

The Town Board of the Town of Ballston met as the Board of Health at 7:00 p.m. on Tuesday evening, August 13, 2013 at the Town Hall on Charlton Road.

PRESENT: Patricia Southworth ----- Supervisor
Mary Beth Hynes ----- Councilwoman
Timothy Szczepaniak ----- Councilman
William Goslin ----- Councilman
Kelly Stewart ----- Councilwoman
Thomas Johnson ----- Building Inspector
Carol Shemo ----- Clerk
Murry Brower ----- Attorney

The purpose of this meeting is to address the complaint of a failed septic system at 15 Nolan Road. Ms. Van Dusen, the owner of this property, was served with a notice ordering the repair or replacement of the wastewater treatment system located at 15 Nolan Road pursuant to section 73-2 F (2) (b) of the Code of the Town of Ballston. Mr. Johnson did a follow up inspection at the site on August 5, 2013, to see if Ms. Van Dusen had corrected the situation. The septic system has not been repaired or replaced.

Mr. Coleman, Ms. Van Dusen's husband, contacted Supervisor Southworth concerning this issue. He understands that the septic system needs to be replaced and has received a quote of \$15,000 for the replacement. The owner does not have the finances to pay for the septic system at this time. He asked that the Board allow him to pump out the septic system on a regular basis and supply to the Board a record of the pumping, until he can work out a solution to finance the replacement. Recently, an ill grandchild has added an additional financial strain for this family.

Councilwoman Hynes said pumping the septic system is a short term solution and it is very expensive. If the owner can't afford the replacement, how will they afford the pumping of the system on a regular basis.

Ms. Wilcox, a neighbor to this property, stated that the septic problem has been going on for three years. Her backyard is next to the septic system and she cannot use her yard due to the smell. There has been raw sewage on this property. Pumping is not the solution. Odorless pumped this system today and a couple of months ago. The septic system has failed and she would like the Town to pay for the replacement.

Attorney Brower stated the Town cannot pay to replace the system for the Town cannot use public funds for private use. The Town can use the judicial system and the Town Code to replace the system and levy the cost on the owner's tax bill.

Supervisor Southworth asked if the owners could pump the system for a period of time and submit a plan for the replacement.

Councilman Szczepaniak asked Building Inspector Johnson if this is a health concern.

Mr. Johnson answered that it is a health concern. He has seen effluent at this property.

Councilman Szczepaniak said this situation has gone on for three years and it is a health problem. The Board needs to address this unacceptable situation for the neighbors on Nolan Road.

Attorney Brower asked Mr. Johnson if this is an emergency due to a health problem. He stated that under the Town Code, the owner was given 30 days notice to correct the situation, received two notices and public hearing. Mr. Brower read from the Town Code §73-2 (g) : If the Town Board finds that there is present a clear and imminent danger to life, safety or health of any person or property unless a failed wastewater treatment system is corrected, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the correction of such wastewater treatment system. The expense of such correction shall be a charge against the premises and shall be assessed, levied and collected as provided in Subsection F(2)(f). Under section 73-2 F system failure the Town can impose a \$500 fine per day for failing to correct the failure within 30 days after

receiving notice. If it is an emergency, the Town Board can terminate the ability to live there.

Mr. Johnson was asked how frequently the septic system would need to be pumped. He answered every 3-5 days.

Councilwoman Hynes said that under the law, if a situation is likely to reoccur, it is not corrected and it is still an emergency situation.

Councilman Goslin said they should leave the premises. It is financially better for them and the Town until they can come up with a plan. The sheriff can evict if the dwelling is uninhabitable after 30 days notice.

Councilwoman Stewart said the owner should receive notice that the owners have thirty days to provide a plan to correct the situation and pumping does not change that it is an emergency. If this is an unfit dwelling, the owners should vacate the property and the Town should provide information on emergency housing available.

Councilwoman Hynes said she wished the owners were present so the Board could ask them their preference on how they would like to proceed.

Attorney Brower and Building Inspector Johnson will write a final notice to Ms. Van Dusen.

BOARD OF HEALTH RESOLUTION 13-005
AUTHORIZE EMERGENCY TREATMENT OF SEWAGE DISPOSAL SYSTEM AT 15 NOLAN ROAD. NOTICE TO THE HOMEOWNER THAT THE TOWN WILL HIRE AN ENGINEER AND REPLACE THE SYSTEM AND LEVY THIS COST ON THEIR TAXES.

A motion was made by Councilwoman Stewart and seconded by Councilman Szczepaniak to authorize emergency treatment of the sewage disposal system at 15 Nolan Road. A notice will be sent to the homeowner that the Town will hire an engineer and replace the system and levy this cost on their taxes.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart

Nays 0

BOARD OF HEALTH RESOLUTION 13-006
HIRE ENGINEER WAYNE KANT TO DESIGN AND PROVIDE THE SEPTIC SYSTEM FOR 15 NOLAN ROAD.

A motion was made by Councilwoman Hynes and seconded by Councilman Szczepaniak to hire engineer Wayne Kant to design and provide the septic system for 15 Nolan Road.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart

Nays 0

A motion was made by Councilwoman Stewart and seconded by Councilman Goslin to adjourn the meeting at 7:30 p.m.

Respectfully submitted,

Carol R. Shemo
Town Clerk