

November 10, 2021  
Sterling Board of Health Meeting  
Butterick Building, Lower Level Conference Room  
1 Park Street, Sterling, MA 01564

Executive Session Meeting Minutes

6:01 PM                      The meeting was called to order by Chairman Allen Hoffman.

**Roll Call:**                      Anne Marie Catalano, Member - present  
                                        Allen Hoffman, Chairman - present  
                                        Cathie Martin, Member - present  
                                        David Favreau, Health Agent – left the meeting for this Executive Session  
                                        Elaine Heller, Administrative Assistant – present

At 7:38 PM, Health Agent Favreau left the meeting and the building.

A motion to move into Executive Session was made by Allen Hoffman and seconded by Anne Marie Catalano. Roll call vote: Hoffman - aye; Catalano - aye; Martin - aye. The Board members then entered into Executive Session:

Executive Session pursuant to M.G.L. c.30A, Sec. 21(a) reason #3 - re: litigation matters Town of Sterling vs. Jennifer Szczuka, 24 Kendall Hill Road.

The regular meeting will adjourn at the end of Executive Session.

A vote to move to Executive Session was made by Hoffman and seconded by Catalano. Hoffman - aye; Catalano - aye; Martin - aye. Motion carried.

A motion to open Executive Session was made by Hoffman and seconded by Catalano. Hoffman - aye; Catalano - aye; Martin - aye. Motion carried. Executive Session then opened at 7:42 PM.

A Title 5 inspection of the septic system at 24 Kendall Hill Road was performed by Jake Pettes of JPC Excavating & Septic and observed by Carl Nelke. The report gave a conditional pass to the system, indicating the D-box needed to be replaced. In doing the inspection, Mr. Pettes relied on soil testing data as old as 1989 for groundwater determination although more current information was available from abutting properties. He did not check with the Board of Health for this more current data before performing the Title 5 inspection.

It is Mr. Hoffman's opinion that it was Mr. Pettes' responsibility to investigate and use recent data when checking the groundwater table and not to solely rely on information that was old.

The Board reviewed the current version of Title 5, 310 CMR 15.302(4)(a), which clearly states that groundwater evaluations on neighboring properties should be used if current evaluations are not available:

“Determination of High Groundwater Elevation. A deep hole observation test is not required to determine high groundwater elevation during an inspection. High groundwater elevation shall be estimated by the inspector, using best professional judgment, based on the methods described in 310 CMR 15.302(4)(a) through (c)

- (a) The inspector shall review local maps and records of groundwater elevation (Previous deep hole observation tests or groundwater monitoring results) on the site and nearby properties, if available.”

The Board reviewed recent groundwater evaluations on neighboring properties, including one directly across the street from the subject property, and found the groundwater elevations to be very high (see attachment 2).

David Boyer, Section Chief, Waste Water Management, T5 Sewer of Mass DEP, was asked for his opinion on the use of groundwater monitoring results from 1989 and expressed that:

“The inspector shall review local maps and records of groundwater elevation (previous deep hole observation tests or groundwater monitoring results) on the site and nearby properties, if available. `1989 soil testing is not completely useless but doesn’t have much value either. If there are deep hole observation tests from abutting properties then that is much more applicable and complies with the code as it is a preferred method discussed above. Also, the inspector is supposed to use ‘best professional judgment’ in determining groundwater. Not using abutting soil evaluations brings into question whether the inspector used ‘best professional judgment’.”  
(See Attachment 3).

After discussion, Anne Marie Catalano made a motion that the Board reviewed recent groundwater evaluations and are not willing to sign a permit based on the information provided. Cathie Martin seconded the motion. Catalano - aye; Martin - aye; Hoffman - aye. Unanimous vote.

Chairman Hoffman asked that he be directed to contact Town Counsel and seek his advice in this matter before informing the applicant of the Board’s decision. The other members of the Board agreed with this procedure. He will advise Town Counsel of the Board’s review of the information provided regarding the septic system at 24 Kendall Hill Road and of the Board’s vote.

**Adjourn:**

A motion to adjourn the meeting and close and adjourn the Executive Session was made by Catalano and seconded by Martin. Catalano - aye; Martin - aye; Hoffman - aye. All members were in favor and the meeting adjourned at 8:24 PM