



on the down slope side. It does not go over the existing mound or curtain drain. This does not rise to the level of a health concern. If a replacement system is needed, the gravel/stone for the existing mound could be removed and a new one put in the same location. Mr. Bancroft asked if the road had been on the plan approved by the Town, would the primary and replacement areas be located where they are on the plan. Mr. Burke replied no, adding that he looks at this system as being shifted to allow for the road, and the curtain drain shifted with it.

Mr. Rathbun stated that Ernie Christiansen told him that local ordinances stay in effect for all systems installed prior to July 2007, unless the permit expires or an amendment is needed. Mr. Rathbun feels that because the system was not put in according to the plan approved by the Town an amendment is needed.

Mr. Russell confirmed that Mr. Rathbun is correct. Any permit issued by the Town has to be enforced but the action to amend happens at the State level. The State has advised that nothing needs to be done to amend the plan because the system is functioning properly and is not affected by the road or the fact that it was installed in a different location. He added that many systems in this State are not put in exactly according to plan. He feels that because a permit is not required according to the State's rules, there is no reason to correct this based on a technical reason.

Mr. Russell stated that if Mrs. Mathieu is granted DRB approval for the road, then the property in question will be in compliance with the Town's regulations and the violation goes away. There is no health ordinance violation because there is no health hazard. Mr. Burke stated that the only reason the State will review an application in this matter is if the Town upholds the Health Officer's decision or if the system fails. If a State permit is obtained, the Town would have no authority and a copy of the permit would be filed with the Town.

Mr. Bancroft asked Mr. Rathbun what his process is for reviewing a septic application. Mr. Rathbun advised that he conducts a site visit during which he checks the amount of stone in the leach field of the system and how high the water sprays. In this particular case, he was acting as the assistant Health Officer and relied on the letter from the engineer to support his findings and also as to the location of the system. When he issued the Certificate of Occupancy, he verified the number of bedrooms but again relied on the engineer's letter as to the location of the system.

Mr. Rathbun stated that the road is not shown on the approved plan and it hasn't been amended to reflect system as built. Mrs. Mathieu should get a permit from the State. The State rules do not require replacement systems therefore just the actual location of the system as built is all the State will need for consideration of an application. Mr. Rathbun added that he spoke with Ernie Christiansen who agreed with him on the need for an amendment.

Mr. Burke advised that he met with Mr. Christiansen after Mr. Rathbun spoke with him. As a result of a site visit, Mr. Burke had more information to submit to Mr. Christiansen than what Mr. Rathbun had. Upon reviewing the information, Mr. Christiansen has since formed a different opinion – that a State permit is not needed unless the Town upholds the Health Officer's decision or the system fails.

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Mr. Russell stated there is no health hazard created by existence of the road and the fact that the system was not put in according to approved plan. He feels that the only fact the Board needs to consider is whether there is a health hazard.

Bob Bancroft made a motion to close public comment and enter a closed Deliberative Session at 8:35 p.m., seconded by Dave Tilton. Motion passed: 3-0. People in attendance were John Quinn, David Tilton, Robert Bancroft and Nanette Rogers.

Respectfully Submitted,

John Quinn  
Selectboard Chair

Nanette Rogers  
Town Clerk