

HEARINGS, MEETINGS, LICENSES
4-27-09



**TOWN OF MIDDLEBOROUGH
HEALTH DEPARTMENT**

Jeanne Spalding, RS, CHO
Health Officer
Hours: 9am-5pm

PH: 508-946-2408
FX: 508-946-2321

MEMO

TO: Board of Selectmen

FROM: Jeanne Spalding, Health Officer

DATE: April 23, 2009

**RE: Vernon St. Map 37, Lot 4669
Waiver request to local by law for wells**

Some of the Board members may remember this application coming before them before from Gallagher Eng. representing the owner, Mr. Sands. This previous request was denied by the Board acting as the Board of Health.

Brian Grady from GAF engineering is presenting the application again on behalf of the owner with a re-design and additional site monitoring information.

Health Dept. concerns remain relative to the potential to exacerbate flooding conditions on this lot as well as the direct abutters, the potential of septic contaminants leaching to flood waters and lateral flow of these contaminants to groundwater gradients of the on site well and nearby wells due to the reverse intrusion during flood conditions.

This application is similar in considerations as the previous case involving a lot on Tispaquin St. which was sent for comment to a review engineer at the cost of the applicant. It is my recommendation that a consistent process is requested of this applicant prior to a decision by the Board.



ENGINEERING
INC.

ENGINEERS
SURVEYORS

March 24, 2009

Town of Middleborough
Health Department
20 Centre Street
Middleborough, MA 02346
Attn: Jeanne Spalding

Re: Variance Request
Vernon Street, Map 37, Lot 4669
G.A.F. Job No. 07-7009

Dear Jeanne:

Attached please find a Sewage Disposal Design Plan and application for the above referenced property. On behalf of the owner, Michael Sands, we respectfully request that the Board of Health grant the following variances.

Variances to Local Regulation "Location of Well Sites"

This section requires that if the percolation rate is less than 5 minutes per inch, wells shall be setback 200 feet from subsurface disposal areas. The following setbacks have been provided:

1. The proposed well to the locus system is 106 feet. This is a 94 foot variance.
2. The proposed well to the system on adjacent lot 4636 (6 Vernon Street) is 176 feet. This is a 24 foot variance.
3. The existing well on lot 4636 (6 Vernon Street) is 156 feet to the proposed system. This is a 44 foot Variance.

It is our opinion that as designed, there will be no impact to the existing well at 6 Vernon Street or to the proposed locus well, from the construction of the proposed dwelling and sewage disposal system. We offer the following in support of this variance:

Topography

Figure 1 shows the USGS locus. This Figure shows that surface topography in the area slopes in a south-southwesterly direction, toward Poquoy Brook. The attached plan entitled "Sewage Disposal System Design, Prepared for Michael Sands", by this office and dated February 5, 2009, also shows that topography slopes in a southerly direction. Ground water generally mirrors surface topography. From the Figure and the attached plan it can be seen that the proposed sewage disposal area is located southerly of the proposed and existing well. This shows that ground water is flowing away from the up-gradient wells.

Soils

The USDA-Natural Resources Conservation Service soil survey map for the area (Figure 6) indicates that soils for the locus and adjacent properties consist of Scio very fine sandy loam and Eldridge sandy loam. Scio soils are classified as being moderately well drained with a slow to moderately slow permeability and a seasonal perched water table. Eldridge sandy loams are classified as being moderately well drained with a rapid to moderately rapid permeability and a seasonal perched water table. Specific on-site soil evaluations

266 MAIN ST.

WAREHAM, MA

02571

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FAX 508.295.6634

gaf@gaf-eng.com

were performed by Frank Gallagher P.E. on October 21, 2003. These soils are on the attached plan and were described as fine to medium sands with water table indications at 2.5 feet. A percolation test was performed and a rate of 2 minutes per inch was obtained.

Private Wells

Well completion reports have also been provided for nearby properties as available from Health Department records. This data is summarized below:

<u>House #</u>	<u>Well Depth</u>	<u>Depth to Bedrock</u>	<u>Water Bearing Zone</u>
#44 Vernon	230'	31'	360-380'
#64 Vernon	420'	20'	
#66 Vernon	225'	30'	
#79 Vernon	220'	29'	80-82' & 142-145'

Mr. David Thompson, the abutter at 6 Vernon Street, has indicated to me that his well is approximately 150 feet deep. From this data we can determine that the proposed well to be sited at this location will most likely be a drilled bedrock well. Bedrock wells obtain water from crack and fissures within the bedrock, not from the shallow overburden tills and sands.

Monitoring Wells

Four ground water monitoring wells were installed on this property in January 2008 by Dragin Drilling, Inc. The purpose of these wells is to establish depth to water table and ground water flow direction. After installation of the wells, they were survey located and the elevation of the top of the casing was obtained. Once the elevation of the top of the well is known, measurements from the top of the casing to the water within the well can be taken. This will provide the depth to the water table for each well. These can then be compared to determine ground water contours which provide the direction of flow.

Monitoring began on January 28, 2008 and continued approximately once per month from January 28, 2008 through January 6, 2009. These twelve plans, entitled "Ground Water Contour Plan", are attached. These plans show the location and elevation of the existing monitor wells, existing surface contours, and the ground water contours. Just like with surface contours, flow direction is perpendicular to the ground water contours. These plans consistently demonstrate that ground water flow is toward the south-southwest, away from the upgradient well and the proposed locus well. This confirms the generalization made from the USGS contours that show the topography sloping to the south-southwest, toward Poquoy Brook and the Taunton River.

Summary

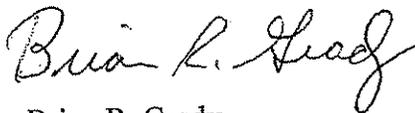
- 1) Topography from the USGS locus map shows that surface topography slopes toward the south-southwest. This is toward Poquoy Brook and the Taunton River.
- 2) The soils map shows that the area contains soils with slow to moderately slow permeabilities and high water tables.
- 3) Well completion reports demonstrate that private wells in the area are bedrock wells between 230 feet and 420 feet in depth. These wells obtain water from the bedrock aquifer and not from the shallow ground water sources.

- 4) The monitoring wells clearly demonstrate that ground water flows in a southerly direction, toward Poquoy Brook and the Taunton River.

From the above referenced information, it is clear that the localized ground water flows in a southerly direction. This is away from the adjacent well and the proposed locus well. There will be no impacts to these wells from the installation of the proposed sewage disposal system.

If you have any questions regarding the above please contact me.

Sincerely,
G.A.F. Engineering, Inc.

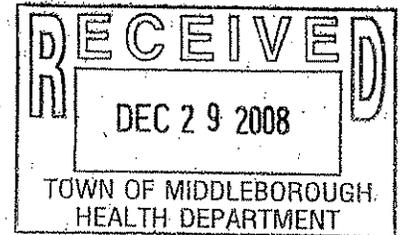


Brian R. Grady

Cc: Michael Sands
David Gay, Esq.



Town of Middleborough
CONSERVATION COMMISSION



MEMORANDUM

TO: Jeanne Spalding, Health Officer
FROM: Patricia J. Cassady, Conservation Agent 
DATE: December 23, 2008
RE: Vernon Street (Map 37, Lot 4669) Comments

The Conservation Department has a couple of files on the above-mentioned site. The first file is under DEP file #220-880. This file was for a Notice of Intent to building a single family dwelling with associated septic system within the 100-foot buffer zone to a wetland resource area and within the bordering land subject to flooding (BLSF) also known as the 100-year floodplain. The result was the issuance of an Order of Conditions by the Middleborough Conservation Commission on June 22, 2004 approving the project. This Order of Conditions was then appealed to the DEP by an abutter, Mr. David Thompson in which the DEP then issued a Superseding Order of Conditions issued on October 27, 2004. The applicant Mr. Sands was then issued an Extension Permit for the Orders of Conditions that extends his approval to October 27, 2010.

The main topic of discussion concerning the permit under 220-880 was the floodplain. The fill within the BLSF will displace the flood storage capacity by 7,800 cubic feet and they are proposing 8,000 cubic feet of compensatory flood storage as mitigation. This mitigation was approved by the DEP. Under the Wetland Protection Act regulation 310 CMR 10.57 (4) (a) 1: mitigation can also take place within the BLSF as long as no flood storage capacity is lost.

More recently there was a second Notice of Intent filing under 220-1040 for the installation of five monitoring wells in the buffer zone to monitor the depth to the water table. This proposal was approved with the issuance of an Order of Conditions on August 16, 2007.

If there are any changes to these approved plans then Mr. Sands will need to come back before the Commission to see if the changes warrant the filing of a new Notice of Intent.

If you have any other questions, don't hesitate to contact me.

pjc

Incorporated 1659



CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

HEALTH DEPARTMENT
508-946-2408

20 CENTRE STREET
MIDDLEBOROUGH, MA 02346

January 16, 2009

Patricia & William Marzelli
104 South Main Street
Middleborough, MA 02346

Subject: Rooming House - 382 Center Street - Middleborough, MA 02346
Assessor's Map 50N Lot 5935

Dear Mr. & Mrs. Marzelli,

On December 22, 2008 a housing inspection was conducted at the above property at the request of the Middleborough Police Department. On the occasion of this inspection it was noted that the third floor of this building is functioning as a rooming house. The regulations regarding rooming houses can be found in The State Sanitary Code Chapter II, Minimum Standards of Fitness For Human Habitation 105 CMR 410.000.

The Middleborough Health Department requires a yearly application, fee and a minimum of one inspection per year in order for these facilities to be in compliance. Therefore, in order to continue to operate this facility you must contact the Health Department by March 20, 2009, to fill out an application and to schedule an inspection.

If you have any questions please contact Catherine Hassett at (508) 946-2408. Thank you in advance for your cooperation with this matter.

Very truly yours,
For the Board of Health

Catherine Hassett
Catherine Hassett
Health Inspector

c.c. Middleborough Board of Selectman/Board of Health
Charles Cristello Town Manager

Fee: \$10.00 Per Room

TOWN OF MIDDLEBOROUGH

BOARD OF HEALTH

To the Board of Health of the Town of Middleborough:

Application is hereby made for a permit to OPERATE A LODGING/ROOMING HOUSE

Name of Applicant

Type of Facility _____ *Number of Units/Rooms*

No. _____ *Street* _____ *Town* _____ *Zip Code* _____

Telephone Number: _____

If applicant is a partnership, full name and residence of all partners:

If applicant is a corporation, full name and address of:

President: _____

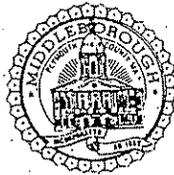
Treasurer: _____

Clerk: _____

Signature: _____

Date: _____

Incorporated 1669



CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

HEALTH DEPARTMENT
508-946-2408

20 CENTRE STREET
MIDDLEBOROUGH, MA 02346

March 24, 2009

*Patricia & William Marzelli
104 South Main Street
Middleborough, MA 02346*

*Subject: Rooming House - 382 Center Street – Middleborough, MA 02346
Assessor's Map 50N Lot 5935*

Dear Mr. & Mrs. Marzelli,

On January 16, 2009 a letter was sent to you regarding your property located at 382 Center Street. It appears this property is being operated as a rooming house. As noted on the original letter you were asked to contact the Middleboro Health Department by March 20, 2009. As of this date no information has been received by this department.

Please contact the Health Department within the next (5) Five Days to discuss bringing this property into compliance.

If you have any questions please contact Catherine Hassett at (508) 946-2408. Thank you in advance for your cooperation with this matter.

*Very truly yours,
For the Board of Health*

*Catherine Hassett
Health Inspector*

*cc. Middleborough Board of Selectman/Board of Health
Charles Cristello Town Manager*

105 CMR: DEPARTMENT OF PUBLIC HEALTH

410.020: continued

Provide means to supply and pay for.

Representative or Occupant's Representative means any adult person designated and duly authorized to act on the occupant's behalf, including, but not limited to, any person or group designee from a tenant's organization or other community group.

Rooming House means every dwelling or part thereof which contains one or more rooming units in which space is let or sublet for compensation by the owner or operator to four or more persons not within the second degree of kindred to the person compensated. Boarding houses, hotels, inns, lodging houses, dormitories and other similar dwelling places are included, except to the extent that they are governed by stricter standards elsewhere created; provided that the provisions of 105 CMR 410.000 shall not apply to any hospital, sanatorium, convalescent or nursing home, infirmary or boarding home for the aged licensed by the Department of Public Health in accordance with the provisions of M.G.L. c. 111, § 51 or 71.

Rooming Unit means the room or group of rooms let to an individual or household for use as living and sleeping quarters but not for cooking, whether or not common facilities for cooking are made available; provided, that cooking facilities shall not be deemed common if they can be reached only by passing through any part of the dwelling unit or rooming unit of another.

Rubbish means combustible and noncombustible waste materials, except garbage, and includes but is not limited to such material as paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, grass clippings, tin cans, metals, mineral matter, glass, crockery, dust, and the residue from the burning of wood, coal, coke and other combustible materials.

Stairway means any group of stairs consisting of three or more risers.

Temporary Housing means any tent, mobile dwelling unit, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than 30 days.

Use Group R-3 means all buildings arranged for occupancy as one or two family dwelling units, including not more than five lodgers per family and multiple single family dwellings where each unit has an independent means of egress and is separated by a two-hour fire separation assembly.

Exceptions:

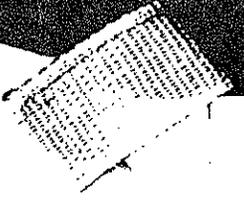
- (1) In multiple single-family dwellings that are equipped throughout with an approved sprinkler system installed in accordance with 780 CMR 906.2.1 or 906.2.2, the fire resistance rating of the dwelling unit separation shall not be less than one hour. Dwelling unit separation wall shall be constructed as fire partitions.
- (2) In multiple single-family dwellings that are equipped throughout with an approved automatic sprinkler system installed in accordance with 780 CMR 906.2.3, a two hour fire separation assembly shall be provided between each pair of dwelling units. The fire resistance rating between each dwelling unit shall not be less than one hour and shall be constructed as a fire partition (780 CMR 310.5).

Use Group R-4 means all detached one and two family dwellings not more than three stories in height and all accessory structures (780 CMR 310.6).

Violation means any condition in a dwelling, dwelling unit, mobile dwelling unit, or rooming house or upon a parcel of land which fails to meet any requirement of 105 CMR 410.000.

Water Conservation Device means for all showers, shower stalls, shower compartments or shower baths, a low-flow showerhead which shall have a maximum flow rate not exceeding 2½ gallons of water per minute, for all faucets a maximum flow rate not exceeding two and 2/10 gallons of water per minute and for all water closets, ultra-low-flush water closets not exceeding one and 6/10 gallons of water per flush, contained within a dwelling unit.

D. R. DeRoche



140 § 21E

PUBLIC HEALTH

to sell alcoholic beverages, as defined in section one of said chapter one hundred and thirty-eight, nor to any recognized veteran or fraternal organization.

Added by St.1933, c. 284. Amended by St.1934, c. 328, § 16.

§ 21F. Unlicensed organization; officer or employee dispensing food or beverage

Any officer or employee of any such organization who dispenses or causes to be dispensed any food or beverage on its premises, unless such organization is then licensed under section twenty-one E, shall be punished by a fine of not more than one hundred dollars for the first or second offence and by such fine and imprisonment for not more than three months for each subsequent offence. If any officer or employee of any such organization which is incorporated is convicted of any offence under this section, the selectmen, or the aldermen, in the place where such organization is situated, except Boston, and in Boston the police commissioner, shall immediately give notice to the state secretary, who, upon receipt thereof, shall declare the charter of such organization void, and shall publish a notice in at least one newspaper published in the county where such organization is located that such incorporation is void and of no further effect.

Added by St.1933, c. 284.

LODGING HOUSES

§ 22. Definition

"Lodging house", as used in sections twenty-two to thirty-one, inclusive, shall mean a house where lodgings are let to four or more persons not within the second degree of kindred to the person conducting it, and shall include fraternity houses and dormitories of educational institutions, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under section seventy-one of chapter one hundred and eleven or rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.

Amended by St.1960, c. 740; St.1965, c. 171; St.1973, c. 481.

§ 22A. Cooking facilities

Notwithstanding any provision of law or any regulation, ordinance or by-law to the contrary, a lodging house where lodgings are let to more than five but less than twenty persons may furnish individual cooking facilities for the preparation, serving, eating and storage of food; provided that no such facility shall be furnished in a room having an area of less than one hundred fifty square feet. Such facilities shall, in a single room, consist of a gas or electric

plate, a refrigerator and hot and cold running water and in a unit consisting of two adjoining rooms shall consist of a gas or electric range, a sink with hot and cold running water, a refrigerator and storage area for food. Any facilities furnished under this section shall comply with the building code applicable thereto. This section shall apply only to cities and towns which accept its provisions.

Added by St.1970, c. 859, § 1.

§ 23. Term; fee

Licensing authorities may grant licenses for lodging houses which shall be for the period provided in section four, and shall charge for each license such fee, not exceeding twenty dollars, as the city council or selectmen may establish, otherwise the same shall be granted without charge.

Amended by St.1952, c. 577; St.1974, c. 70.

§ 24. Unlicensed keeper

Whoever conducts a lodging house without a license shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than three months, or both.

§ 25. Inspection of premises

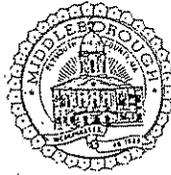
Premises occupied, used or controlled by a licensee under sections twenty-two to thirty-one, inclusive, or under an innholder's license shall be subject to inspection by the licensing authorities and their authorized agents, and by the police on request from the licensing authorities.

§ 30. Revocation and suspension of license; investigation; hearing; notice

A license issued under sections twenty-two to thirty-one, inclusive, or an innholder's license, shall be revoked if at any time the licensing authorities are satisfied that the licensee is unfit to hold the license. They may suspend and make inoperative, for such period of time as they may deem proper, the licenses mentioned herein for any cause deemed satisfactory to them. The revocation and suspension shall not be made until after investigation and a hearing, or after giving the licensee an opportunity to be heard; notice of the hearing shall be left at the premises of the licensee not less than three days before the time therefor.

S. Main St.
S. Main St.

Incorporated 1669



CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

HEALTH DEPARTMENT
508-946-2408

20 CENTRE STREET
MIDDLEBOROUGH, MA 02346

April 14, 2009

Patricia & William Marzelli
104 South Main Street
Middleborough, MA 02346

Subject: *Rooming House – 382 Center Street – Middleborough, MA 02346*
Assessor's Map 50N Lot 5935

Dear Mr. & Mrs. Marzelli,

Please be advised that you are hereby ordered to appear at a hearing scheduled with the Board of Selectmen/Board of Health on April 27, 2009 at 7:15 p.m. to discuss the above property and Rooming House requirements.

Referral to the Board on this issue is based on your failure to submit the proper paperwork indicating why this property would be legally exempt from MGL chapter 140 sections 23 & 25 and neither did you submit proper paperwork or arrange for an inspection of this facility.

Failure to permit and allow inspection of a lodging house is a violation of MGL chapter 140 sections 23 & 25.

Massachusetts General Laws chapter 140 section 22 defines a Lodging House: "Lodging house", as used in sections twenty-two to thirty-one, inclusive, shall mean a house where lodgings are let to four or more persons not within the second degree of kindred to the person conducting it, and shall include fraternity houses and dormitories of educational institutions, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under section seventy-one of chapter one hundred and eleven or rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.

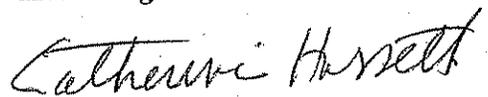
Should you be aggrieved by this order, you have the right to request a hearing before the Board of Health. A request for said hearing must be received in writing in the office of the Board of Health within seven (7) days of receipt of this order. At said hearing you will be given an opportunity to be heard and to present witness and documentary evidence as to why this order should be modified or withdrawn. You may be represented by an attorney. Please be informed that you have the right to inspect and obtain copies of all relevant inspection or investigation reports, notices and other documentary information in the possession of this Board and that any adverse party has the right to be present at the hearing.

Please contact the Health Department at (508) 946-2408 if you have any questions.

*Very truly yours,
For the Board of Health*



*Charles Cristello
Health Agent*

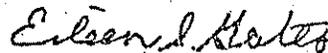


*Catherine Hassett
Health Inspector*

*C.c. Board of Selectmen/Board of Health
Charles Cristello, Town Manager*

Certified: 7007 1490 0000 8250 9185

A TRUE COPY ATTEST:



TOWN CLERK

CONSTRUCTION DETAIL

CONSTRUCTION DETAIL (CONTINUED)

Element	Code	Ch.	Description	Element	Code	Ch.	Description
Style	80		Mix Use Com Tp				
Model	94		Commercial				
Grade	03		Average				
Stories	1						
Occupancy	1						
Exterior Wall 1	25		Vinyl Siding				
Exterior Wall 2							
Roof Structure	03		Gable/Hip				
Roof Cover	03		Asph/F Gls/Cmp				
Interior Wall 1	03		Plastered				
Interior Wall 2							
Interior Floor 1	14		Carpet				
Interior Floor 2	06		Inhald Sht Gds				
Heating Fuel	03		Gas				
Heating Type	05		Hot Water				
AC Type	01		None				
Bldg Use	0322		STORE/SHOP MDL-94				
Total Rooms	09						
Total Bedrms	8						
Total Baths							

MIXED USE

Code	Description	Percentage
0322	STORE/SHOP MDL-94	50
0111	APT 4-UNIT	50

COST/MARKET VALUATION

Adj. Base Rate:	85.08
Section, RCN:	495,081
Net Other Adj:	0.00
Replace Cost:	495,081
AYB:	1,900
EYB:	1,967
Dep Code:	F
Remodel Rating:	
Year Remodeled:	
Dep %:	42
Functional Obsolescence:	10
External Obsolescence:	0
Cost Trend Factor:	1
Condition:	
% Complete:	48
Overall % Cond:	237,600
Apprais Val:	
Dep % Ovr:	0
Dep Ovr Comment:	
Misc Imp Ovr:	0
Misc Imp Ovr Comment:	
Cost to Cure Ovr:	0
Cost to Cure Ovr Comment:	

OB-OUTBUILDING & YARD ITEMS(D) / XE-BUILDING EXTRA FEATURES(B)

Code	Description	Sub	Sub Descript	UB	Units	Unit Price	Yr	Gde	Dn Rl	Cnd	%Chd	Apr Value
BUILDING SUB-AREA SUMMARY SECTION												
Code	Description			Living Area	Gross Area	Eff Area				Unit Cost	Undeprec. Value	
BAS	First Floor			2,848	2,848	2,848				85.08		
FAT	Attic, Finished			667	1,905	667				29.79		
FEP	Porch, Enclosed			0	35	18				43.76		
FOP	Porch, Open			0	32	8				21.27		
FUS	Upper Story, Finished			1,810	1,905	1,810				80.84		
UBM	Basement, Unfinished			0	1,873	468				21.26		
				5,325	8,598	5,819						

