

KINGSTON BOARD OF HEALTH PUBLIC HEARING MEETING MINUTES AUGUST 11, 2008

The Meeting of the Kingston Board of Health was called to order by : Chairman, William Watson, In attendance were: Vice- Chairman, Dan Sapir, Jack Breen, Joe Casna, Bill Kavol, Health Agent, Henny Walters.

7:00 Meeting called to order by Chairman, Bill Watson

Dan Sapir read the Public Hearing which was advertised for this evening.

Public Hearing - To consider adopting the following regulation: "Any lot serviced by a Municipal Sewer System will not be permitted to maintain or construct a Septic System on said lot."

Dan also read the existing regulation which was adopted on March 10, 2008.

Property owners whose lot(s) fall within an actively phased Municipal Sewer Line, and can not connect to such system because it cannot accept any additional flows, and who provides the Board of Health with a "refusal letter" from the Sewer Department, the Board of Health may allow the installation of an approved Title 5 System. Such system may be utilized for up to 10 years or longer if a sewer capacity remains unavailable. If the system fails, and sewer is available, the property owner must immediately connect as sewerage becomes available. Septic system life may receive extended use under the terms of the Kingston Board of Health deferment regulations.

Bill Watson said that is a regulation that currently exists we had a Public Hearing on that and was adopted on 3-10-08. Tonight this is a new regulation. Dan Sapir said it is a regulation that will not allow 2 systems on the same lot. Bill Watson said the gist of this particular regulation is you can only have 1 system on one lot you can only be sewerred by the Municipal Sewer or have a Title 5 Septic System on 1 lot in a sewerred area which would take precedence and have priority over that particular case.

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Present at meeting Sewer Commissioner - Elaine Fiore, & Secretary, Diane Poirier.

Also, Bob Gosselin, Contractor & Engineer, Rick Grady

Bob Gosselin said he just built a 10,000 sq, ft building on Evergreen Street, he has 2 taps for the building which isn't very much. He stated that he doesn't currently have a problem as far as tenants at this time , he checked with Department of Environmental Protection a few months ago and they had no problem with it. For example if a Doctor wanted to open a clinic in the building I could not meet the flow. I am on a list with the Sewer Department for whatever gets opened up. Right now I have an empty building which will not do anybody any good. I don't understand why I don't have that option. Rick Grady said that under Title 5 we have to have a detailed plan, you have a lot of vacant properties in town whether it be Bob struggling to get his building filled or whether it be Cranberry Crossing, or Boca Tu, this is going to have a negative impact on them and the town. It is not fair for people who want to invest in the town and the community. Bob Gosselin said he is limited to what he can do with that building and I would think that the Boards and anyone involved in the town should be concerned. The buildings will end up vacant and go into foreclosure and start hurting everything else around because they can't use it.

Pine Dubois, she said that actually she approves both regulations.

Dan Sapir said the March regulation is in place because if you could get an approved lot and are able to sub-divide it was lawful, and if the Board of Health wouldn't allow it then we would be prohibiting the use of the property by a landowner. This is pretty much for residential and if the capacity wasn't there and the Sewer Commissioner's came back and told us we would be in court more often than not. Jack Breen said we had a precedence where an existing system failed we don't tell them to abandon the property. Pine Dubois said that the regulation is compounding that problem it is an additional burden upon the tax payer who bought into the sewer who believed the arguments at Town Meeting and didn't buy into granting rights that were not there previously and that is what you are doing and I would ask Town Counsel because I don't really think that is true.

Bob Gosselin said well Pine the way I look at it is you are taking away peoples rights. The sewer became available and residents have to pay a betterment fee regardless if they are using it or not if it runs by their property. Even if they have a perfectly working septic system and want to continue to use it. I agree that if their septic system fails they should have to connect. If they have a perfectly working system I don't see why they had to pay for it to begin with. Everyone in town is paying for it regardless whether they are using it or not if sewer is going by their property. If someone has the capability of getting another lot, or expanding their commercial interest, but they can't get the tap because it is not available right now, they need other options until it is available.

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Bob Gosselin said I don't think because you put sewerage in the town you can take people's rights away of what they can do with their property.

Pine DuBois said she disagrees that we are taking away people's rights, I think what you are doing is trying to add a whole other bundle of rights.

Bill Watson said the limitation of what was existing in town and the reason we have the sewer is that lots were very small down the nook and septic systems were 55 gallon drums we have taken all that out of the mix and then you have some properties down there that are maybe a 15 acre lot that has been in the family for years and they can't expand on their lots, and they could prior to sewers, but after sewers came in, now they can't. Some of the lots on Summer Street are 10 acre lots and now they only have one hook-up. Before sewer came in they could have sub-divided their lot, now they can't.

Diane Poirier secretary of Sewer Commissioners spoke. She would like to see the newspaper add for a Public Hearing that was held March 10, 2008. She said she didn't know anything about the Hearing. She said Mr. Gosselin you knew what the sewer capacity was before you put a backhoe at that property. We are not trying to limit people, septic systems have been so painfully expensive for residents. Joe Casna said that the regulation states that you cannot put 2 systems on one lot and I agree with that.

Rick Grady, Engineer stated that everything we are hearing tonight are issues that are already addressed by Title 5. There is no reason to adopt another local regulation on top of Title 5 to address these issues. All systems are designed in accordance to Title 5, increase flow has to begin with a system that is in full performance of Title 5. They cannot request variances for separation to ground water, they cannot request variances for reduction of size of system, there has to be perc test requirements, they have to comply with a fully performing system which is deemed to protect the public health. If they are in an aquifer protected zone, they are limited to 1 bedroom for 10,000 square feet, limitations are already addressed under Title 5 and they should be left in Title 5.

Diane Poirier said that Title 5 says you should abandon your septic system and connect to sewer when sewer becomes available.

Rick Grady stated that sewer is not available.

Dan Sapir asked Sewer Commissioner, Elaine Fiore when the expansion of the plant is expected. Ms. Fiore explained that everything is in limbo right now. Bill Watson stated that so right now, public and private expansion is in limbo. Bob Gosselin asked if he knew somebody that has already paid for a tap and that tap doesn't exist anymore why couldn't I say I'll pay you X amount of dollars and I'll take over the tap. Dan said that is an interesting discussion it could be like a buy back.

Dan Sapir would like to continue the Public Hearing until next meeting to be held on August 25, 2008 at 7:00 p.m..

Motion: Dan Sapir direct the Health Agent to get permission from Town Administrator, to get something in writing from Town Counsel about the old and new regulation.

Second: Jack Breen

Vote 4-0-1, 1 no Joe Casna

Elaine Fiore would like to compare the answer we get from Town Counsel and the answer she has already received from Town Counsel.

Departmental Bills Reviewed

Health Agents Report Reviewed

Review Minutes of July 28, 2008

Motion: Joe Casna to approve minutes of July 28th, as presented

Second: Jack Breen

Vote 5-0-0, unanimous

Motion: Dan Sapir to go into Executive Session for potential litigation and adjourn not return to regular session

Second: Bill Watson

8:10

Roll call, Joe - no, Bill K.- Yes, Dan-yes, Jack-no, Bill W. -yes

Adjourn,

Respectfully submitted,
Linda G. Randall, Clerk

Linda G. Randall

Kingston Board of Health