

PLYMPTON BOARD OF HEALTH HEARING FEBRUARY 28, 2019 AT 5:30 P.M.

Present: Art Morin, Chairman, Harry Weikel, Jr., Treasurer, Brad Cronin, Clerk, Greg Corbo, Town Counsel, Robert Tinkham, Health Agent, Cathy Ferguson, Administrative Assistant. See sign-in sheet for other attendees.

**Chairman Art Morin (“Morin”)** opens the hearing to reconsider the variances for West Light Development’s properties at 165 Palmer Road (M6-B1-L3) and 0 Palmer Road (M6-B1-L3A) at 5:40 p.m.

**Attorney Serkey (“Serkey”)**: For the record my name is Richard Serkey I am an attorney in Plymouth and to my right is Kevin Grady the project engineer. The subject property that Kevin will go through with you on the easel to my right is a tract of land containing two proposed single family house lots, each of which contains less than 5 acres and on each of which a variance has been requested in order to have a mounded septic system. The Local Regulations for Title 5 systems state that mounded construction must be on a lot that has 5 acres or more and for that reason West Light the owner of both lots is requesting a variance from that provision. The purpose of the regulations according to section 2 are as follows: these regulations are intended to protect the public and environmental health, provide adequate water supply and waste water treatment and ensure the residents a safe clean and healthy environment to live in. The essence of West Light’s case is that the initial treatment that’s being proposed by these systems and the monitoring provided constitute an equivalent degree of environmental protection as the additional required acreage would. With that I will ask Mr. Grady to go through the details of the plans if that’s ok with you.

**Morin**: Fine.

**Greg Corbo (“Corbo”)**: Mr. Chairman before we get started, good evening, my name is Greg Corbo and I am town counsel for the Town of Plympton. Mr. Chairman is this meeting being recorded?

**Morin**: Yes.

**Corbo**: Thank you.

**Kevin Grady (“Grady”)**: So the septic system design I am proposing meets all the setback requirements for Title 5, all the setback requirements for the Local Regulation, specifically the setback to wells, buildings, property lines, adjacent wells and the design that we’ve chosen here additionally incorporates the secondary treatment system and a Perc Rite Drip Dispersal System that provides additional treatment. So in this case the effluent leaving the dwelling goes through the Jet Aeration secondary treatment unit and basically the effluent gets treated with aeration and a blower in here and then after that’s treated it goes over into a pump chamber and a hydraulic unit then it goes out to the leaching system. The leaching system in this case is made up of one inch tubing with emitters that slowly disburse the system into the environment that allows the

effluent to be introduced into the environment in a few ways. A typical system we basically rely on filtration and volume and storage. These systems where it drips we are relying on infiltration but we are also relying on evaporation root uptake so there is less effluent discharge towards the groundwater. The system has been designed for full separation between estimated seasonal high groundwater and the bottom of the system as a standard system would be. We are also proposing, well with the secondary treatment we are required to have monitoring and testing – annual monitoring and testing – from a monitoring and testing company that will be contracted and there are additional requirements. So that’s basically how the system works. I don’t know if you guys have any questions on the components and the layout as far as the technical parts of the system.

**Morin:** Are there any questions from the Board? The Chairman recognizes Harry Weikel, Jr.

**Harry Weikel, Jr. (“Weikel”):** As far as the setback from wells?

**Grady:** So we are 200 feet from the proposed wells we are also, there are no wells within the vicinity at all of the system that would show that the 200 foot setback. So if you look here, you can see the arcs for the 200 foot setbacks we meet that requirement.

**Weikel:** So the setbacks, does that mean wells of adjacent properties?

**Grady:** We didn’t see any wells in the records or during our surveys that are closer than 200 feet.

**Morin:** There is a, just for your edification, there is a public water supply on the lot next door. That’s overseen by DEP. DEP oversees public water supplies, the Board of Health oversees private wells.

**Grady:** That’s associated with the restaurant?

**Morin:** Right.

**Grady:** And the restaurant is no longer there.

**Morin:** It’s still classified until the owner requests to get it out of a public water supply, according to DEP it will stay a public water supply. That’s the way they work. Not our rules it’s the state.

**Grady:** OK.

Chairman recognizes Buzz Artiano.

**Buzz Artiano (“Artiano”):** I’m Buzz Artiano West Light Development owner. So the owner has to have control of their Zone One and that is the only requirement under public water supply. I am very familiar with public water supply. We are in the Zone 2 and we have the right to develop our property. You cannot stop that. The only thing that they require is to go into Zone

1 and if he can't meet the Zone 1 radius and he doesn't have control of it then it's not a valid public water supply. Plain and simple.

Chairman recognizes Robert Tinkham.

**Robert Tinkham ("Tinkham"):** I think the only issue Mr. Artiano, is to try to figure exactly where that well is and is it over 100 feet away from the septic is the only question I think the Board is asking.

**Grady:** We will certainly locate that well, but we are in Zone 2 of that.

Chairman recognizes Allen Wheelock.

**Allen Wheelock, ("Wheelock"):** 10 Center Street. Can I just ask why you are using the non-standard septic system?

**Grady:** So we are proposing the secondary treatment and the Perc Rite System as an additional layer of treatment to further meet the purpose of your regulations. We don't know what the environmental health justification for that 5 acres is, but we can assume that it has to do with the quality of water being discharged in the vicinity of private or any wells, so we've added this extra layer to move toward that.

**Wheelock:** So if you had sufficient land you would not be doing this?

**Grady:** In order to propose an alternative treatment system through Title 5 we are required to show that we can site a conventional system on the lot and we've done that. So we could switch to a conventional system if the Board would prefer that.

Chairman recognizes Greg Corbo.

**Corbo:** So when did you purchase the property?

**Serkey:** In June of 2018.

**Corbo:** And it was one lot at that time?

**Serkey:** Correct.

**Corbo:** And the lot was less than 5 acres?

**Grady:** Yes, it was approximately 3 acres.

**Corbo:** And the property was vacant?

**Serkey:** Correct.

**Corbo:** So did you do a perc test prior to purchasing the property?

**Grady:** Yes.

**Corbo:** OK so at the time you purchased the property you knew that you would have to put in a mounded system

**Grady:** Yes.

**Corbo.** And when was the property subdivided?

**Mr. Spath (“Spath”):** The subdivision plan is dated November 2, 2018.

**Grady:** The signed copy of the A&R Plan.

**Corbo:** And so at the time you subdivided the two lots you knew you would need two mounded systems? And were you aware of the Board’s regulation at the time you purchased the property?

**Grady:** Yes.

**Corbo.** Now in submitting this application for the alternative system, DEP has certain requirements of information that has to be submitted with the application. Are you familiar with that?

**Grady:** Yes.

**Corbo:** So has all that information been submitted to the Board with the Application?

**Grady.** To the best of my knowledge.

**Corbo:** OK so Mr. Chairman, on Page 5 of the Standard Conditions of Secondary Treatment Units there is a list of a number of documents that are required to be submitted with the Application. Proof that the designer has satisfactorily completed any required training by the company for design and installation of the technology. Do you have that?

**Morin:** No.

**Corbo:** Certification by the designer that the design conforms to the general condition of the approval of any company design guidance in Title 5. Do you have that?

**Morin:** No.

**Grady:** Which letter was that one?

**Corbo:** C.

**Corbo:** Letter D, a certification signed by the owner of record for the property to be served by the technology stating that the owner has been provided a copy of the approval, the owner's manual, the operations and maintenance manual and the owner agrees to comply with the terms and conditions. Do you have that?

**Morin:** No.

**Corbo:** That the property owner has been informed of all the owner's estimated costs associated with operation including, when applicable, power consumption, maintenance, sampling, recordkeeping, reporting, etc. Do you have that?

**Morin:** No.

**Corbo:** Understands the requirements for a service contract?

**Morin:** No.

**Corbo:** Agrees to fulfill his responsibility to provide a D notice as required by Title 5?

**Morin:** No.

**Corbo:** And other things. So do you have these things and have not submitted them or?

**Grady:** We can submit those. We have done several hundred of these type systems that are designed and installed and permitted. I don't recall ever submitting proof of the training requirement although I do have them. The certification that the owner is aware of the technology being used basically are those last ones that you read that typically comes it gets submitted after the review engineer's review or before the issuance of an occupancy permit. We can provide that information for sure and the owner is aware I just need to give you certification right there and he submitted the application and he's gonna sign them and he has all this stuff and we have to put it on paper. And so we can provide this data.

Chairman recognizes Harry Weikel, Jr.

**Weikel:** The DEP in conversations I've had with them said that there needs to be a contract with the developer. You need to enter into a contract with the developer to maintain and inspect the system before it's sold. And to maintain that until it is sold. Are you aware of that?

**Grady:** Yes.

Chairman recognizes Mr. Corbo.

**Corbo:** So what arrangements have you made to make sure that this system is going to be property maintained and inspected for the duration of its use?

**Grady:** So we don't enter into a service contract without a permit. That's putting the cart before the horse. These type systems are installed, we've done hundreds of them so there's a contract that the homeowner will enter into with the licensed sewage inspector or service company and they are required to submit their inspection forms to the Board of Health on the annual or quarterly basis or whatever is required to ...if it's quarterly at the start and then it goes to annually so those inspections are submitted to the Board of Health. The Board of Health may not have so many of these systems and it's probably not set up for it like many of the adjacent towns at this point, but I'm sure your health agent has seen those submittals in other town.

**Corbo:** Mr. Chairman, what is the capability of the Board of Health for the Board's staff to administer a program like this?

**Morin:** Like just about everything in Plympton, the Town House is open 22 hours per week as you probably know. And most everybody with the exception of a couple of EMTs and our Police Department I think everybody else is part time. We have our Administrative Assistant who works 20 hours per week and quite honestly our fear is that we won't be able to keep up with this, with these systems should they go in and once you let one in you have past practice. So that's a major concern of ours and it would be more of an expense to the town. The other thing we do have a system in town, and off the top of my head I can't tell you what the name of it is, but it requires monitoring and we had just a miserable time, and again the homeowner was supposed to take out a contract and have it monitored, I think it was quarterly, and they didn't and there's no enforcement. There's nothing – well there is one thing the Board can do – we wrote letters and wrote letters. Now what we can do is declare the home uninhabitable and remove the family. But that's very extreme if something were to happen and this town is all wells – there may be a handful of houses down at the Middleboro line that have Middleboro water – that's it. Everyone else has a well and we take that very seriously because without potable water in a home it's uninhabitable. And the reason that those homes have Middleboro water is because the Middleboro dump is a little further down the road and it contaminated the groundwater so we have some experience with a high tech system it's an old one but it doesn't matter how new or old it is if people don't cooperate or if something goes wrong – may they rest in peace – the space shuttle challenger failed because of a 25 cent O ring. It happens and we take potable water very seriously.

**Grady:** So you indicated that that system has been around for a while and it's older. I don't know how old about 10-15 years old but whatever there's a lot more of these systems in place in the vicinity now. There's a lot more waste water treatment plant operators that are available to do these types of inspections that helps keep the cost down. Back when this first started there weren't a lot of waste water treatment plants and operators and the prices were high and they didn't have systems in place where they were monitoring and sending these letters into the Boards on a regular basis. So because it's more routine than it has been in the past and it isn't as arduous as you might think. Secondly, if this isn't helping with the effluent and how it relates to the well we can go right back to a conventional system and eliminate that portion of it and not treat it and we will still have the same setback to the well that a 5 acre lot would have and the same treatment as the 5 acre lot would have. You still require a 200 foot setback to the septic even if it's on 5 acres so we can eliminate the treatment system we just thought that it might be something that would move closer to the purpose of your regulations and help you out.

Chair recognizes Mr. Tinkham.

**Tinkham:** Mr. Grady is there any way to make the pre-treatment units in this SAS nitrogen removal as well?

**Grady:** There are nitrogen removal type systems that we can look at. But that's not going to eliminate the monitoring and testing.

Chair recognizes Harry Weikel, Jr.

**Weikel:** Your experience in these systems when it comes to dealing with the manufacturers and their warranties, the Town of Plympton notoriously loses power. Just about everybody in town has a portable generator. What do you know, if anything, about manufacturers having a problem with the use of an emergency generator to run the system?

**Grady:** The alternative treatment system would work similarly to a standard pump system in this case the pump chamber has 200 percent storage capacity in it. Basically two days. This one is let's see we have a 1500 gallon pump chamber.

**Weikel:** From what I read in the manuals, this system seems to be sensitive to power fluctuations.

**Grady:** So what would happen if the power went out we would have almost 700 gallons of storage capacity in the pump chamber so over 2 days if they were using regular water flows if they were taking showers and running their laundry it probably would be less than that probably using less water when they are out of power so when the power is out it would run by gravity until the tank got filled up and then they would have to pump it out.

**Weikel:** Aren't there other pieces in the system that require power?

**Grady:** Yes there would be an aerator so there would be a potential short-term outage of the aerator function for the system assuming that these people did not have a generator like you were indicating a lot of the residents in town do. So out of a 365 day a year power is out annually not that many days. It has been out for a week in some points in really bad years but that's not standard.

**Morin:** Well I've lived in other communities and I have never seen the power go out anywhere like it does in Plympton. I don't know why, but just the other day we lost the power all over town because of trees and things like that so its way more than other area towns.

Chair recognizes Mr. Weikel.

**Weikel:** I guess I'd want to know if the warranties – if there's anything in their disallowing use of a generator or the fact that a generator can fluctuate.

**Grady:** I am not aware of that in warranties but would certainly look into it.

**Morin:** I just want to read some excerpts out of this from the DEP and mapping the groundwater.

**Corbo:** Yes I believe Harry had some information about the groundwater as well he wanted to present.

**Morin:** Again because 99.9 percent of the town is on private well water our Open Space Committee is in the process of doing some things working with DEP and I'm going to read you the letter from the co-chair of the Open Space Committee. I asked them to shoot us a quick narrative. The Board's aware of it but this is from Linda Leddy. "The Open Space Committee is responsible for the Town's open space plan which includes identifying all potential community wells and ensuring that mapped groundwater zones, related protections and designated uses are updated via the town's bylaws. A few years ago the town took the first step in this direction by controlling possible toxic substances in the groundwater districts but in the last few months we have learned from DEP that DEP is concerned that the extent of our mapped groundwater areas as well as the protection provisions for uses of land in those areas are likely outdated or inadequate. In addition, DEP has noted that we seem to have very few potential community wells designated which is a concern when locating new houses and businesses in town. We are taking steps now to prepare a warrant for this year's town meeting to hire a hydrogeologist during the coming years to study these questions, prepare a report to clarify our current status and if necessary to recommend new protection measures the town should consider putting in place. Clearly the possibility of the town changing the rules when building septic systems is a concern given the unknowns outlined above. We don't have the information to access how or if a new septic rule might impact the groundwater and well protective zones. We hope by this time next year that we will."

So those are some of the concerns that they have working with DEP. Linda, what were the terms DEP used? We were woefully inadequate?

**Linda Leddy ("Leddy"):** Well in an informal conversation of 2 hours, they used the word disastrous, but what they are saying is that if the town's ability to get the data and assess the data and figure out our needs and we just haven't done it. To be honest, I made this call in innocence thinking that we had a short update of 10 minutes and they are not pretending that they have done the analysis for us because each town has to do it yourself. But they looked at what we have and they said you are way behind the 8 ball and need to get out there and get this study done. Figure out where you stand, maybe you will be fine but the map indicates that they think we should be worried because we don't have we are not evidencing that we are prepared properly. It was totally unknown. We discovered this 4-5 weeks ago at the most. And that's why it has just come up and we are going to try to deal with it.

**Morin:** Thank you.

**Grady:** May I ask how that relates to our applications before you?

**Morin:** Yes because the Board is concerned about groundwater, it is concerned about failure.



That's a very wet area. It's been called a swamp up in there. We are concerned and we know about the groundwater and that fact that everybody has a well because everybody here lives in Plympton. We are concerned about this. It is always top of mind awareness. You don't fertilize your lawn close to a shallow well – all of that type of thing.

**Grady:** Where I kind of lose understanding of what's going on here is that what's the difference between this application that we have before you relating to your overall groundwater problem your overall drinking water supply versus one that has a system in the ground?

**Morin:** First of all for something with a high water table we have a 5 acre rule.

**Serkey:** Why?

**Morin:** It was put in years ago basically for the protection of the water.

**Serkey:** But if in fact a peer review would conclude that this system with the safeguards offered with monitoring and pretreatment would be as protective for purpose of the bylaw as 5 acres would be why is this system prohibited?

**Grady:** And we are providing the same groundwater separation that other lots that don't need this variance are asking. We are providing the separation from the system to the groundwater that is required.

Chairman recognizes Attorney Corbo.

**Corbo:** The issue here is one of density so it's an area of high groundwater and so the judgement of the Board at the time of this regulation was enacted was that we want to reduce the amount of nitrogen that is being introduced into these areas of high groundwater and the way that we do that is by spreading out the systems by having minimum lot sizes. So this system though it may have heightened technology, it may be mounded, still contributes more nitrogen into the water table than no system. And so the judgment of the Board in enacting this regulation was that we want to spread the systems out to reduce the total amount of nitrogen loading in these wet areas. And so the burden on the applicants seeking the variance is twofold. First, that there is manifest injustice in denying variance or applying the regulation and second that you are providing a degree of environmental protection. It's up to the Board to decide whether or not the mounding in connection with the alternative system is providing that level of environmental protection.

Chairman recognizes Mr. Serkey.

**Serkey:** Mr. Corbo isn't that the responsibility of a peer review consultant with the same degree of expertise as Mr. Grady rather than a judgment of a lay board. And we are asking that the submission be evaluated by a professional against the standards set forth in the purpose of your bylaw, knowing full well that this is a regulation promulgated by the Board of Health rather than a zoning bylaw adopted by a 2/3 vote of town meeting. This can't be construed as a growth control tool it has to be construed as an environmental protection tool. And if you view it as an

environmental protection tool the question becomes is in fact the proposed system in any way less protective of the environment than if it were surrounded by 5 acres of open land. That's a ... that's a technical question based on the purpose of the bylaw as I read it.

**Corbo:** it's a technical question, but it is the Board of Health who is here to answer that question and it's their prerogative to determine whether that's within their expertise or whether it is something they want a third party to weigh in on.

**Serkey:** Well I respectfully request for this very reason that the submission that has been made to you be evaluated by the peer review consultant to be paid for by the applicant measuring the submission against the stated purpose of the regulation. Will it protect the public health, provide adequate protection for water supply and waste water treatment and ensure the residents a safe clean and healthy environment to live in. Because that's the standard that's set forth in the regulations.

**Corbo:** So your contention is that this system provides the same level of protection as no system at all?

**Serkey:** No obviously not. I'm saying that this system provides the same degree of environmental protection as a lot containing not just one and one half acres, but if it had 3 and a half acres or more than one and half acres it would have five acres and we wouldn't need a variance. Right? So the question becomes does this system on one and one half acres jeopardize the environmental to an equal degree to a lesser degree or to a greater degree than if there were three and a half extra acres on this lot. That's the question in my mind. Because if it was a five acre lot we wouldn't need a variance. So why 5 acres? Given the purpose of the bylaw. What's the magic in that?

**Morin:** A couple of things. If there were a failure in a conventional system it's not going to do the damage this will and I don't know if you hear me clearly or not this Board is concerned about groundwater and wells. Secondly, when this property was purchased I would assume that the purchaser knew about the 5 acre rule or should have known about the 5 acre rule. Now it's a 3 acre lot and it was submitted to us in October without even being subdivided. It had to go back out and get subdivided. We talked to the Assessor's Office and it hadn't been, a lot of the paperwork that we need to have submitted wasn't submitted. Your engineer wanted to have this thing on the agenda and we put it on the agenda for the end of November but nobody said anything, nobody showed up. We don't notify anyone when their septic plan is going to be reviewed. So this is not an exclusion, just so you are perfectly clear on this then we put it on the agenda for December – and this is answering some of your points in your email or your statement we put it on for early December. And you state it was 2 days that we took to notify the engineer that is because we meet on Tuesday night, we are closed on Wednesdays, the next time Cathy is in is Thursday. That's the next time she works to notify somebody. There's no delay as you are suggesting here. Then we heard that you were requesting to be put on the agenda to be heard on the 11<sup>th</sup> of January and then no they are not coming in they want to come in on the 26<sup>th</sup> or whenever the next meeting was so it was put on and if somebody shows up we have to have it on the agenda to be legal to talk about it. If nobody shows up, we skip over it.

**Serkey:** I just didn't want anyone on the Board or in the audience to think that he was aware of the fact that it would be acted upon that night and chose not to be present. That's not the case either.

**Morin:** Well it's a rarity that somebody that has a plan submitted to us shows up that night. It doesn't happen we look at the plan once it comes back and we vote on it and then we take it from there so.

**Serkey:** We are just asking Mr. Chairman and members of the Board that the submission before you be evaluated at the petitioner's expense by a peer review consultant to determine whether or not the standard as I've articulated it has been met or has not been met. And I think that's a reasonable request because ultimately your decision needs to stand or fall on your own regulations and if in fact it could be shown as we believe it can that this system with 3 ½ acres of additional land which it doesn't have would offer the same degree of environmental protection as the other 3 and ½ acres and my question would become why can't we have a variance.

Chairman recognizes Mr. Cronin.

**Brad Cronin ("Cronin"):** My question to you is so you are seeking a variance because you have some hardship in meeting the prescriptive rules of the 5 acre rule correct? Instead of one variance for the 3 acres and one single family dwelling which would have been the initial hardship we now have a further hardship by subdividing it and creating two single family homes so what is the hardship that you are asking for relief from for these variances that isn't by your own doing?

**Serkey:** I would turn it around to you Mr. Cronin and ask you what is the purpose of your rule and regulation - it's to protect the environment and if in fact the system before you cannot be found to be more dangerous to the environment than an identical system on a five acre lot then why is the variance being denied. What purpose is it other than to control growth rather than to protect the environment?

**Cronin:** Would you agree that there's going to be twice the volume of discharge from two single family homes as there would be from one?

**Serkey:** Yes I would.

**Cronin:** OK then that would answer your question.

**Grady:** There are two conforming lots.

**Cronin:** Not conforming to the proscriptive rule or we wouldn't be here correct?

**Grady:** They conform to the zoning so if you own these lots wouldn't you.

**Serkey:** Each lot complies to all applicable zoning requirements in terms of frontage, area, setbacks and so forth.

**Cronin:** Sure. That's not what we are here discussing

**Serkey:** Well I'm not so sure that it isn't. What I'm saying is that the function of the Board of Health it seems to me is to protect the environment and all I'm asking for is for a review to determine whether or not your regulation is protective of the environment or whether as I put it in my complaint whether it's a zoning regulation in disguise.

**Cronin;** After hearing town counsel go through the list I don't think that we have even sufficient information yet to send it out to the third party reviewer

**Serkey:** Well to the extent that the package is deficient it will be it will be supplemented so that it's complete.

**Cronin:** So we are a little premature in sending it out until we get all information.

**Grady:** On that note my experience when we submit plans to the Board. Let me ask you what is your typical process when a plan come in to you?

**Morin:** A plan comes in the town has adopted a sequence of events, it goes to the treasurer's office to see if the taxes are paid on the property. The Board of Health is last on the list, because if ConCom doesn't approve the plan or one of the other boards there's no sense for us to review it. It's a waste of time. If the taxes aren't paid there's no need for anybody to do anything.

**Grady:** So in my experience when I submit plans to the Plympton Board of Health all of my plans have been sent right out to a review engineer. How many plans do you not send out to a review engineer when you receive them or is it just this one. That's why when we spoke that first time I was surprised and I wanted to discuss that why isn't this going out because I've never heard of that before.

Chairman recognizes Harry Weikel, Jr.

**Weikel:** Did you go to the building department or the treasurer?

**Grady:** I can't get a building permit if I don't have septic plans.

**Corbo:** There is a request by the applicant to have the application submitted for peer review. There has been a suggestion by one of your board members that such a decision is premature until you get a completed application. My suggestion would be that you continue this hearing for a period of time to see if you get a completed application. Once you have a completed application then determine whether or not it should be submitted for peer review or whether it's ready for action by the Board. This is an application for variance it's not your regular run of the mill application. That's my recommendation at this point. Unless there is additional evidence that you wish to state.

**Weikel:** It's just that in the process of reviewing this, in talking with Linda Leddy I've pulled some drawings that were done by the Open Space Committee with the Old Colony Planning and they kind of jump out at you. This one here is for the septic limitations in the Town of Plympton. That circled area is the area that you want to that you are proposing the variance on. The colors indicate the severity of the septic limitations of the Town of Plympton red being most severe, gold being severe. This property is in the severe section. So that's a concern. The next document, that's the wellhead that's adjacent to the property in question. This document shows the recharge abilities in the various areas of town the darkest blue the recharge is very very low, the next is moderate. That piece of property is in the moderate section and it doesn't recharge as well as it should. These are concerns that we have and it's part of our review not just the fact that it's a system that the DEP says the science is good. We have to consider more than just the science, we have to consider how it affects the entire town and what effects it might have in the future for the entire town.

**Serkey:** My request would be that assuming that the additional documentation that Mr. Corbo listed is submitted I'm assuming if the package is complete you will be in a position then to make a decision but it seems to me that if if the you will be in no better position I suspect to make a decision then then you are tonight and I would like to know whether or not assuming the package of documents that needs to be submitted is submitted whether or not you are prepared to have this reviewed by a peer review consultant or whether your position is simply that you will reject it out of hand.

**Morin:** We had this hearing so you could present your case. We set aside our vote of December.

**Serkey:** To make it clear what I am asking you tonight is not necessarily to make the decision tonight if you feel that an independent review at the expense of the applicant by someone of your choosing is something that you are willing to entertain before you make your decision. Because I think it is important to evaluate this proposal not against what articles might come before town meeting at a future date with the respect to protection measures for wells and groundwater but it has to be evaluated against what risks this application poses to the environment measured against the standards in your own rules and regulations. Given the fact that the lots otherwise comply with all applicable zoning requirements.

**Morin:** Understood.

Chairman recognizes Linda Leddy.

**Leddy:** Sorry I'm just catching up with all this. Could you clarify something I think it was Mr. Grady who said it that we can switch over to a conventional system on that lot. So I'm sort of confused about the nature of this discussion. If you assume that 60,000 square feet or whatever it is for our minimum log acreage on these things so you are saying that you could just go ahead and put a conventional system in right? And it would work.

**Grady:** Yes so.

**Leddy:** So why bother with the variance it sounds like it's to me you can put a conventional system in and off they go. What am I missing.

Chair recognizes Greg Corbo.

**Corbo:** They can't put a conventional system. The issue here is that because of the groundwater level of the property the system has to be raised so whether it's a conventional system or an alternative technology it still has to be raised above which trigger the 5 acre rule.

**Leddy:** That's what answered my question. A conventional system does not qualify because of the nature of the groundwater height.

**Grady:** We can put a conventional system in it doesn't change the amount of area on the lot the regulations require that if I propose a secondary alternative type treatment I have to show on the plan that I can put a conventional system on the lot. The reason being if they lose their approval at some point in the future or something out of the ordinary happens I can switch to a conventional system. It's actually shown on the plan a conventional system but it doesn't change the shape of the lot.

**Leddy:** So it would be mounded, it would look the same as a flat system or would it be a mounded system?

**Grady:** It would have to be mounded. We wouldn't be here if we didn't have to have a mounded system. This all relates to somehow a system out of the ground has the unique environmental hazards that one in the ground doesn't have but they both have groundwater separation and treatment.

**Serkey:** Analogies are often risky but I'll venture one to you. This lot is a disabled lot it needs an extra measure in order to be able to function as well as a lot that wasn't disabled. The disability is the distance between the system and the groundwater and so by raising the system we are accommodating this lot by giving it the measure that it needs in order to function equally well as a system that didn't need that extra level of protection, rather than just say the lot cannot be built on, even though it complies with zoning.

**Corbo:** So Mr. Chairman, the request in front of you is assuming you receive a completed application are you willing to send that application to an independent peer reviewer chosen by the Board, paid for by the applicant.

The Chairman recognizes Brad Cronin.

**Cronin:** I think that would include, based on what we heard earlier, a more thorough investigation of the adjacent lots and wells.

**Morin:** Yes. Normally on plans that we do get in, the wellheads on adjacent lots are shown with measurements from the SAS to the wellhead even if it's not the subject property.

**Grady:** We've researched the wells. I'll make a smaller scale plan to show how far away they are. We have the data. A lot of times on these if the adjacent well on the adjacent property is so far away we just ... but I'll add that.

**Morin:** I don't know exactly where it is so that's something that we always need to know. You know if the SAS winds up to be 75 feet – it's 200 feet from the house to be built but it's 75 feet from the adjacent well of your neighbor we need to know.

**Grady:** That's hard to put on a plan so I'll add that scale, I'll go directly to the abutting properties because I already have that.

**Morin:** I have an idea where it is and I think it's this side of the ice house towards those lots.

**Grady:** This is the public water supply? Ok we're not talking about the horse hospital.

**Corbo:** OK So the applicant is going to provide an updated plan with the location of the wells on the adjacent properties, they are going to provide whatever information is required by the DEP in the standard conditions for approval. So the question I guess still goes back to the Board. Assuming you get that information, are you willing to send the application to your reviewer.

**Morin:** Yes we will.

**Corbo:** So I would suggest you take a motion.

**Morin:** I make a motion that if we receive all the proper documentation from the applicant that we will send the plans out for independent review at the applicant's expense.

**Weikel:** So moved.

**Morin:** All in favor?

**Weikel:** Aye.

**Cronin:** Aye.

**Corbo:** Mr. Chairman do we want to set time frames for this as we are in litigation and once the application is complete the 45 day clock starts running.

**Cronin:** How much time do you think you will need to address all these things that have been brought up?

**Corbo:** Prior to the next meeting?

**Morin:** I think the exact date of the next Board meeting is Tuesday, March 12.

**Serkey:** So the submissions of the additional documentation, including location of adjacent wells will be in your hands by March 12 and will you have chosen a peer reviewer by then? Can we assume that on the 12<sup>th</sup> you will designate somebody?

**Morin:** Yes.

**Grady:** So should we bring that information in or should we submit it?

**Serkey:** As soon as it is ready we will submit it to your administrative assistant so that you will have it in advance of March 12<sup>th</sup>.

**Morin:** OK. And the Board of Health is open Monday, Tuesday and Thursday from 9:00 a.m. to 2:00 p.m., closed Wednesday and Friday and we are open Monday nights from 5:00 p.m. to 7:00 p.m. Again, everything in Plympton is part time.

**Grady:** I was not aware of your meeting process. I did call the Clerk's office and they indicated to me how I can actually go on your website and sign up to be notified for all your meetings and now I get notifications for every single office in this town.

**Serkey:** After submission you send it out to the reviewer and wait for the reviewer to get his report back to you? 30 days?

**Corbo:** So what's your April meeting calendar?

**Morin:** It would be the second Tuesday. April 9<sup>th</sup>. We meet the second and fourth Tuesdays of the month.

**Corbo:** So tentatively plan to reconvene this hearing on the 9<sup>th</sup>, assuming that the peer reviewer is able to turn around their work in that period of time

**Morin:** Motion to adjourn.

**Weikel:** So moved.

**Morin:** All in favor?

**Weikel:** Aye.

**Cronin:** Aye.

**Morin:** Meeting adjourned.



