

Ware Board of Health Meeting

August 18, 2021 Hybrid Meeting / Conference Room

To Join via Zoom Meeting; <https://zoom.us/j/91213539827?pwd=cVQvLy95c3VaZ3RRenVlSE9rcllQZz09>
Meeting ID: 912 1353 9827
Passcode: 113130

Present: Jennifer McMartin, Katrina Velle, John Desmond

In Attendance: Stephen Bell, Betty Barlow, Richard & Mary Dubay & Alan Weiss via zoom

John called the meeting to order at 6:08 PM

Betty Announced the meeting is being audio recorded

APPOINTMENT

6:05PM – Follow up to 7/22/2020 & 7/21/2021 BoH meetings re: Request for Local upgrade at 61 Beaver Road for Thomas & Susan Libbos. Septic plans designed by Alan Weiss. This property has a septic system that failed a Massachusetts Title 5 inspection and therefore needs to be replaced. Due to limitations of the lot, and in the interest of maximum feasible compliance as laid out in 310 CMR 15.00 (The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage), the applicants are seeking local upgrade approval to install their new septic system within 100' of two wells: their own well (55') and the well of their neighbor at 57 Beaver Road (67'). This requires local approval because 310 CMR 15.211 defines the minimum setback distance for a soil absorption system to a private well as 100'.

At the 7/21/21 BoH meeting the Board finds that due to the fact that the two wells in question are already within 100' of a failed septic system, the Board is inclined to approve the local upgrade request in the interest of the public health of all involved. However, because the new system will not meet 310 CMR 15.211 as written, the Board would like to require the following condition prior to approval of the application, pending approval of town council:

The owners of 61 Beaver Road are required to submit annual well quality reports for both properties, to ensure that the new system continues to protect public health despite violating the setback defined in 310 CMR 15.211

Stephen contacted Town Council regarding these conditions. Town Council recommends the Board approve the submitted septic design with conditions of the applicants having the septic tank pumped annually and submitting annual well test reports for their well. The Board could also request the applicants make an effort to come to an agreement with the abutter at 57 Beaver Road to also test their well.

Mary Dubay expressed her concerns if Board approves this septic design. She is concerned this would make her home unsellable in the future due to her well being too close to the septic system. The Board assured her this is not the case and if it was the majority of the homes around the lake area would be unsellable. They also informed her the new septic at 61 Beaver Rd would be placed in the same location as the existing system. Mary Dubay stated she would like a letter from the Board stating this would not have an effect on her or her children selling her property in the future and that the new septic will be in same location as the present system. Stephen will provide this letter after approval from Town Council.

John motioned to approve the septic design submitted for 61 Beaver Road owned by Susan & Thomas Libbos and designed by Alan Weiss with the condition that the applicants have their septic tank pumped annually and submit annual well test reports for the well on their property and that the applicant make an effort to come to an agreement with the abutter at 57 Beaver Road to also test their well. Katrina seconded, all in favor.

DISCUSSION/ACTION:

- Stephen gave board an update on covid. Ware is not doing as well as they were last month, case numbers for past 3 weeks were 18 last, 9 week before and 4 the week before that so essentially doubled in 3 weeks. Stephen informed the board he had advised the school superintendent to recommend universal masking within the school for students, teachers and staff due to the low vaccination percentages with under half of students being vaccinated. The superintendent will get back to him regarding this recommendation tomorrow as the school committee is meeting tonight and she will see if they agree with this recommendation. Stephen informed the board they have the authority to mandate mask use regardless of decision of the school committee. But would also include day cares, libraries and all other indoor classrooms and programs within the town of Ware. This indoor mandate could also be made town wide but there is concerns with enforcement. Stephen would prefer the school committee make the decision to mask but he does feel to protect the students it is necessary for universal masks in schools. Jennifer stated she agrees it would be better for the committee to make the decision but if they don't she feels the Board of Health should mandate it if the school committee does not. The Board unanimously agreed to have Stephen write a mandate for universal masking inside the schools for them to review/approve if the school committee does not agree with Stephen's recommendations.
- Stephen let the Board know Chris from Pioneer Valley Mosquito Control was unable to attend this meeting as previously requested however if they have any questions Stephen can email them to Chris for answers. Discussion continued on testing mosquitos, possible spraying in perpetually wet areas such as Grenville Park ore swampy areas along route 9 near Quabbin. Some questions are How do we know if the spraying is working, how specific is larvicide to mosquitos and is there any educational program for public available.
- Stephen informed the board that he still waiting to hear back from the state regarding air quality following the fires in the west.
- John motioned to approve meeting minutes of July 21, 2021, Katrina seconded, all in favor.

John adjourned at 7:25PM.

Respectfully Submitted,
Betty Barlow

Meeting minutes approved September 15, 2021



OFFICE OF
QUABBIN HEALTH DISTRICT

TOWN HALL

Suite D, 126 MAIN STREET

WARE, MASSACHUSETTS 01082-1368

Stephen Bell, MPH
Director of Public Health

(413) 967- 9615 or 967-9616
1-800-279-2357

September 8, 2021

Owner: 61 Beaver Road

Thomas & Susan Libbos
61 Beaver Road
Ware, MA 01082

Owner: 57 Beaver Road

Richard & Mary Dubay
458 Somers Road
Ellington, CT 06029

To all affected parties:

On July 8, 2020, the Board of Health (the "Board") received an application (the "Application") from Susan and Thomas Libbos (the "Applicants") for the property located at 61 Beaver Road, Ware, MA (the "Property"). Through the application, the Applicant requested relief from 105 CMR 15.211 pursuant to its plan to replace and/or upgrade the failed system serving the Property.

The Board held duly noticed public hearings on the Application on July 22, 2020, July 21, 2021, and August 18, 2021. At the hearings, the Board heard from the Applicants, abutters, and other interested parties. At these meetings, the Applicants and their engineer explained the site conditions to the Board. The Board made suggestions regarding alternative options to the local upgrade request, but the Applicants made a compelling argument for manifest injustice. The abutters at 57 Beaver Road also voiced their concern that the installation of a new system would impact their ability to sell or inhabit their home.

After due deliberation, the Board made the following findings:

- The existing system failed as reported on July 8, 2020;
- The drinking water wells are 55' and 67' from the failed system;
- The new system proposed is at the same location of the failed system;
- The proposed system does not meet the 100' setback as required by Title 5;
- The new system being repaired will not change the abutters' current situation, as the setback to their well will be unchanged;
- The Applicants have met the burden of manifest injustice by showing the Board that the site conditions make meeting the setbacks infeasible, and the suggestion of a tight tank on the property to replace the system is a significant financial hardship

In light of the foregoing findings, the Board rules on the local upgrade request as follows:

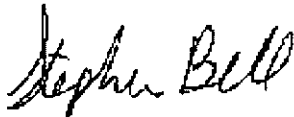
- It was voted to allow reduced setback distances of 55' to the well on the Property and 67' to the well at 57 Beaver Road;
- It was voted to grant the local upgrade as requested and that a plan dated July 8, 2020 is approved;
- It was voted that there shall be no deviation from the application and plan as submitted to the Board of Health;
- It was voted that this approval shall be subject to and contingent upon the following conditions:
 - The Applicants shall submit annual well quality reports for the well on the Property to the Board on July 1 of each year
 - The Applicants shall have the septic tank pumped once annually and shall submit pumping records to the Board each year on July 1

Though this is not listed as a condition, the Board recommends that the Applicants come to some agreement with the abutters at 57 Beaver Road to test the well on that property, since it is also within the 100' setback from the proposed system.

The Applicants demonstrated that a level of environmental protection that is at least equivalent to that provided under 310 CMR 15.000 can be achieved without strict application of the provision of 310 CMR 15.000 from which a variance is sought by adhering to the aforementioned conditions placed on the approval of the permit.

The Board would also like to recognize that the site conditions at the abutter's property, 57 Beaver Road, will be unchanged apart from the Applicant's failed system being repaired. The Board cannot waive any requirements that 310 CMR 15.000 places on owners who sell their property, nor can it make any promise that their onsite wastewater disposal system will pass an inspection. The Board can only state that the installation of a new system at the same location as the failed system will leave the abutters' property in the same condition as it currently stands.

Sincerely,



Stephen Bell, MPH
Director of Public Health
Quabbin Health District