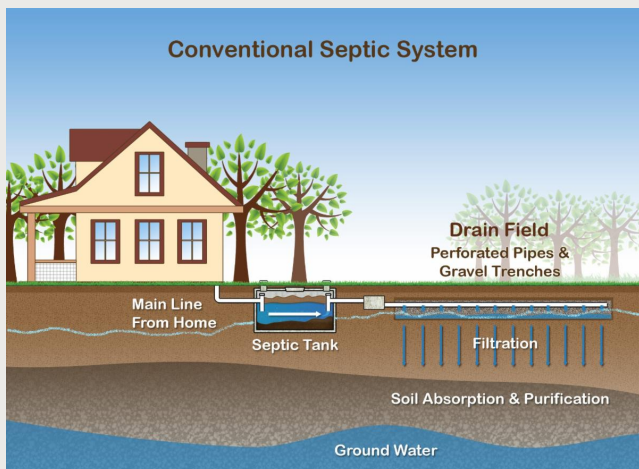




MAY 2020

YOWA NEWSLETTER



JOIN A COMMITTEE!

Share your talents and interest by joining the YOWA Education, Communications or Membership Committee. The time commitment is minimal and it's a great way to meet more people in the industry.

[Learn More](#)

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- NOWRA Update
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CALL FOR ABSTRACTS



2021 Onsite Wastewater Mega-Conference, October 17-20, 2021 in San Marcos, Texas

President's Report

The Yankee Onsite Wastewater Association (YOWA) is growing and getting stronger in its efforts to help advance the professionalism of the onsite wastewater practices here in Massachusetts and the other five New England states. It gives me great pride to state that it is thanks to the hard work put in by many of our wonderful volunteer members that I can make this case.

Our Education Committee, Communications Committee and Membership Committee are all staffed by competent individuals who give freely of their time to help YOWA. Our membership remains stable and growing, our technical sessions are reported to be top-notch and our member updates provide useful information. We are proud of this achievement and welcome you to join us as a

member of YOWA or on our Board of Directors as we continue to make an impact.

Here are some updates from YOWA I would like to share with you:

1. Our administrative support is now fully housed at the New England Water Environment Association (NEWEA) office in Woburn. This talented team of non-profit managers leads our financial and operational efforts. Since they already work with wastewater issues they are in a great position to help us to grow into a strong presence in the onsite wastewater community.
2. This year's expenses are low and revenue is as expected so we are financially stable.
3. Our national professional association, the National Onsite Wastewater Recycling Association (NOWRA), of which we are the New England chapter, continues to grow in size, evolve in its function of representing our industry on an international scale, and strengthen itself financially. They are planning their conference in Texas for October 2021 and are looking for papers to be presented. Please see the article on NOWRA in this newsletter and check out their website at www.nowra.org.

On behalf of the entire Board of Directors I would like to extend a sincere note of appreciation for the local health officials as their world has gone upside down of late in trying to help contain this pandemic. Thank you very much for the important work that you have done and continue to do to keep all of us safe.

Sincerely,

Dan Ottenheimer, P.E., YOWA President

Meet YOWA's Newest Board Member Michelle Jenkins



Michelle "Shelly" Jenkins is an Information Officer of NEIWPCC, a regional commission that helps the states of the Northeast preserve and advance water quality. Working in the Wastewater and Onsite Division of NEIWPCC, Shelly coordinates the Massachusetts Certification and Renewal Programs for Wastewater Treatment Plant Operators and Title 5 System Inspectors and Soil Evaluators on behalf of the Massachusetts Department of Environmental Protection. Shelly has been assisting the thousands of wastewater operators and Title 5 operators with their licenses and certifications for 18 years and counting.

In addition to being a member of the YOWA's Board, Shelly participates on the Massachusetts Onsite Advisory Committee, the New York Wastewater Operator Certification Governance Council, and the US EPA MOU Partnership for Decentralized Wastewater Management. Shelly also coordinates an Onsite Wastewater workgroup comprised of onsite regulators from New England, New

York and US EPA Region 1 and is currently planning the next Onsite Short Course and Expo for Spring 2022.

Shelly is a life-long resident of Massachusetts. She lives with her husband and three kids in Billerica. In her free time, she is studying digital illustration and also enjoys photography and genealogy. We are so excited about the experience she brings to YOWA and grateful for her commitment!

YOWA On-site Wastewater Webinar

- “Septic Savvy” – Bob Silva, Septic Preservation Services
- “Viruses: Who Knew?” - George Heufelder, MASSTC

March 24, 2021
Virtual Webinar



Spring 2021 Training a Success!

YOWA held its first virtual training in collaboration with the Massachusetts Alternative Septic System Test Center (MASSTC) and it was a great success! Over 67 participants from all fields within the on-site wastewater industry participated, including those from health departments, designers, inspectors, and regulators.

George Heufelder and the team from MASSTC presented an update on the fate of viruses in on-site wastewater systems under different conditions. This is an on-going project funded by the Massachusetts Department of Environmental protection (MA DEP). While, Bob Silva, owner and operator of Septic Preservation Services and All-Clear Septic Inspection Division, presented information on Title 5 Inspections.

Thank you to Bob Silva, George Heufelder, Brian Baumgaertel, Emily-Michele Olmstead, Kathy Regan, YOWA staff and all of the participants in YOWA's initial venture in “live” on-line learning!

Please watch for our next on-line event this summer, (July) and we look forward to seeing you safely later this

SAVE THE DATE!
**SepticSmart
Week 2021**
September 20-24, 2021



Plan ahead for SepticSmart Week!
EPA's annual event focused on how to care for and maintain your septic system.
For more information, visit www.epa.gov/septic.

Plan Ahead and ‘Save the Date’ for this year’s Septic Smart Week, September 20-24, 2021

EPA’s annual event focuses on how to care for and maintain your septic system.

Proper septic system use and routine care are vital to protecting public health, preserving our highly valued groundwater, lakes, streams and waterways, and avoiding costly repairs that can result from neglect. It is critical that our wastewater professionals as well as state and local officials educate homeowners/business owners about the importance of septic system maintenance.

YOWA will continue to offer our members trainings throughout the year to raise septic awareness and provide additional onsite and decentralized system education.

More information regarding SepticSmart Week can be found by visiting: <https://www.epa.gov/septic>

Bedroom Count for Septic System Design

When IS a Room a “Bedroom” and Who Decides?

For existing and proposed residential development, determining how many bedrooms are in a structure is critical to the design and approval of an on-site septic system under Title 5 of the Massachusetts Environmental Code, 310 CMR 15.00, and local board of health requirements. This can often become a major source of conflict between an applicant, board of health, and any opponents.

While there are not a lot of published court decisions to help resolve such issues, one Superior Court case from 2004, Barnes v. Falmouth Bd. Of Health, Civ. A. No. 2003-0727, October 27, 2004 (2004 WL 3152195) is helpful in ruling that it is the intended use of the room while rejecting the use of Assessor’s records as being determinative.

In 2001, the Frieds acquired a residential property in Falmouth, Massachusetts, which contained a one-story, three-bedroom dwelling with a detached garage. Above the garage was a room, with a kitchen and a bathroom, which they considered a bedroom. The wastewater was managed by an on-site cesspool located between the garage and house.

The Frieds wanted to modernize the property by rebuilding the house with the same footprint and slightly rotating it to eliminate a zoning nonconformity. They also proposed replacing the garage in the same footprint at the same location. Their plans called for moving the existing bedroom above the garage to the house, to maintain the same total number of bedrooms on the property. A state-of-the-art Title V system would be installed, with a 596-square foot leaching bed and 1,500-gallon septic tank with a microFAST denitrifying unit. The design flow was 440 gallons per day in accordance with Title 5 and Town of Falmouth Health Regulations.

During the Falmouth Board of Health public hearing on the Frieds Local Upgrade application, their neighbors, the Barnes, challenged the application, asserting that the project should instead be treated as “new construction” because there were three, not four, bedrooms in total (none in the garage) and that the rebuilt structures would have up to six bedrooms, resulting in an increase in the design flow. The Barnes relied on the Assessor’s Records showing only the three bedrooms in the existing home and none in the garage.

In approving the Frieds’ upgrade application, the Board of Health set several conditions including that (1) there shall be no modification to the four-bedroom house that could allow for any additional bedrooms, and (2) that the Board’s decision be recorded at the Registry of Deeds.

The Barnes filed a complaint in Superior Court, challenging the Board of Health's decision. The Court ruled that there was substantial evidence to support the Fries applying for a local upgrade approval. In deciding, the Court rejected the Barnes' reliance on the Assessor's Records which showed only the three-bedroom house and made no mention of the garage-apartment.

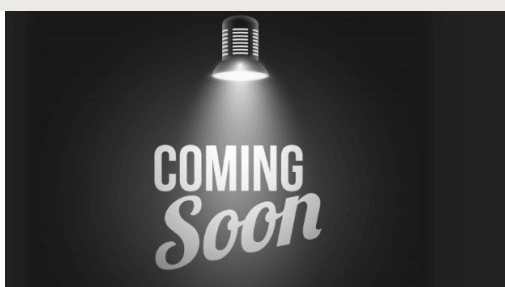
Importantly, the Court held that local Assessor's Records "are afforded no presumption of accuracy nor are they determined to be a reference standard" under Title V or the Falmouth septic system regulations. In further support of its conclusion, the Court noted that after hearing the Barnes' allegations, it required the Fries to submit certified floor plans on which it based its conclusion that the property would have only four bedrooms.

The Court also rejected the Barnes' argument that one room labeled "office" and another "recreation-hobby space" fell under the Title 5 definition of a "bedroom" (see 310 CMR 15.002). The Court found that there was nothing to indicate that the Fries "intended to utilize these rooms as bedrooms". The Board's decision restricting the property to four bedrooms and requiring the decision to be filed at the Registry seemed to reassure the Court that the other rooms would not be used as bedrooms.

The Barnes could have appealed the Superior Court decision but did not.

In conclusion, when calculating the number of bedrooms under Title 5, this Superior Court decision emphasizes focusing on the code definition of "bedroom", intended use of each room that is binding on the applicant by permit condition or recorded covenant and to not rely on what the Assessors says is the number of existing bedrooms. Also, for renovation projects, what is in the present structure may be the best starting point for what is there, was permitted, or is legally protected even if not complying with current standards.

Nathaniel Stevens, Esq. is a Senior Associate at McGregor & Legere, P.C. in Boston (www.mcgregorlegere.com) where his practice focuses on environmental and land use law and related litigation. He can be reached at nstevens@mcgregorlaw.com.



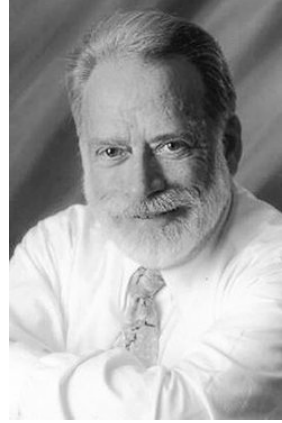
YOWA Website Under

Construction!

YOWA's Website Committee is in the process of giving the association's website a much needed overhaul.

The Committee is currently working closely with an independent website designer and hope to have an engaging new site available soon. We would love to have member input. If you have any suggestions or ideas, please let us know. YOWA wants a site that works best for its members.

Please send any suggestions to **Shelly Jenkins**. Any help provided would be greatly appreciated!



Passing of Russell Martin

YOWA's Past President and long-time Board member Russell Martin has recently passed away. Russ was very involved with the industry's national organization, NOWRA as well. His primary vocation was that of an engineer and he headed up the State of Maine's onsite wastewater program for many years until his retirement. Russ was truly a great person, a selfless asset to our industry, and he will be missed.

[Obituary: Russell Goodale Martin](#)

YOWA's Past President Tom Groves Becomes New NOWRA Executive Director

The National Onsite Wastewater Recycling Association (NOWRA) has announced that Tom Groves has taken the position of executive director of the association effective January 25, 2021. He succeeds Eric Casey who retired after serving NOWRA for more than 10 years in this capacity.



NOWRA Past President Carl Thompson of Infiltrator Water Technologies stated, "Tom will bring the perfect blend of experience to the association: association management, regulatory affairs, wastewater management, training, knowledge of affiliates, and more." Since 2000, Tom has served as the wastewater division director for the New England Interstate Water Pollution Control Commission (NEIWPCC). NEIWPCC is a not-for-profit interstate agency that focuses on wastewater management and water management and protection. In overseeing the commission's work related to onsite/decentralized wastewater he has extensive experience in coordinating activities and forums that encourage

industry cooperation, developing resources that foster progress on water and wastewater issues, representing the association in matters of federal policy, training environmental professionals, initiating scientific research projects, educating the public, and providing overall leadership.

Tom has a long history of leadership and engagement with YOWA. He was a founding member of the association and has been involved in its leadership ever since. Largely because of Tom's influence, YOWA became one of the first affiliates to actively advocate the use of NOWRA's online learning platform for continuing education in the industry. Online education is now a major source of revenue for both YOWA and NOWRA, and Tom is in large part responsible for this.

Tom's service with NOWRA is particularly notable. Tom served on the board of directors of NOWRA for many years. He was on the search committee that hired Eric Casey, his predecessor, in 2010, and subsequently took over as president of the association at a critical point in the association's history. Tom's role in our industry on a national scale was appropriately recognized when he was named the recipient of the distinguished Dick Otis Award, which annually acknowledges an individual who has made outstanding contributions to NOWRA and the industry, in 2017.

Tom resides in Westford, Massachusetts and will work for NOWRA from his home base here in New England. Effective January 25, 2021, Tom can be reached at NOWRA's new business address: PO Box 982, Westford, MA 01886; email executivedirector@nowra.org; and phone: 978-496-1800.

NOWRA News Update

As you know your membership in YOWA grants you automatic membership in the National Onsite Wastewater Association (NOWRA). NOWRA is our industry's largest

organization with over 5,000 members and 25 state affiliate organizations. One of NOWRA's many functions is to promote the benefits of onsite and decentralized wastewater infrastructure. On June 9 and 10 representatives of



NOWRA will undertake their annual Legislative "Fly In" to Washington D.C. – but this year, the event will be held virtually. Meetings will be held with legislators and staffers both individually and in group settings. These meetings have been critical in the creation of legislation that will commit more than 100 million dollars to decentralized development. This legislation passed out of the Senate last year but died in the House. NOWRA seeks to have this legislation reintroduced and acted upon.

NOWRA will hold its annual Onsite Wastewater Mega-Conference in cooperation with SORA and NAWT in San Marcos, Texas on October 17-20. This is intended to be an in-person meeting with general sessions, education sessions, field trips, social events and an exhibit hall. In 2020 the conference was entirely virtual and was considered by all to be a huge success. More than 550 people participated and the event was profitable. Please consider a trip to Texas – you will definitely get a lot out of the experience!

The NOWRA magazine, Onsite Journal, is being circulated in printed format after several years of offering it sporadically. YOWA members should have received the first edition of 2021 by now, and the plan is to publish the newsletter four times a year, with the next coming out in June.

You should see an advertisement in this newsletter for NOWRA's Online Learning Program. Known as the Installer Academy, NOWRA offers professional onsite wastewater training for industry professional and regulators. More than 25 are pre-approved for Massachusetts wastewater operators and Title 5 professionals, for which CEUs may be earned. The NOWRA website also lists more than 10 pre-approved courses for Maine and New Hampshire professionals. Please be reminded that NOWRA shares its revenue from online training with the state affiliate associations, including YOWA. By earning your CEUs through NOWRA you are also supporting YOWA!

Finally, the annual WWETT Show will be held in person in Indianapolis June 30 and July 1. This is the granddaddy of all conferences relating to water and wastewater. NOWRA/YOWA members get a discount on registration by using the code "ACNOWRA21."



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for Continuing
Education*

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- Mass. Title 5 Approved
- Mass. Wastewater Operator Approved



Visit www.nowra.org for more information



WWETT SHOW 2021 DISCOUNT PASS FOR NOWRA MEMBERS

NOWRA members will receive a promo code, unique to your organization, to receive a discount on registration rates to WWETT Show 2021.

Choose between:

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● Expo Pass for \$15

Use code **ACNOWRA21** when you register, and discounts will be applied.

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*Discount available to **new registrations only** and is not applicable for non-exhibiting manufacturers.

www.wwettshow.com



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