Septic Health Information Task Team

9-10-19 Meeting Notes  (prepared by A Lindamood)

Attendees:  Marie Samaha, Susan Slack,  Bill Gassman, Steve Zelewski, Brian Sanford, Amy Lindamood

Not Present:  Kevin Quinlan, Scott Bartlett, Pat Tarpey, Jim Nelson

Meeting opened by discussing RSA 485-A regarding its reach and application. Noted was the following:
- The RSA applies to waterfront properties only requiring evaluations at time of sale
- The RSA states that the evaluation needs to be performed by a Designer. It was questioned if this conflicts with the use of a Licensed Evaluator.
- The Health Officer and State must be notified only if the septic system is in failure.
- Failure is narrowly defined as discharge on ground surface or into surface waters.
- Steve noted that he has no evidence of reported failures at time of sale, though he has had failed systems reported otherwise.
- The RSA does not cover compromised systems.

A lengthy discussion was held around Certificate of Continued Occupancy (CCO) and how it would be managed.

- How would we ensure the Evaluation and CCO are done in advance of sale and not retroactive after closing?
- Bill Gassman noted that Keith Nelson questioned whether issuing a CCO would be legal, but that this was not a legal opinion by Keith.
- It was noted that Bruce Woodruff is reviewing the Health regulations to evaluate the legality before involving the Town attorney.
- A CCO may be legal since it would be considered an administrative means to accomplish/enforce the ordinance.
- Freedom instituted stronger regulations 40 years ago so we probably could do it.
- The Tax Assessors Office is notified of new deeds by the Registry of Deeds on a regular basis.

All agreed, in order to move forward we would assume for now that a CCO would be legal to implement. We went on to discuss Who would be included in the scope of the ordinance and What evaluation results would apply to requiring repair or replacement.
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A lengthy discussion revolved around Who would be required to obtain a CCO:
- Waterfront properties only, aligning with RSA 485-A:
  - concerns were expressed that this could be too limiting and not necessarily easy to identify.
- All or part of System within 250’ of water (as per Meredith’s regulation):
  - would that include: Rivers and Streams? Wetlands?
  - concerns were expressed that we would need surveys to determine who was affected.
- All Moultonborough property:
  - concerns were expressed about affordability to the entire community and whether there is science to defend the need/issue.

Ultimately the discussion landed with suggesting the ordinance follow RSA 483-B:4 XVII: Real Estate closings for properties within 200 feet of the reference line, as these properties are listed and readily identifiable.

What evaluation results would apply to require repair or replacement the consensus was to suggest both:
- Poor - “A system is nearing the end of its useful life under the current load. It is not yet failing. It may be in need of replacement, especially late in its life. Systems in poor condition that have had little use or have been out of use may have more basic underlying problems that can’t be overcome by repair only.” (As defined in the sample Septic System Evaluation form)
- Failing - “This system meets the statutory definition of failure, or in the judgement of the evaluator, system failure may be imminent.” (As defined in the sample Septic System Evaluation form)

It was discussed if home expansions / permit process should be included and suggested that this be defined in the future along with pumping regulations.

Next Steps:
- To share the “Who” and “What” scope with the entire team.
- Get input from Bruce Woodruff on using a CCO and the proposed scope (who and what) of the ordinance.

Next meeting: Tuesday, October 22nd, 1pm