

PLYMPTON BOARD OF HEALTH	OPEN MEETING NOTES	April 27, 2021	Next Meeting 5/11/21 @ 5:00 PM
Present/Absent	Present/Absent		Place: Deborah Sampson Meeting Room
Chair: Arthur Morin, Jr. P			
Treasurer: Harry Weikel, Jr. P	Health Agent: Kevin Forgue A		
Clerk: Brad Cronin P	Administrative Assistant: Cathleen Ferguson P		
TOPIC/AGENDA---NAME & ADDRESS			
ASSESSOR'S MAP - BLOCK - LOT	SUBJECT/DISCUSSION		FINDINGS/RECOMMENDATIONS
Call to Order 5:03 p.m.	Minutes of April 13, 2021		Approved.
OLD BUSINESS			
Approved Septic Plans			
0 Maple Street (M7-B2-L28)	New Septic System		Plan approved; to be installed.
0 Winnetuxet Road (M21-B1-L14A)	New Septic System		Plan approved; to be installed.
51 Cedar Street (M15-B1-L9)	New Septic System		Plan approved; foundation being installed according to Bldg Dept.
12 Brackett Terrace (M22-B1-L29)	Repair of Septic System		Plan approved; to be installed.
19 Heather's Path (M24-B1-L20)	New Septic System		Plan approved; to be installed.
20 Montello Street (M24-B1-L6)	Upgrade of Septic System		Plan approved; to be installed.
165 Palmer Road (M6-B1-L3)	New Septic System		Plan approved; to be installed.
122 Main Street (M7-B1-L40)	New Septic System		Plan approved; to be installed.
19 Main Street (M4-B3-L6)	New Septic System		Approved plan until 6/23/21.
72 Prospect Road (M23-B2-L6B)	New Septic System		Plan approved; to be installed.
55 Elm Street (M16-B4-L2A)	New Septic System		Plan approved to be installed.
Approved Plans/Out for Installation			
21 Crescent Street (M12-B3-L6)	Repair of Septic System		Out for installation.
177 Main Street (M12-B4-L11)	Change Location & Replace Septic Tank		Out for installation.
270 Main Street (M17-B2-L8)	Repair of Septic System		COC signed.
96 Lake Street (M2-B1-L10)	Barn bathroom hookup		Out for installation.
51 Colchester Road (M18-B3-L12)	Repair of Septic System		COC signed.

MINUTES OF THE MEETING	PAGE TWO	4/27/2021
Pending Septic Plans		
0 Center Street (M12-B2-L27)	New Septic System	Waiting for plan.
0 West Street (M15-B1-L14)	New Septic System	Waiting for plan.
0 Maple Street (M7-B2-L29)	Installation of Septic System	Waiting for plan.
0 Upland Road (M12-B5-L1B)	Installation of Septic System	Waiting for plan.
25 Oak Street (M1-B2-L8)	Upgrade - Replace Septic tank	Waiting for owner to pull permit to upgrade.
0 Elm Street (M17-B1-L11A)	Request for Perc Test	Waiting for plan.
36 Parsonage Road (M17-B1-L1)	Repair of Septic system	Waiting for plan.
0 Palmer Road (M11-B2-L15)	New Septic System	Waiting for plan.
0 West Street (M15-B1-L14)	New Septic System	Waiting for plan.
228 Main Street (M12-B1-L7)	Repair of Septic System	Waiting for plan.
0 Main Street (M12-B1-L8A)	Installation of Septic System	Waiting for plan.
0 Parsonage Road (M17-B4-L12)	Installation of Septic System	Waiting for plan.
0 Center Street (M11-B5-L12)	Installation of Septic System	Waiting for plan.
47 Mayflower Road (M17-B6-L9C)	Application for Disposal System Construction Permit	
0 Prospect Road (M20-B1-L10)	Installation of Septic System	
48 Prospect Road (M20-B1-L10)	Installation of Septic System	
12 Ring Road (M7-B4-L7)	Repair of Septic system	Health Agent will review revised plan.
3. OTHER		
0 Pleasant Street (M12-B5-L6)	Illegal Trailer	Zoning Enforcement Officer reports trailer will be removed.
0 Crescent Street (M7-B4-L2B)	Application for Disposal System Permit	Hearing transcript attached.
O'Donnell, et al. v. Plympton BOH, et al.	Litigation	No discussion.
1 Winnetuxet Road (M21-B1-L10)	Follow up on housing issues.	No reply to letter sent to owner. Have Health Agent follow up.
10 Mayflower Road (M17-B5-L13)	Request to reconsider Board's decision	Letter sent.

MINUTES OF THE MEETING	PAGE TH4REE	4/27/2021
4. NEW BUSINESS		
<u>Perc Tests</u>		
112 West Street (M16-B2-L2)	Application for Perc Test	Health Agent will schedule.
0 Lake Street (M3-B2-L10)	Application for Perc Test	Health Agent will schedule.
43 West Street (M16-B1-L14)	Application for Perc Test	Health Agent will schedule.
<u>Other New Business</u>		
43 Winnetuxet Road (M21-B1-L26)	Fuel Oil Spill	
11 Soule Street (M23-B1-L3)	Dbox Replacement	
130 Center Street (M11-B2-L3)	Dbox Replacement	Out for installation.
20 Prospect Road (M20-B1-L11)	Application for Upgrade	Our for review.
5. ADMINISTRATIVE UPDATES	Mail & Bills/Warrants for payment	Warrants signed. Mail reviewed.
	Covid Grant	Received guidance from MAHB re: Covid grant
	Copy Machine	Discussed repairing or replacing copy machine.
		Motion made and voted 3-0 to adjourn. Adjourned at 6:41 p.m.

5:03 p.m. April 27, 2021

Board of Health meeting called to order. All three member are present (Chairman Art Morin "MORIN", Treasurer Harry Weikel, Jr. "WEIKEL", Clerk Brad Cronin "CRONIN" along with Town Counsel Greg Corbo "CORBO", Applicant Ken Thompson "THOMPSON" and Joe Webby "WEBBY". Guests have signed in. Board of Health Chairman reads conflict of interest disclosures on the record.

Chairman asks the applicant to begin his presentation.

THOMPSON: Applicant has handouts for the board. I am Ken Thompson of 61 Crescent Street. and I have filed an application for a Title 5 compliant system and it was denied and I have requested this hearing. I have brought Joe Webby to answer questions about design and Title 5 regulations and any other questions you may have. I am requesting a variance of Title 5. The regulations that apply are what was in effect at the signing of the A&R Plan fixed for a period of 3 years. Talking about 2019 signoff by Planning Board.

CORBO: Although we have the planning board plan I haven't seen the septic plan. It's not clear where the variance for the system components are going to be and what exactly is the variance you are seeking?

THOMPSON: Seeking variance to put a component of a septic system (SAS) on an adjacent lot. It is in Title 5 that the applicant has to go to the local authority to get a variance. Mr. Webby has the septic design.

WEBBY: we were approached by a Mr. Walsh to do a septic design on this lot that he wanted to purchase from Ken. Ken wants part of the system to be built on his other lot under an easement and that requires a variance. Further the board had denied the plan under their supplemental regulations – the requirements that a mounded system by on 5 acres of land which it is and that the cellar of the dwelling be at least a foot above the water table, which it is.

CORBO: There's an existing system on this lot and then you want to put a component on the lot as well?

WEBBY: Yes. This lot was created in 2019 and Ken wants to sell this lot (5.0) acres and put the septic system on the lot that passed the perc test.

CORBO: So the 5.0 lot will have two septic systems on it?

WEBBY: Yes.

CORBO: Is the existing system a mounded system?

WEBBY: Yes.

THOMPSON: originally the two lots were configured differently and Joe had perked all over and ended up with 2 perks and those are the only 2 perks. The other lot had been tried to be perked and didn't. So the only thing wrong with the other lot is it did not perc. Because I bought the two lots and combined them differently, the only 2 perks on the property happened to be on one lot. We have 10 acres and 2 systems and I guess that's an issue of the intent of Title 5. This meets Title 5.

CORBO: Other than the SAS is on another lot. You need a variance.

THOMPSON: Title 5 allows this with a variance from the BOH.

CORBO: When you say that it's 10 acres you are including this piece up here?

THOMPSON: there is zero activity on the back land, I'm thinking of putting in into a wildlands trust

CORBO: Is it deed restricted?

THOMPSON: not yet, it's solid rock and under water, I would request the eventual homeowner to put their acres into a joint trust

CORBO: have you already sold lot 3?

THOMPSON: we have been in the process but it is contingent on permits. This is all pond front.

WEBBY: A reservoir for cranberry bogs on Main Street.

CORBO: Where are the wells? What is the acreage of just the front portion of lot 3?

THOMPSON: front portion about 2 acres.

WEIKEL: my understanding that our denial was because it was not 5 acres?

CORBO: this is different, this is 2 systems on lot 2 which does have 5 acres and I don't know what the regulations say about 2 systems on 5 acres.

WEBBY: the Plympton regulations at the time say 5 acres.

MORIN: just so we are clear we did not change the regulations about 5 acres we clarified it. These are the same regulations.

CORBO: two issues: does lot 3 meet the requirement of 5 acres. Not entirely clear we should be looking at lot 3. Maybe we should be looking at lot 2 because that's where the system is. Because it's a variance, the Board of Health has discretion and you have to consider the 2 variance criteria in Title 5: Will the denial of the variance result in manifest injustice and will the conditions on the variance allow an equal degree of environmental protection as strict compliance with Title 5. On ruling on a variance you can look at regulations in effect at the time and look at other things as well like the actual impact on the environment 10 acres of land with 2 systems. Would it factor into your analysis to say that the property would be deed restricted and undevelopable and on these 10 acres there will never be any more than these two systems. What we have in front of us in my opinion is an application to put a second system on Lot 2. If the system wasn't on Lot 2 they wouldn't be seeking a Title 5 variance at all.

CRONIN: are you seeking a variance of the 5 acre rule?

THOMPSON: No.

WEBBY: The BOH's denial letter says denied under the 5 acre rule

CORBO: The variance application was not complete at the time of that letter. So that prior decision is not on the table right now. You want two SAS on the same lot.

MORIN: 2 raised systems on 1 five acre lot.

CORBO: I don't see anything in Title 5 to prohibit it but the BOH is considering a variance. This lot was created in 2019 when regulations were in effect. When this lot was created they knew or could have known that this lot was not going to perc, so no manifest injustice no expectation that you are going to have a developable lot. What you have here is 10 acres with deed restrictions limiting it to 2 systems if you allowed the variance. I'm looking at the whole 10 acres.

WEIKEL: Don't want a precedent set. People who buy that residence, who fixes the failed system?

CORBO: There's a deed restriction for who is responsible for that system and have something in the deed title that gives them permission to go onto the lot to repair the system.

CRONIN: Lot 3 crescent is 2 acres? How much is wetlands on the front?

THOMPSON: half and half

CORBO: are there wetlands on lot 2?

THOMPSON: minimal

CORBO: area where SAS is going to be is all upland. Is there a pump from the SAS to the house?

WEBBY: Yes

MORIN questions from the audience?

ABUTTER: Is anything going to be close to my well?

CRONIN: All wells are marked on the plan

ABUTTER: Septic in front of my house? Raised? Last fall with the CONCOM there were questions about wetlands in the front and studies that needed to be done before any decision. Has anything happened with that board?

THOMPSON: No I went to the BOH

CRONIN: Has this gone to the CONCOM?

THOMPSON: it's part way through

CRONIN: Ken you haven't completely got CONCOM approval yet?

THOMPSON: No

ABUTTER: My understanding is that CONCOM wanted independent examination conducted sometime in the spring and then they would go back and reevaluate whether or not that area was wetlands.

MORIN: All projects should go through COMCOM before project gets to BOH.

CRONIN: I would like to make a motion to table this until applicant goes through CONCOM

Board of Health votes 3-0 in support of motion.

CORBO: The Board of Health tabled this pending CONCOM approval. When do you expect this is going to be taken up by CONCOM?

THOMPSON: a month?

CORBIN: Is it on the agenda

THOMPSON: not yet

CORBO: Will you agree on the record that the 45 day clock for the BOH to make a decision is stopped until after you get your decision from CONCOM

THOMPSON: Yes