

85 Inchcliffe Drive
Gales Ferry, CT 06335

September 7, 2009

Director of health
Ledge Light Health District
943 North Road
Groton, CT 06340

Dear Mr. Salisbury

I am writing to document my continuing alarm with the possible health hazard in Smith Pond in Gales Ferry, CT and plead you take immediate action to guarantee the surrounding property owners and other pond users health safety. The septic systems around Smith Pond were installed in the 60's and 70's; consequently when city water was installed in the 90's water usage and septic infiltration multiplied. A water sample taken on Aug 24, 2009, following a long spell with no rain, showed 137 Colonies/100 mL E. coli which is proof of septic infiltration. Previously, I complained of septic smells near the dam following a lot of rain in the spring of 2006 to Mr. McCammon, our sanitarian. He said you couldn't do anything unless you knew which septic system was infiltrating the pond. Other neighbors told me they had complained about smells after heavy spring rains and got the same explanation. I understand that you want to know where to look for this problem and I don't know which septic systems were illegal in the past; but, today I believe 83 Inchcliffe Drive is an illegally installed septic system and if you allow this substandard septic system to be used it could push the E. coli infiltration to extremely unsafe levels causing a bonafide health hazard.

I want you to be fully informed, so I have detailed the history of this septic system (Enclosure 1). The history is important because it has now been three years since the "approved building lot" exception was first raised with you and as far as I can determine you have done nothing to correct the problem. The public health and safety of Smith Pond are paramount to the 21 private and public owners and since you are partly responsible your "stone wall" approach to this problem has become intolerable.

Clearly Ledge Light is somewhat responsible for this infraction of the Health Code; however, I believe Mr. Coen brought the septic system application to you with "unclean hands" in the legal sense by not disclosing the following pertinent information, that if known should have otherwise disqualified his application because Mr. McCammon told me he was not familiar with this information nor was this information in Ledge Light's files for 83 Inchcliffe Drive.

1. The property was recorded with the Town as "unbuildable" when Mr. Coen purchased it on 2/7/2006
2. Mr. Coen applied to the town, one assumes with inaccurate information and got the designation changed to "buildable" prior to filing his septic system application
3. Lot #8 (83 Inchcliffe Drive) was specifically disapproved for subdivision by Ledyard's Planning and Zoning Commission in 1964.
4. Mr. Coen failed "to submit information showing the lot was an approved building lot prior to 1982 to allow for less than 50 feet from the reserve to open water and 1994 for reduced leaching area" as directed in your letter of 9/22/2006.

Items 1 & 2 are verified by Mr. Coen's testimony before the Zoning Board of Appeals on February 21, 2007 and is documented on pages 24 and 25 of the transcript of the public hearing of that date. Item 3 is documented on page one of Planning and Zoning Minutes for December 2, 1964, where they conclude "... lot 8 is still under size since much of it is now under water and beyond the building line. There is only approximately 6,400 sq. ft. available, therefore, this lot will not be approved at this time." To this day Lot # 8 has not been approved. Item 4 is made evident by the absence of said information in Ledge Light's files for 83 Inchcliffe Drive. For reference purposes, the Doctrine of "Clean Hands" is in the common law and can be easily traced back to the nineteenth century in court case, The Queen v. Liverpool, Manchester and Newcastle-upon-Tyne Railway Co., 21 L.J.Q.B. 284. (1852) as referenced by the Connecticut Supreme Court in 87 Conn. 483, "The application must be made in good faith...".

Taken together these present an overwhelming case to revoke the septic system approval of 9/22/2006, to review the documentation and to order the removal of the septic system.

Even the appearance of favoritism would be devastating to the fine reputation of Ledge Light and to your long relationship with the public and the public health of Southeast Connecticut. I urge you take action now and end your three year drought of inaction. Your responsibility was somewhat lessened in the beginning by Mr. Coen's "unclean hands" application; however, Mr. Coen is a very successful developer who could eventually succeed in building on this property and with your continued inaction will use the nonstandard septic system, thus adding E. coli to unsafe levels to an already contaminated pond, and then Ledge Light will be 100% responsible for a health hazard that you could have prevented.

We are all human and we make mistakes, but when it comes to health code violations, mistakes must be corrected.

Sincerely

Lawrence Gorham

Copy to:

Commissioner Joxel Garcia, M.D., M.B.A.
State of Connecticut
Department of Public Health

Acting Commissioner Amey Marrella
State of Connecticut
Department of Environmental Protection