

Gregory B. Craig
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March 31, 2023

To: Members of the Chilmark Board of Health
Kathleen Lees Carroll, Chair
Janet L. Buhrman
Matthew Poole

c/o Inspector/Administrator
Anna McCaffrey

Chilmark Town Office
401 Middle Road
Post Office Box 119
Chilmark, MA. 02535

Re: Application of Quitsa Nominee Trust

Dear Members of the Chilmark Board of Health:

I am writing in anticipation of the Board's consideration of the Quitsa Nominee Trust's application for a septic permit with respect to property off of Chocker's Lane in Chilmark. As I understand it, that matter is on the Board's agenda for the upcoming meeting on Wednesday April 5.

Although we are not abutters in the formal or legal sense of that word, we are neighbors who live a stone's throw away from the property in question. As neighbors, we have a personal interest in preserving the health and well-being of the wetlands area that surrounds the site of the proposed new septic system.

As you know, for this application to be approved, it will be necessary for the Board of Health to agree to a series of variances requested by the applicant. The purpose of this letter is to submit a procedural question for the Board's consideration in the hope that the Board might address this question in the upcoming meeting.

According to the section in the Board of Health Regulations that deals with variances (Section 1.04), a request for a variance should only be granted when one of two situations pertains: (1) "when an emergency exists;" or (2) "when in its opinion (a) the enforcement would do manifest injustice; and (b) the applicant has proven that the same degree of protection can be achieved without strict application of the particular provision."

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I am not familiar with the way the Board of Health has dealt with applications for variances in the past which prompts this question, and for that reason I hope you will forgive me if I am in any way out of order with this question.

My question is this: If after considering all the various factors involved in this application, the Board concludes that these variances should be granted, is it appropriate to ask the Board to identify the evidence it is relying upon to support granting the variances.

More specifically, if the Board believes that the variances should be granted because "an emergency exists," is the Board willing to specific the evidentiary basis for that belief? If the Board believes that the variances should be granted for the other reason set forth in Section 1.04, will the Board identify the factual basis for concluding that enforcement "would do manifest injustice," and that "strict application" of the provisions is unnecessary to achieve the "same degree of protection."

Thank you for your assistance.

Very truly yours:

Gregory B. Craig

Lees