the required septic system operation and maintenance contract- 40 Cliff Road South, McBride

Ms. Keefe informed the Board that she received a letter from the operation and maintenance company on March 26, 2018 indicating the contract was not renewed. A letter was sent and signed by the trustee on May 14, ²⁰¹⁸. The July 5, 2018 letter came back undelivered. Ms. Keefe noted that the ownership remains the same. In the past the owners were served with notice to reinstate within 21 days. Ms. Keefe noted that the owners are located in Holyoke and she would have to figure out a way to reach them. They will be looking ahead at a condemnation hearing if they do not comply.

A motion was made and seconded with all in favor to have them served with an order to reinstate with 21 days and provide a signed operation and maintenance contract to the Board of Health or will result in hearing enforcement.

NEW BUSINESS

Director's Report

Ms. Keefe gave her directors report

Congratulations to Joan Schmid as the new Assistant Director of Public Health.

There were twenty food inspections between July 2nd and July 12th. Critical violations include no sanitizer, food not holding temperature, on one in charge, no one present choke safe trained, food not dated and labeled, ice machine dirty, food not stored properly posing cross contamination. Food inspections between July 18th and July 10th included one preopening and one re-inspection.

The office is prepping for Heritage Days with a record number of thirty temporary food permit applications vendors and working with the Scituate Chamber and vendors to be prepared to issue permits on Saturday after they pass inspection.

Camp season- permitted and inspected three camps serving a large number of children.

There are three nuisance cases and four new complaints.

There are two new private well applications in review.

Pool inspections were conducted last week unannounced. Lab reports follow up on each pool samples for lab analysis

Beaches are sampled every Tuesday and reported online. Last weeks were good with some creeping up but in allowable levels.

One new housing case with six active

Grant reports are due tomorrow for Mass housing grant for FY 19 for the fourth year in a row.

There are five environmental releases.

There are a large number of as builts for septic certificate of compliances.

Two new septic plans received since 7/10 with 17 septic conditional passing or in failure.

OLD BUSINESS

Discuss: Septic Betterment Program

Ms. Keefe provided the updated summary of the State Guidance document. At the last meeting she provided a summary up to page twenty nine of the ninety page document. The Board reviewed the summary. Ms. Keefe said the next step will be to go through all the administrative forms by the state and other town examples and create a list for the Board to get their opinion. The Treasurer office is also looking at the documents. Ms. Keefe is working with other departments and asking the Boards questions.

The Board asked if the added fees for the homeowner should be in the betterment program. The Board would like to see the money spread out to as many people as possible. The Board thinks the betterment should be rolled over to the new home owner since other town betterments are rolled over. Some mortgages will not allow it. Ms. Keefe noted that a priority list will be established. Anyone wanting to participate in the betterment must have a failed septic system. Ms. Keefe is suggesting the Board have a ranking criteria by points to establish priority applicants and then if necessary when new funds are available those that applied and did not get funding will now be priority for the next betterment funds when they are available again. Ms. Keefe noted that the criteria and applicants will be blinded to the Board.

Mr. McDonough from 41 Utility Road attended the meeting. He said he spoke with Pat Rogers from Mass DEP who wrote the septic betterment program and said Mr. Rogers would be happy to help out the town if they have any questions. Ms. Keefe said Mr. Rogers has been helpful in the past and she will reach to him when she has all the questions rather than calling for one or two questions. Mr. McDonough said the betterment takes first position of the sale of the house for this particular program over the mortgage. He also said the town can go to Town meeting and request the money again for the program so even if only three people benefit from it this year, the town only borrows what is needed from the state. The maximum voted at Town meeting was \$200,000 and if more money is needed it can be provided by the state by a vote by Town meeting. The BOH said yes, Mr. McDonough said there seems to be a lot of extra work being done and he is not saying the Board is wasting his time but it is a functioning program that has been in effect for a number of years. He said he spoke to the town of Easton and the Board could reach out to them. The Board noted they have Easton's forms with a number of other towns and the documents are all different. The Board agreed there is a need in the community and they will see who will use the program. The Board thanked Mr. McDonough for his input.

OTHER BUSINESS

Administrative Invoice Approvals

The Board reviewed and approved the invoices.

The meeting minutes for May 30, 2018 were tabled.

Adjournment at 7:20 pm.

LIST OF DOCUMENTS PRESENTED

A copy of the letter from Jennifer Keefe to Mr. Nicholas Greco, 40 Cliff Road, dated March 26, 2018

A copy of the letter from Jennifer Keefe to Ms. Mary Lou McBride, Trustee, 40 Cliff Road, dated May 14, 2018

A copy of the letter from Jennifer Keefe to Ms. Mary Lou McBride, Trustee, 40 Cliff Road, dated July 5, 2018

Summary of the State Guidance Betterment document.