



Town of Wareham
Board of Health

Meeting Minutes

May 19, 2010

Campinha: It is May 19th, 2010. It is approximately 4:05P.M. We are at the Wareham Town Hall and this is the Public Hearings of the Board of Health. Guy Campinha, Chairman, present. Dr. Gleason is present, Charles Gleason and Diane Allen is present and Dr. Tom Gleason. Lisa is not here tonight. Wareham Barber Shop has complied and are not on the agenda tonite.

We will take up first, 95 Agawam Lake Shore Drive, Variance to Local Regulations, Upgrade to existing system, Webby Engineering.

Webby: Joe Webby, Webby Engineering. This is a septic repair at 95 Agawam Lake Shore Drive. As you can see we have a pond. Right on the Agawam Mill Pond. We are proposing to install a septic system

Campinha: I have a letter from you guys asking for a Variance. Is there any abutters that had to be notified?

Webby: There were no affected abutters.

Ethier: Mr. Chairman, if the Board would like, I will make copies of the letters each time, so that everybody has a copy.

Campinha: Yes. That would be good. The Variance to local upgrades, when you e-mail us, can you get us what that Variance request is and we can start looking it up and we can start looking it up to get us more familiar with Title V regulations, what they are asking for. It would force us to learn. Okay. Are we all set here? Present your case and we will move forward.

Webby: We have a very small lot. It abuts the Agawam Mill Pond. We are proposing to install a septic system in the front of the yard, which is basically the same spot as the existing system now. What we would like to ask are two reductions in the maximum feasible [proponents.] One of them would be the State to allow a 4 foot ground water separation instead of 5 feet. The other reduction is that we have a 3 bedroom dwelling and your regulations require that we design for an additional bedroom. We would like to ask for a reduction to allow construction of a 3 bedroom system.

Ethier: Is this in a Zone 2 sir?

Webby: I don't have that answer for you.

Ethier: I don't believe it is. So, generally under Title V regulations, you would have to ask for that Variance. In this case they have to ask for it anyway. So, whatever the Board decides. I have no other issues with this. I think if the system is any higher than it is now, it will impact the top of the foundation and cause some water in the cellar issues. If you could make it contingent of checking out if it is in a Zone 2.

Campinha: Anyone have any problems with it. We need a Motion then.

Allen: I make a Motion that we grant the two local regulation Variances. One for the 1 foot reduction in the ground water separation and second, reduction for the

3 bedrooms, as based on the Zone 2 finding.

Campinha: Okay, made, seconded and carried. Okay. Thank you sir, for your time. Okay. 20 Lakeview Drive, J.C. Engineering and this is for State and Local Regulations, Upgrade Variance. Go ahead.

Pimental: For the record, Mike Pimental. This project involves the upgrade of an existing house located at 20 Lakeview Drive. The existing system, septic tank located in the front right hand corner of the property to the leaching system, which is also located in the front of the property. We are proposing to eliminate the existing tank and re route the sewer piping into a new 1500 plus 500 gallon two compartment septic tank. It is located in the front of the [087] line. From there the sewage will go into a D box. There are multiple Variances on this project. We tried to put the new septic system as far away as possible from the wetlands. So, we put it [090] which necessitated a Variance from the side property line and front property line and the septic tank also will require a Variance from the front property line. It is very, very tight. We are going to ask for a Variance 4 ½ foot Variance to the front property line and the 5 foot Variance from the dwelling to the system and then we have a 10 foot variance for the set back from the septic tank to the front property line and then a 4.1 foot Variance from the septic tank to the wetlands. There is also 1 foot Variance for the separation from the ground water and the leaching system. There is a 1.72 foot Variance separation between the septic tank invert and the ground water. The Local Variance is for the set back requirement from the leaching system to the [116]. We are just outside the 50 foot offset to 51.3 feet from the [118].

Campinha: It is an ambitious endeavor.

Gleason: The only thing you can say about it is that it is better than what is there.

Campinha: A major improvement. Anybody have any questions, comments?
Do we have a Motion?

Ethier: It was a cesspool, correct?

Campinha: No, it was a septic tank with some kind of trench.

T. Gleason: What about the zoning there?

Campinha: It is not in Zone 2.

Ethier: Are there any restrictions that the Board wants to put on this as Dr. Gleason has related to, on the plan a Deed Restriction that it is not to exceed two bedrooms?

Pimental: I can do that. Yes. I will put a deed restriction on the plan.

Campinha: Okay. Motion has been made and seconded to grant the Variances on 20 Lakeview Drive with the Deed Restriction of 2 bedrooms. You are all set. Thank you. Send us the updated plans.

Ethier: Would you send me 2 copies of that plan just so we have them.

Campinha: Okay. 4:15 – Robertson’s GMC. , 2680 Cranberry Highway, Egregious Non-Compliance of Tobacco Regulations.

Robertson: I am [Howard] Robertson, Robertson’s GMC.

Campinha: I believe Bob, why don’t you tell us what’s is happening and what happened since the last time we sat with Mr. Robertson.

Colette: Okay. Well, the reason for Mr. Robertson being before the Board today is that there have been several complaints of smoking in the work place. Bob and I have been there on a number of occasions to speak to him. He has been before the Board

and fined a number of times. But the behavior continues and the complaints keep rolling in. I think this is the third one in recent months. The complaints are by employees that Mr. Robertson continues to smoke in the workplace in violation of local and State laws despite recent [184] by the Wareham Board of Health. Continuous non-compliance on his part would perhaps indicate that the Board might want to take stronger steps and according to Mass. State law, the Board of Health has the right and the authority to actually pull business permits and go further than just fines.

Ethier: The Department of Public Health came by virtue of telephone calls, twice since the last violation, which Mr. Robertson was fined \$300. Shortly after that, I received a call that said, he is still smoking in here. We have a right not to. There is a smoking in the work place law. So, we made note of that and another one came in and then Mr. Colette called me and said the Dept. of Public Health is getting calls from these employees and they want some action and we want some action. So, that is the reason he is here. The Dept of Public Health attorney was supposed to be here to enforce this law because the complaints are coming in their office also and they don't feel that we are getting compliance in this case. So, I was hoping he would show up.

Campinha: Yes. It is just good to get technical assistance as far as this goes. We do not have any more fines we can levy. Fines are maxed out.

Ethier: They are saying smoking in general, employees and they said that the owner is allowing there to be smoking in his office. They named you and said that you are allowing other employees to smoke in the office and this is what they said, - that the people who don't smoke have no rights and they are looking for us for some direction.

Robertson: That is not so but

Ethier: In this case, could we say, is it fair to say that building Mr. Colette, is all one building. It is all connected.

Colette: Right.

Ethier: So if someone is smoking in any part of those buildings, that would be considered a violation of the Massachusetts Work Place Law?

Colette: Correct.

Campinha: I believe at the last meeting we had stated that we were going to treat that as one. It is not two separate businesses.

Robertson: [239].

Colette: This is Mr. B. J. Wilson from the Mass. [242]. He is here for any technical assistance. We have exhausted fines. So, fines are no longer an option in this particular case.

Wilson: The two routes the Board of Health has if fining or pulling permits [249]. I don't believe a car dealership would have any health permits. But I believe a car dealership does have some kind of town permit. Used car permit?

Campinha: I believe they must have a permit to sell used cars, new cars, I believe.

Ethier: He has several licenses in the town.

Wilson: So, the entity that gives out those licenses could take them away.

Campinha: So, let me be sure I understand. You said that according to the C 270, s22, Local Boards also have the authority to revoke or suspend a license of a building, vehicle or vessel to operate that any owner, manager, other person in control is found to repeatedly violate the requirements of 270, s22, egregious non-compliance. Now

that means we issue or the Town issues. So if we don't issue any license, there is nothing we can suspend.

Wilson: Right and that is the way it is typically done. And I can't imagine your Town counsel would make anything

Campinha: So, we would have to apply or have to send this to the Board of Selectmen for their action on our recommendation.

Ethier: If I may. I have spoken to Mr. Andrews, who is our new Town Administrator and has just entered the room. Basically, his efforts to promote business, to help businesses in this Town has been tremendous since he has gotten on board and he was concerned [276]. He is here to just make a statement and support the Board and give us his opinion of what he thinks about this.

Andrews: Mr. Chairman. We have been working very hard in helping these business in being aware of the local codes [Very difficult to hear Mr. Andrews as he is not very close to the recorder.]

Campinha: Anyone have any questions?

T. Gleason: Well, it would seem that we really don't have any sanctioning authority. That we have to refer to the Board of Selectmen for their judgment. All we can do I think, it refer it. Is that correct?

Allen: So, if we were to make a recommendation to the Board of Selectmen as to what we would like to have done.

T. Gleason: We don't govern the license though.

Campinha: What we have governorship over if you will, is that we have exhausted all our avenues. And if we are not getting compliance then it would be our responsibility to either strongly suggest to the next Board, if that is what it is going to do, what our problems have been, if they need to take action. We would recommend to them to take action, whatever we felt that to be. And they would do their thing. The bottom line is we are just trying to get smoking out of your building. It is not fair to the workers. It is not fair to anybody. That is the bottom line. I am not comfortable I understand that once your permit is pulled or your license is pulled to operate, you lose your dealership. And I am not comfortable with that because of the employees in the Town of Wareham. Because just as much as I want businesses to comply, I worry about the pay check to pay check individual. I would have a hard time pulling your license but we are not getting compliance and I don't know what to do. My suggestion would be to suggest to the Board of Selectmen that the next complaint we have, that at that point in time that they would pull your license.

Wilson: I know of no instance where we have had to pull a license. We do get incredible compliance. This is a rare example. A license can also be suspended. Usually before it gets to that there have been warnings and fines.

Campinha: And that is the case here. I don't want assurance, I want a guaranteed that you will stop this from happening in your facility. How can I walk away from here tonight and know for sure that there is not going to be a cigarette lit up in your business and that your workers don't have to deal with the second hand smoke. How can I be assured of that.

Robertson: I can tell you that because I am going to sit and hold meetings, both companies and I will get my brother involved in this and I believe we can turn this around. I am going to have a meeting with all the employees and tell them the rules. If

anybody is found breaking them

T. Gleason: You haven't had a meeting with them yet, after how many violations, three?

Robertson: [415]. All we did was put up a bunch of signs.

T. Gleason: I think you are at the point where either you get forceful or we do.

Robertson: I know that and obviously you are going to close me.

Allen: I mean that would be in their best interest, your employees, if you tell them that.

Robertson: That is my intentions because there are 7 people who work on the property in both businesses.

Campinha: Any other comments Bob?

Ethier: Just devastating consequences, seven people out of work. I just want to see no smoking like every other business in the Town.

Campinha: I am going to take I would like to see this happen, education. I want a program and I want that in writing. What you are going to do to educate your employees about smoking in the building. I want to know how many meeting you are going to have, when you are going to have them. I would like to be or if somebody looks in at one of those meetings, let us know when it is going to be. And I want some kind of a continuation of a program. If there is any cost associated with it, I think Mr. Robertson should pick up that cost.

Colette: I am happy to come in and speak to everybody to help you avoid the next step.

Campinha: I just think it needs to happen. That would be my recommendation and I think maybe a letter should be fired off to the selectmen. They should be aware of this and leave at that. And also say in that letter that if there is a next violation, our recommendation would be the next step. And set this up and get it rolling.

Robertson: Thank you for your understanding, all of you.

Ethier: Mr. Chairman, if we could ask Mr. Colette and Mr. Wilson to stick around because of Joe's Gas. I don't believe he is here again but this relates to the State regulations.

Campinha: Can we without him being here address it? Let's address it.

Wilson: You can address it.

Colette: The problem is very simple. During routing inspections of all of the retailers in Town, they have been unable to produce a cigarette sales license that they are required to have from the Massachusetts Department of Revenue. He has not showed up in the Board of Health office. He is not supposed to be issued a local permit to sell tobacco products without first being able to produce the Dept. of Revenue license. So he is selling cigarettes illegally.

Campiha: Is that a police matter?

Colette: If were selling illegal cigarettes. He is illegally selling cigarettes, which is a Board of Health matter because he is licensed by you.

Wilson: He does hold a permit.

Colette: He holds a local permit.

Campinha: Then suspend it.

Wilson: You do need to provide a hearing.

Campinha: Which we did.

Wilson: You need to set up a hearing to talk about suspending the local permit.

Campinha: And if he doesn't come?

Wilson: Then you can suspend.

Campinha: Is there a time frame. Every two weeks. This meeting doesn't count.

Colette: I would advise them to call him before the Board to discuss his not having

Campinha: I want to get this rolling. If he is not here, we will move forward with the recommendation. June 2nd. Just Joe's Gas.

Ethier: So on the agenda, it has to say – non-compliance with Tobacco Regulations – Suspension of License.

Campinha: Okay. I want to move on to 2787 Cranberry Highway. I appreciate it. Thanks again. I am sure we will contact you again. Identify yourself for the record.

Russell: Irving Russell.

Campinha: And you are the owner of 2787 Cranberry Highway.

Russell: actually, I am one of the owners.

Campinha: You are one of the owners, but not the sole owner?

Russell: Yes.

Campinha: This is an Order to Correct. This original went out October 2nd, 2009.

Ethier: Those are pictures that I took last Friday. That is a mess down there. They are cleaning it up. It was worse.

Campinha: There is not one living there to my understanding. Someone has to take responsibility.

Ethier: We have received many complaints about Aunt Mary's Lane. We need to get some compliance. Something has to be done with this or I am charged with under the regulations I am charged with charging no less that 10 dollars a day and no more than 500 dollars a day for a Violation of the State Sanitary Code.

Campinha: It is not habited. Now it becomes a hazard and we need to get the building cleaned up.

Ethier: I condemned the place because of the conditions.

Campinha: So that is a dead issue because nobody lives there. So, now we want to get the building, the lot cleaned up because now it becomes a hazard. We have a situation that is not safe. Mr. Russell what can you tell us?

Russell: What is considered hazardous?

Campinha: I walked through your property and there are boards and nails in them. There are rodents living in the mattresses. Those are hazardous.

Russell: [141].

Campinha: The house I am not worried about. It is all the stuff on the ground around the entire house. That stuff has got to be all moved out. I would secure the building so people can't get in it. That's a hazard.

Russell: I mean I am willing to comply but....

Campinha: I think he wants an itemized list.

T. Gleason: (Read off the Order to Correct letter).

Campinha: Just clean it up. I think it is ridiculous to itemize a list of rubbish.

It needs to be cleaned up.

Ethier: You also can not have an unregistered vehicle on the property unless it is in the back. There will be other letters coming from other departments. It is one of the worst I have ever seen. He is the registered owner.

T. Gleason: This was recommended at this time, in October.

Russell: I got that original letter withdrawn.

Campinha: You got a letter saying this was withdrawn..

Russell: Yes.

Campinha: Where is that letter.

Ethier: I have never amended any letter that I have sent.

Russell: I didn't get a letter but I did discuss it with you. We did discuss the fact that there was compliances.

Ethier: I remember talking to you about it and that you had to comply. And you said that you would do that but to give you some time to clean it up.

Campinha: How much time do you need to get this cleaned up.

T. Gleason: What about the structural issues with the building.

Campinha: The building department will give you a letter of what they expect to make the building secure and safe. It is all the properties in the Town of Wareham.

Ethier: Ninety days did you ask for?

Campinha: Yes.

Ethier: With the Board's permission, we will give him 90 days and after the 90 days we will have to start issuing fines. I have never given anybody 90 days.

T. Gleason: He has already had 30 days. He also got served in October.

Campinha: 30 days, the Board has suggested 30 days to get the debris out. Let's be clear on this. 30 days to just clean up the area and then 90 days to address all the other issues. I think that is fair.

Ethier: Public health will not allow anybody to have a building in that condition.

Campinha: Nobody can live there.

Russell: We have access to the building?

Campinha: You can do anything you want to as long as you are cleaning it up.

Ethier: Neighbors have a right not to live next to this. If you could get your help to clean this up, we would appreciate it up.

Campinha: Anything that makes that building safe, you must do. Make that property safe. I know you can do that. 30 days to get the outside cleaned up and then 90 days to address all the other things with the building department and other departments. I am sure if more time is needed, they will cooperate.

Ethier: Once the outside is cleaned up, I will be glad to take the condemnation letter off. However, with the structural issues, you might see the building department put some similar sign up there. Certainly if Mr. Russell complies with our regulations, I won't have an issue removing the sign.

Campinha: You can address the car issue with the Planning Board or whoever has jurisdiction over it. It becomes a hazard.

Russell: What about a fence?

Ethier: You can not put a fence up to hide the debris. You put up a fence to keep people out but not to cover up the mess.

Campinha: But if you have a breeding ground for rodents and rats and that is a safety hazard.

Ethier: Even if it is not, the other things are still under the regulations that create a safety hazard.

Campinha: The Board is asking you to clean it up within 30 days. Mr. Ethier will answer any other questions you may have. Thank you Mr. Russell.

Ethier: Okay. I can go through this real quickly. First thing is the Board put together a little card and gift and want to sing Happy Birthday to Dr. Gleason.

Many, many more. Thank you for everything. (the Board all joined in good wishes).

I need to get some surgery done, simple surgery and will be back shortly.

Chapter II Inspections – 3

Perc Tests – 4

Title V Inspections – 9

Garbage & Nuisance – 10

Food Service – 1 (Gateway Tavern)

Condemnations – 1

Emergency Response – 0

Everything is good. I am on those two task forces and we are working diligently.

Campinha: A Motion has been made and seconded to adjourn the meeting.

Meeting adjourned.

Prepared by: J. Reed

Date: May 27, 2010

Signed and dated: _____

Guy S. Campinha, Chairman _____

Charles S. Gleason, M.D., Member *Charles S. Gleason* _____

Diane E. Allen, Member *Diane Allen* _____

Thomas L. Gleason, M. D., Assoc. Member *Thomas L. Gleason MD* _____

Lisa T. Irish, Assoc. Member *Lisa T. Irish* _____