

BOARD OF ADJUSTMENT

EAST KINGSTON

September 27, 1989

Members present: Raymond Donald, Interim Chairman; Donald Andolina, David Ciardelli, Daniel Guilmette, and Joseph Conti

Mr. Donald called the meeting to order at 7:25pm.

Mr. Donald wished the official minutes to reflect that because of the resignation of the Chairman of the Board of Adjustment [Mr. William Osgood], he will be acting as Interim Chairman until a replacement is named by the Board of Selectmen. Mr. Andolina is sitting as a member.

RICHARD PINDER Mr. Ronald Pica, Engineer for Mr. Pinder was recognized by the Board at this time. Mr. Pica explained the circumstances bringing his client, Mr. Pinder to the Board. This is an existing lot of approximately 8,000 sf - 80 x 100 ft. There is an existing building with septic tank and leaching field. The system has presently failed and he has designed the proposed chamber system to correct the problem. (1989-02)

Mr. Donald asked if this property was seasonally occupied.

Mr. Pica stated that it is occupied year round.

Mr. Pinder stated that he and his wife have owned the property for 3-1/2 to 4 years.

Mr. Conti asked if it was a seasonal home when Mr. Pinder bought the home.

Mr. Pinder stated he purchased it as a year round home and moved right in as a year round resident. He further stated that he had it winter insulated, remodeled and that he got his Building Permit from the past Building Inspector, Pat Marcoux.

Mr. Pica stated that he has attempted to design a leaching field that would be better suited to the lot as it is located so close to POWNOW Pond. The system is designed with a potential for containing the leachate in the front yard. The system is a chamber system. Mr. Pica has requested five waivers from the state.

1. 1015.03 Distance above SHWT: the bottom of leaching field shall be 4.0" above shwt. Waive to: The field will be 3' above the SHWT.
2. 1007.03 Min. distances 75' min. to wetlands to leaching field. Waive to: To place field 52' from wetlands.
3. 102.05 Slope: Raised areas of leaching area shall have 3:1 max. slope. Waive to: The field will use a 2:1 slope max.
4. 1021.04 Extension of fill: The finish grade of the bed shall extend 5' beyond the bed. Waive to: The field will have a 3' fill extension and a clay barrier will surround the system.

5. 1007.03 Minimum distances: 75' min. to abutters well from leach field, septic tank and pump chamber and also from owner's well. Waive to: The field would maintain 49.5' to abutter's well and 23' to owner's well.

Mr. Pica stated that the State DES has to approve these requested waivers prior to installation.

Mr. Conti, Building Inspector stated that he recommended a holding tank.

Mr. Pica said that the State wants to get away from holding tanks as they are having problems dumping the waste from this kind of arrangement. Mr. Pica further stated that this is the best design with the waivers, as there are a lot of lakefront properties and the State has determined that the granting of waivers is preferable to get away from the use of holding tanks in this kind of situation.

Mr. Pica stated his client is asking the Board to review and agree that this is the best subsurface system and approve this variance. He also stated that if the Board can suggest a better way to handle this problem, he would be willing to change the design.

Mr. Andolina asked why the request to this Board comes before the State approvals.

Mr. Pica explained that according to the laws of East Kingston they must give approvals prior to going to the State.

Mr. Pica gave the two letters from abutters, Mrs. Ruth Dickie and Mr. Louis Dodge stating they have no objections to this variance being granted.

Mr. Pica said that this is a three bedroom house and there will be flow increase with the use of this system. The chamber system is designed to handle 378 sf and 370 sf is required. The flow rate will accommodate 450 gals. per day.

Mr. Conti asked the original size of the leach field.

Mr. Pica answered the designed size of the chamber system is 24 x 28'. The rate of perc test is 4 min. per inch. The seasonal high water is 12 inches.

Mr. Pinder said that the perc test was witnessed by Mrs. Fairbanks. He stated that Mr. Conti was not notified as Adam Mazur stated it was not necessary to notify him. Adam Mazur did the digging for the test pit.

Mr. Conti stated that he wants three people notified prior to testing, the Building Inspector, the Health Inspector and one Planning Board member.

Mr. Pinder stated that he did not know at the time of this test that Mr. Conti should have been notified. Because it was an existing lot and the house was in existence, he felt only the Health Inspector had to be notified.

Mr. Conti stated that he would accept the witnessing of the perc test by Mrs. Fairbanks for this one time.

Mr. Donald stated that the notification process was a town problem and they will address this, and if Mr. Conti has no problem with the witness, the Board will address other issues at this time.

Mr. Donald asked if there were any abutter present? There were no abutters present.

Mr. Conti asked how far from the nearest chamber to the edge of the water.

Mr. Pica answered 89'.

Mr. Andolina stated that all waivers granted from East Kingston will be recorded at the Registry of Deeds. The letter from Mrs. Dickie will also be recorded at the Registry of Deeds.

Mr. Donald stated that all waivers will be done via the Board of Selectmen.

Mr. Andolina stated that the recording fees will be charged to Mr. Pinder.

Mr. Conti asked about the conditions of the property across the street.

Mr. Pinder stated that it is wetlands across the street and there would not be a chance to purchase.

Mr. Pinder agreed to show the Building Permit that he obtained approximately in April of 1986.

Mr. Donald stated that if there was no further discussion, the Public Hearing would be closed to discussion and the Board would be taking this request under advisement.

Mr. Donald explained to the Board members in order to grant this request for a variance the five criteria of allowance would have to be addressed. At this time the Board discussed each of the five criteria with the resulting consensus on each of the individual items:

1. No diminution in value of surrounding properties would be suffered

Board Remarks: Feels it would be an improvement/Leach field being less than 75' doesn't enhance the abutter's property, even if the letter states otherwise-if you put the septic system too close it doesn't enhance the well, would there be problems with policing the testing/would the abutters or new owner come back and make the town responsible for pollution

The Board felt that this position was favorable

2. Granting the permit would be of benefit to the public interest

Board Remarks: Holding tank would be for the benefit of everybody./problems with 3' from edge of slope./the existing leach field is causing contaminates to get to the pond-this would certainly be an improvement./this improvement would serve the general public, they would be better served./preferable to any other solution

The Board felt that this position was favorable

3. Denial of the permit would result in unnecessary hardship to the owner seeking it

Board Remarks: Not granting the waiver would create a hardship./would cause the use of a holding tank./if we ignore the zoning laws, then we would not meet the intent./not different from any other property in the area./no hardship with the property./holding tank better for general public./there is dumping allowed in town./holding tank clearance is also 75'./would rather see more information, move-in date, well depth./asked for professional opinion-how effective is the chamber system?

Mr. Pica More effective, purification and strength is greater. Would be adding a clay barrier.

Board Remarks: Need the original letter from Mrs. Dickie, wants to see it./prior to granting any variance it should be notarized (Mrs. Dickie's letter)/

Mr. Pinder The letter will be notarized and given to the Board.

Board Remarks: This design is an improvement./wants a guarantee the system will work./designer has guaranteed the system design by affixing his stamp, he is liable for his design

The Board felt that this position was favorable

4. By granting the permit substantial justice would be done

Board Remarks: Granting would permit substantial justice

The Board felt that this position was favorable

5. The use must not be contrary to the spirit of the ordinance

Board Remarks: Use is not contrary as spirit of the ordinance and the revised Master Plan address making sure the environment stay as clean as possible./assuming State blesses there will be no objection

The Board felt that this position was favorable

Mr. Guilmette motioned to accept this plan for Mr. Pinder. The variance references Sanitary Disposal System for Richard Pinder, drawn by R. J. Pica Engineering Co., Inc., and dated 07-17-89.

Mr. Andolina amended this motion to be subject to receipt of a notarized copy of the waiver from Mrs. Dickie.

Mr. Donald second.

The amendment carried 5-0.

Mr. Ciardelli amended the main motion to attach "subject to State approval"

Mr. Donald second.

The amendment carried 5-0.

Mr. Donald called for the vote on the motion as amended.

The amended motion carried 5-0.

Mr. Pinder and Mr. Pica were informed that the waivers were granted contingent upon meeting the terms of the amendments.

Mr. Andolina stated that the Board of Selectmen would require a check in the amount to cover the recording fees at the Registry of Deeds. There are five sheets of waivers and Mrs. Dickie's letter to be recorded.

Mr. Pica asked if the State changes any portion of the waivers requested, can Mr. Conti sign or would it be necessary to come back to the Board.

It was the Board's feeling that if the State varied the waivers as requested, it would be an improvement and Mr. Conti would have the authority to sign.

Mr. Guilmette stated that Mr. Osgood had set the criteria for the conduction of business by the Board in the past and there was discussion about the purposes of the Board.

CARSAN DEVELOPMENT CORP. Mr. Donald outlined the Carsan Development request for a Rehearing and the brief history of Pine Woods. Presently one driveway serves two house lots. (1989-03)

There was discussion about the BOCA codes and the effect of transfers of permits between owners, and between lots.

Mr. Donald reminded the Board members that East Kingston does not address all BOCA codes. He explained that some areas have "Multi-stage" building permits...one building permit for cellar...second one for rough in...one for finish...etc. At the present East Kingston issues one building permit for the entire building.

Mr. Guilmette asked if the Board is reacting to the driveway permit, was it issued to Melvin Bowley before or after there were two homes?

Mr. Donald stated the second problem is that Carsan was never notified of the results of the hearing held last year, 1988.

The third problem is that in August 1989 they submitted an application for a Rehearing and that was not responded to in the time frame allowed.

Mr. Andolina stated that he called Ann Thompson and Mr. Osgood gave Carsan's attorney's letter to Ann Thompson.

Mr. Andolina said that at this time Ann Thompson wants a response from the Board in order to get back to Carsan's attorney.

Mr. Guilmette wants to rehear the case.

The Board's feeling is to talk to Ann Thompson and to set a date to

The Board agreed to hold a Public Rehearing of Carsan Development Corp. on Thursday, October 26, 1989 at 7:00pm.

Mr. Donald thanked the members for sitting on the Board this evening and expressed the need to find more members who would be willing to serve on the Board of Adjustment.

The meeting was adjourned at 8:40pm.

Respectfully submitted.

Nancy J. Marden, Secretary/Clerk