

ACTON BOARD OF HEALTH  
MINUTES OF MEETING  
JULY 21, 1987

Board members present: Chairman Daniel Costello, Richard Stephens, Charlotte Sagoff, George Emmons, Richard Oakley, and Associate member Campbell Amos.

Staff present: Doug Halley, Director, Sanitarians Edward Wirtanen and Marion Donahue, clerk Carol Holley.

Guests: John Dunphy, Steve Bedard, Dick Dolan, Jill Reeves, Dave Erickson, William Yetman, Bruce Stamski, Stephen Briles, Louis Levine

The meeting was opened at 7:35 p.m. with a review of the minutes of the previous meeting. Mr. Oakley moved to accept the minutes as corrected, Mr. Emmons seconded, all voted in favor.

7:37 p.m. Review of correspondence. Mr. Emmons noted that oil and hexane recovery figures were dropping off exponentially at the WR Grace site. The history of the spill was related by Mrs. Sagoff, with a notation that, at the time the spill was detected, Mr. Stephens had stated that complete recovery is never effected. Mr. Halley stated that an aeration process might have to be started with the soils. Mrs. Sagoff expressed a desire to have this process tied into the other cleanup procedures at WR Grace.

Mrs. Sagoff moved that the Board of Health request that the WR Grace Company perform test borings to find out how deep the contaminated soil is and how much oil & hexane remains to be recovered. Mr. Emmons seconded. All voted in favor.

7:41 Review of AIDS related material. Mr. Emmons noted that NIH has a book that gives a good feel for projections. Means of AIDS transmission in underdeveloped countries were noted by Mr. Emmons as something he had learned at a local AIDS meeting. Mr. Emmons noted that he discussed sex education in the seventh grade with Dr. Knights after this AIDS meeting and Dr. Knights agreed that the curriculum at the seventh grade level needs to be more explicit. Dr. Knights related that many pediatricians had offered to teach about AIDS in the High School. These courses could also be videotaped. Mrs. Sagoff opined that as long as the TV industry exists, it will be practically impossible to teach abstinence and self control. Mr. Oakley noted that in his pharmacy 14 and 15 year old girls have been obtaining birth control pills by prescription. Mrs. Sagoff suggested requesting pill manufacturers insert leaflets about condoms for protection against AIDS in their packaging. Mrs. Donahue noted that doctors are dispensing birth control pills too frequently for young girls in order to regulate periods and reduce discomfort. Mrs. Sagoff said that music videos tend to stimulate impulsive behavior.

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DATE September 14, 1987  
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TOWN CLERK, ACTON

7:56 p.m. Appeal of variance for depth of stone, Article 11 Acton Code, 13 Notre Dame Road. Mr. Wirtanen, in response to a query from Mr. Costello about this regulation, turned the floor over to installer Dick Dolan. The use of the stone as storage space for effluent was discussed, the exact volume of storage area in this particular case was calculated, and several other functions were calculated by the Board. It was learned that by granting this variance to local code several distance variances to state code would be avoided thus gaining at least one month's time. Mr. Dolan related that the perc rate on this site was under 4 minutes per inch. Mr. Stephens moved to grant a variance to Article 11-15.9 for 13 Notre Dame Road provided the pressure dosing design complies with state regulations. Mr. Oakley seconded. All voted in favor.

8:10 p.m. Village Arms, appeal of pool variance. Mr. Bedard appeared before the Board of Health to answer questions on usage figures. Mrs. Sagoff moved to grant the variance for the balance of the pool season of 1987. Mr. Stephens seconded. All voted in favor.

8:11 p.m. Meineke Muffler. Request for permanent Occupancy Permit.

Mr. Dunphy introduced Mr. Yetman, appearing before the Board for issuance of a final occupancy permit so that he could resurface his parking area. Mr. Costello noted that the condition of the original temporary occupancy permit was installation of a new septic system. The history of the site was explained to Mr. Emmons, a newer Board member. Mr. Costello asked if the Board of Health was satisfied with the Meineke system and its condition. Mrs. Sagoff noted that some conditions and qualifications must be given if this permit were to be granted, to provide some kind of backup. Mr. Halley showed the temporary occupancy permit to Mr. Costello with a letter. Mr. Costello suggested that a motion was in order to (1) change the temporary occupancy permit to a regular occupancy permit (2) release in writing Mr. Yetman d/b/a Meineke Mufflers bond in the amount of \$1,000 which is his certified check #1066. This release has to be in writing to the Town Treasurer. Mr. Emmons so moved and Mrs. Sagoff seconded. Mr. Costello noted that this motion should be amended to read that, after due and careful consideration the existing system is approvable and there is no need at this time to construct a new subsurface sewage disposal system. Mr. Stephens noted that the effort put forth by Mr. Yetman had been in good faith. Mr. Costello noted the continuances that had been granted. A third condition was added to read: (3) the existing system is functioning at its current level and does not require replacement unless the use of the property changes. All voted in favor of the motion as amended.

8:24 p.m. Payless Cashways

Mr. Emmons read the memorandum from Mr. Halley regarding the pavement of the recharge area. Upon query by Mr. Stephens, Mrs. Sagoff noted that protecting this water is very important. Mr. Emmons noted that there is no wall preventing the flow of groundwater between red and yellow zones.

Mr. Stamski expostulated that of 41 inches annual rainfall, about 50% potentially goes into the groundwater. The rest goes into vegetation or evaporates. By putting the roof runoff back into the aquifer, the initial

objective of the first plan was total recharge of the system of roof and parking lot water. It the Board of Health's and Mr. Abbt's recommendation to see if this were the best strategy to use and discuss the matter with GZA vis a vis contaminants from the parking lot. Mr. Stamski stated they can still redeem 95% of what was recharged and the rest slowly can go into the brook. Mr. Emmons asked what happened to zinc, cadmium, copper and lead that goes into the catchbasin. Mr. Stamski noted that it eventually goes into the wetlands. Mr. Stephens asked if lead flashing would be used on the roof. Mrs. Sagoff asked how this could be prevented from going into the aquifer. Mr. Stamski stated that entrapment in the wetlands would be preferable to going into the aquifer. Mrs. Sagoff asked how much of a trace was a trace. Mr. Costello asked if GZA and the Water District felt if this would have any effect. Mr. Stamski noted that certainly there are some contaminants in any construction of a parking lot and what he tried to do was comply with the requests of the Board of Health and provide the best protections affordable.

Mr. Stamski noted on the plan that the runoff is collected from the parking lot into one area and there is a clay lined filtered outlet structure so we do not get any substantial infiltration into the pond indicated on the plan. Mr. Emmons noted that some of the contaminants will remain or be filtered but the rest will be in the isolated wetland indicated on the plan. Mrs. Sagoff asked if that goes to the pond; Mr. Halley and Mr. Stamski noted that vegetation will absorb some and some will sink. Mr. Emmons asked about maintaining the isolated wetland. Mr. Stamski replied, not without Conservation Commission approval, and even then maybe not. This wetland is subject to local bylaw and not the State. According to State laws, you only have to maintain volume of water. If there were a build up of contaminants it would be indicated on a soil sample. Mr. Halley noted that the Board of Appeals would have to be dealt with as well because this is in the flood plain.

Mrs. Sagoff asked if it could be written into the permit that this contamination be checked from time to time. Mr. Halley noted that the isolated wetland is not on Payless Cashway's property. Attorney Lou Levine interrupted to note that an easement could be obtained for this purpose, and noted that the wetland also abuts Main Street and contaminants could come from there. Mr. Oakley noted that the surface area draining into the wetland is large compared to the road frontage. Mr. Costello related that this could be discussed with the Conservation Commission, and the Town does not now have a policy on this matter.

Mrs. Donahue asked about whether or not the pressure treated material will be under total cover or just canopies. Mr. Stamski replied that it could be conditioned in the permit that this material may not be exposed to the weather. Mrs. Sagoff desired to have it stated how. Attorney Levine advised that this would be a totally enclosed building.

Attorney Levine noted that for the Selectmen, hazardous waste management plans were being developed. This was being done on an industry-wide basis, anyway. The personnel at this site will be trained in how to deal with spills. What we give to the Selectmen can also be given to the Board of Health. Mr. Costello agreed that this would probably address the Board of Health's concerns.

Per query of Mr. Costello regarding other issues, Mr. Halley noted that the monitoring well system material had been recently received from GZA and they appear to be in line with expectations. Mr. Oakley noted that the Board of Health had requested more than 4 wells. Mr. Stamski noted that the first two wells are the closest to the side of the septic system and if you pick up something you have a 411 day travel time to the well with all wells pumping. If there is a problem having the other wells in place he did not think it would provide anything in terms of further protection.

Mr. Costello inquired if the parties were here for a special permit. Mr. Stephens wished to read the requested report from GZA and obtain staff comments. He noted that a request for legal advice was on record. Mr. Halley noted that an answer from Town Counsel would not be pursued without a very specific legal question. Mr. Stephens replied that he thought that the regulation as written would be a major obstacle to the Board of Health taking any action on this site and a potential block to Payless should a citizen challenge approval of this site plan. Mr. Stephens also observed that the Board was looking for a mechanism for passing this matter, in view of the TAPR. The regulation does not explicitly state a variance procedure. Were the Board to pass a special permit by the very regulation prohibiting building, this regulation could be challenged by someone who has done little to protect the aquifer. Mr. Halley noted that any approval would need to be very specific. Mr. Stephens asked if approval would dissolve the regulation. He requested this matter be referred to Town Counsel as to the potential consequences of the approval. Mr. Costello suggested that Mr. Stephens draft a letter to Town Counsel outlining all the Board of Health has done and then the action the Board would like to take. Mrs. Sagoff concurred. Mr. Emmons noted that if the Board were going to deny this site plan, it should be done now. Mr. Stephens noted that moratoriums should have a specific lifetime.

Mr. Levine opined that the easiest way is to grant the applicant a variance, relating that other people are waiting for Board of Health action on this site.

The Aquifer Protection Regulation was reviewed. Mr. Stephens noted that taking a site-specific approach has been done in the past. He stated that Mr. Stamski and his clients wished to build a retail outlet, not a court case. Mr. Costello asked what the Board would do if Counsel stated it could not be done. Mr. Stephens noted that the regulation could be rewritten. Upon query of Mr. Halley, Mr. Stephens noted that his intent was not to deny this request. He noted that he would like to take action that serves the Board's purpose and does not preclude serving the Board's other purposes in the future.

Travel time boundaries were discussed. Mrs. Sagoff asked if a 365 day travel time boundary could be determined.

Mr. Stamski read the regulations regarding site-specificity. Is it within the scope of the powers of the Board of Health to say, on a particular project, we determine that this meets the measurements and provides the protection?

Attorney Levine interjected that a legal argument on behalf of his clients could be based on the word "reasonable". Mr. Stephens noted that according to the report the Kennedy Well is 1440 feet from the septic tank on this site. The Marshall Well is across the street, and the flow is toward it. It is 1920 feet away. Mr. Stephens moved to take this matter under advisement for staff to review material and make recommendations. Mr. Oakley seconded. Mr. Costello asked about hazardous material management program. All voted in favor of taking under advisement. Due to the fact that there will not be a quorum for the night of July 28, 1987, this matter was postponed until August 4. The meeting was continued until August 4, at which time Payless Cashways will be first on the agenda.

9:14 p.m. Request for Special Permit, repair of septic system at 3 Harvard Court. A 5 minute recess was declared upon suggestion of Mr. Emmons.

9:25 p.m. Consideration of Special Permit request. It was noted that there are two 1,000 gallon tanks, serving two 4-bedroom duplexes. Mr. Stephens asked if this repair would be up to code. Mr. Wirtanen noted that there would be no reserve area, unless it would fit between the trenches. He explained some of the problems he had been experiencing with DEQE regarding repairs, and inconsistencies in that Acton and Nashoba Region towns seem to be singled out for variance procedures by DEQE.

Mr. Stephens moved to grant a special permit subject to the following conditions:

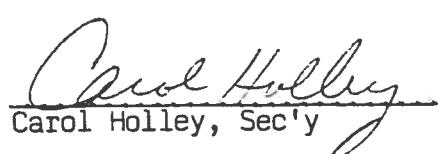
1. No underground fuel storage tanks allowed on site.
2. Septic tank will be pumped once yearly.
3. The site will fully conform to the Town of Acton Hazardous Material Control By-law.
4. The sewage disposal system for the proposed buildings at this site are to be approved by the Acton Board of Health staff.
5. Leaching facility to be designed and installed with an intermediate layer with a percolation rate of between 6 and 10 minutes per inch in those areas that have a percolation rate of less than 2 minutes per inch, or with pressure dosing of the system provided said system is designed in accordance with DEQE regulations.
6. Sewage disposal system is a minimum of 100 feet from flood plain and/or wetlands.
7. Floor drains are not permitted.

Mr. Emmons seconded, all voted in favor.

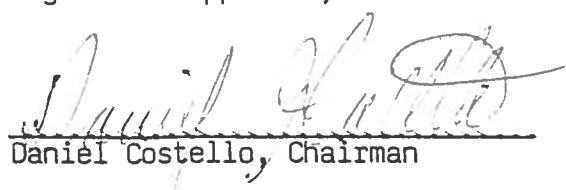
9:31 p.m. Review of proposed TAPR revisions. Mr. Emmons noted that he had spoken with Don Johnson regarding revisions. Mrs. Sagoff offered her comments.

9:35 p.m. Mr. Oakley moved to adjourn. Mr. Emmons seconded. All voted in favor.

Respectfully submitted,

  
Carol Holley, Sec'y

Signed and approved,

  
Daniel Costello, Chairman