

Harvard Board of Health Meeting Minutes
Zoom Meeting
February 28, 2022
Approved: April 12, 2022

Board of Health Members present: Libby Levison, Chair; Christopher Mitchell.

Others Attending: Alison Flynn, Board of Health (BOH) Administrative Assistant; Ira Grossman, Health Agent, Nashoba Associated Boards of Health (NABH); Irene Congdon, Mass DEP; Joan Eliyesil, The Harvard Press; Stu Sklar, Select Board; Keith Turner & Mary Helan Vesenka-Turner, 247 Littleton County Road; Jane Thomsen, 23 Lovers Lane; Bruce Ringwall, GPR, Inc.; Tracy Wind, 37 Peninsula Road; Rick Sicard, Fire Chief.

Ms. Levison called the meeting to order at 7:02 pm. Ms. Flynn read aloud the remote meeting preamble.

NEW BUSINESS

Discussion with Irene Congdon re potential revisions to waste hauler permitting requirements

Ms. Congdon, DEP Central MA Municipal Assistance Coordinator, joined the meeting to answer the BOH's questions regarding potential revisions to the waste hauler permitting requirements. Ms. Congdon explained that Harvard is the Town in Central MA that receives the most RDP points, equaling to \$6,600, in part because the BOH implemented DEP's model hauler regulation. Ms. Congdon explained that in the past Harvard received five points total for having and enforcing the hauler regulation. Ms. Levison noted that the BOH does not receive any of the money from the RDP points despite its work. Ms. Congdon suggested the BOH talk to the Town Administrator about this.

Ms. Congdon advised that a few other Towns are more specific in their regulation regarding requirements for haulers of food waste. She stated that Pepperell and Uxbridge are very specific. Ms. Congdon also noted that Auburn, Blackstone, Fitchburg, Hudson, Uxbridge, and Southbridge receive RDP points for enforcement of their comprehensive regulation. Ms. Congdon also advised that the goal of requesting submission of marketing materials is to ensure the haulers are notifying residents of the Waste Bans, and that the purpose of many of the requirements for the haulers is to support the haulers with difficult generators. Ms. Congdon stated that the new RDP grants applications are due in April; Tim Kilhart will apply with support from Tessa Davis.

247 Littleton County Road, Friendly Crossways: Noncompliance with appropriate permitting

Mr. Grossman advised that the purpose of the discussion is to go over the six areas of concern addressed in his e-mail to the Turners of February 1st.

Mr. Grossman stated that based on the on-site meeting at Friendly Crossways, he determined that the operation requires a motel license through the Board of Health pursuant to Ch. 140, Sec. 32. Ms. Turner stated that Friendly Crossways has been in operation since 1947 as an event space, wedding location, and licensed as a hostel since that time. She stated that the facility is a venue for residential retreats, wedding ceremonies, and field trips. The Turners stated that the facility does not fit the criteria for a motel, and indicated that hostels in MA are permitted as inn-holders licenses issued by Select Boards. Mr. Turner explained that their operating hours are _____

from 8-10 a.m. and 5 pm.- 10 p.m. with the space shut down for cleaning and maintenance in-between. Mr. Grossman stated that the facility caters to a transient population and the facilities which fall under a motel license includes than just typical motels. Mr. Turner stated that the BOH has effectively shut down their business, blocking income since December, and that they are not currently taking new reservations for weddings or retreats. Mr. Mitchell suggested more research must be done regarding what qualifies for a motel license v. an innholder license before a decision can be made as to which is appropriate.

Mr. Grossman stated that the second issue is that any food preparation for guests must be permitted through NABH. Mr. Turner explained that they are currently contracted to host 8 weddings, all of which will be catered by an outside caterer, with use of the kitchen only by the wedding guests who will prepare their own breakfasts and lunches in the kitchen over the wedding weekend. Mr. Grossman confirmed that as long as the guests are preparing their own food in the kitchen, the issue is moot.

Mr. Grossman advised that the third issue addresses the status of the two failed septic systems. Mr. Ringwall confirmed that there is a septic system for the personal residence, and a septic system for the hostel. He indicated that the Title 5 Inspection of the Hostel's SDS initially resulted in a conditional pass due to a crack in the distribution box and groundwater determination, which the Inspector later determined it was a failure because of brown water observed in the deepest leaching pit. Mr. Ringwall stated that they have time within the two years typically allowed for the systems to be repaired and confirmed there is currently no breakout, puddling, or backing up with either system which would reflect an immediate public health threat. Mr. Grossman stated that he is asking for submittal of applications to do the soil testing, and noted that it may take a while for system replacement. Mr. Turner stated that they are amendable to do so, but asked if the BOH would provide a recommendation to the SB that they approve the innholder license. Mr. Ringwall noted that soil testing is a fairly expense application and the Turners currently have no income. The Turners also noted that the Purchase & Sale Agreement states that the buyer will handle all septic related items. Mr. Grossman raised concerns whether this is adequate legal consent for soil testing. Mr. Mitchell confirmed that the BOH needs legal guidance on this issue.

Mr. Grossman stated that the fourth item requested that they receive confirmation from the DEP Public Water Supply (PWS) Division that the current and proposed use of the property is within their approval. Mr. Ringwall confirmed that he spoke with DEP, that the Hostel is permitted for 7,700 gallons/day, and the current and proposed uses are well within the approved flows. The BOH indicated this response addresses their concerns on the issue.

Mr. Grossman stated that the fifth item was to confirm the caterers serving the property are licensed, and he has since received the licenses.

Mr. Grossman stated that the sixth item, regarding the hostel's license and registration with the State has already been addressed.

Mr. Grossman stated that it is critical to know how the property is operating in order to make a recommendation to the Select Board regarding an Innholder License and to be properly informed for the BOH's internal workings. He stated that it was never known to NABH that the property was functioning as a wedding venue with overnight wedding guests. Mr. Mitchell stated that he is confused regarding the definitions. Mr. Grossman agreed and stated that legal counsel might need to be consulted. Mr. Grossman stated that Friendly Crossways had a motel license at one point in time. Mr. Turner offered to provide the BOH members with definitions of a "hostel" and a "retreat center"; the BOH members accepted. Mr. Mitchell stated that he does not feel the BOH has standing if the SB finds Friendly Crossways meets the definition for an innholder license. Mr.

Sklar stated that he was pleased with the progress the BOH made and would be comfortable issuing an innholder's license to the Turners for the 4 months until transfer of property before ensuring the new owner is licensed appropriately. The Turners asked that the innholder's license be issued through the end of the year to ensure the contracted weddings can take place. Ms. Turner stated that three of the contracted weddings are before June 30th, and the buyer has agreed to honor the contracts for the remaining five weddings. Mr. Sklar stated that he would like for the BOH and SB to work together, and ensure that the BOH is comfortable with the operation. Ms. Levison agreed to provide the Turners with a written summary of the outstanding BOH requests and would work with Mr. Sklar to find out what the SB needs from the BOH. It was agreed that the next discussion would be at the BOH meeting on 3/14/22; Mr. Sklar stated the SB would next discuss the property on 3/15/22.

Shared well on Ayer Road: Water quality compliance

Mr. Grossman reminded the Board that they requested confirmatory PFAS and coliform bacteria results on the well which is shared between five properties. He indicated that two written requests were sent to all the owners, and the new property owner of 351 Ayer Road was also contacted separately. Mr. Mitchell suggested a strong letter be sent to the owner with control over the well; Ms. Levison agreed and asked that it be sent by certified mail, possibly referencing a daily fine. Mr. Grossman stated he will prepare the letter as an Order. The Members asked that he remind the property owner that they are responsible for the health and wellness of the other households serviced by the well.

37 Peninsula Road: Discuss ZBA Special Permit Decision

The BOH Members discussed the ZBA Special Permit Decision which approved the application for seasonal conversion. Mr. Grossman reminded the Members that the BOH decision was not to approve the application for conversion, that this decision was e-mailed to the property owners, and that the existing deed restriction which indicates that the property is a two-bedroom for seasonal use cannot be removed without the written approval of the BOH. Mr. Grossman asked the BOH whether it would like to prepare a response to the ZBA or consider appealing the decision. Mr. Grossman stated that appealing the ZBA decision would be saying that the BOH disagrees with the ZBA's action and would like them to modify that decision. Mr. Mitchell stated that the BOH denied the permit on the basis that the approval from DEP put clear boundaries on seasonal use, and stated that the BOH was not in position to change that ruling without clarification from DEP. Ms. Levison stated that though the decision in 2001 was that of the DEP, the decision now squarely sits with the BOH. Mr. Grossman agreed that he thinks it is unlikely that DEP would weigh in at this point. Mr. Grossman advised that he is not recommending the BOH appeal the ZBA decision. Ms. Levison stated that as the buyers and their broker were present in the BOH meeting, she believes they are aware of the BOH decision. Mr. Mitchell and Ms. Levison agreed that the BOH has done what it can. Mr. Grossman confirmed he is working on preparing a list of properties which should be submitting annual tight tank records to the BOH.

Consider letter to Senator Eldridge and Representative Sena in support of SD.2667/HD.4693, An Act promoting drinking water quality for all

At Ms. Levison's suggestion, Mr. Mitchell made a motion to skip over the letter to be revisited later in the meeting if timing allowed. Ms. Levison advised Ms. Eliyesil that the purpose of the letter is to thank Senator Eldridge and Representative Sena for asking DEP to establish drinking water standards for private wells.

COVID-19: Discuss current status, test availability, and benchmarks in consideration of

action on mask mandate

Ms. Flynn screen shared the Harvard COVID case count spreadsheet. Ms. Levison indicated that the case counts reflected in the spreadsheet are from DPH and represent 14 days of data. Further, she explained, that when the case counts are released, they are at least 5 days old. She asked the Members consider that the case counts for Harvard released on January 13th was 121 cases, on January 20th was 118 cases, and February 24th was 12 cases. Ms. Levison stated that the CDC's new advisory for masks determines Harvard is at Medium risk and residents do not have to wear masks. Ms. Levison stated that the criteria for determining the risk level is no longer based on the number of cases but on hospital capacity. Ms. Levison confirmed that Harvard Public Schools plan to require masks through March 9th. Ms. Levison suggested that the BOH lift the mask mandate except for on public transportation, e.g. COA van, in alignment with the CDC's recommendation. Mr. Grossman advised that most of the other communities have also dropped their mask mandates. Mr. Grossman stated that based on positivity rates, current information, and the CDC guidelines, Harvard can also safety drop its mandate with the understanding that any resident can wear a mask if they choose to do so. The members agreed to defer to Town Administration regarding municipal indoor spaces, but would recommend that the mandate be lifted in alignment with the CDC. Ms. Levison also clarified that the School masks requirements are set by DESE. Mr. Mitchell made the motion that to stay in line with the recommendation of the CDC, the BOH remove mask mandate for all indoor spaces effectively immediately, keeping masks required only when on the COA van; Ms. Levison seconded. All were in favor by roll call vote. Ms. Flynn volunteered to notify Ms. Sobalvarro and Mr. Bragan that night. The group agreed to reach out to the same businesses previously contacted to inform them that the mandate was lifted.

Mr. Mitchell stated that the EMS is still required to wear masks, and indicated that any private institution can apply its own mask mandate. Ms. Levison confirmed that the Board's mandate could be reinstated if the situation changes.

Discuss any questions from recent DPH COVID-19 Conference Call reports

No questions were discussed.

Update from LUB Meeting (2/15/22)

Mr. Grossman stated that he had nothing of consequence to report.

Clerk and Health Agent Update

Ms. Flynn and Mr. Grossman did not have any updates to provide other than issues included on the agenda.

OLD BUSINESS

23 Lovers Lane: Continued condemnation hearing of 9/24/19

Ms. Thomsen advised the BOH Members that while some progress has been made, she lacks the strength she'd like to have to accomplish more of the cleanout. She stated that it is still her ultimate goal to sell the property and has interested parties. Ms. Thomsen confirmed that the house is still secure from entry. Mr. Mitchell made a motion to continue the hearing until the second meeting in July; Ms. Levison seconded. All were in favor by roll call vote. Ms. Thomsen

agreed to notify the BOH if the house sells prior to that meeting.

Update regarding request for revision to the FY23 budget submission

Ms. Levison explained that she revised the request to revise the budget submission to include a reduction in the local share for Minuteman Nursing reflective of the adjusted 2020 census population data. She stated that she also revised the revision request after realizing that the NABH bills January through December and our submission did not reflect the projections for the fiscal year. Mr. Mitchell agreed to double check her numbers.

Continued discussion regarding potential HBOH impact with proposed increased housing cap at Devens

Ms. Levison asked whether it was of interest to draft a memo to the Select Board and FinCom reminding them that many of the BOH's budget requirements are population based and therefore would be increased with increased housing. Mr. Mitchell agreed it was. Ms. Levison will prepare the memo.

Continued discussion re comments on guidelines for MBTA communities

The Members reviewed Mr. Grossman & Ms. Levison's draft comments. Ms. Flynn will add Mr. Grossman's comments to Mr. Ryan's draft letter, and Mr. Mitchell agreed to review the comments and provide any additional thoughts to Ms. Flynn.

PFAS update, including but not limited to continued discussion re MassDEP Private Well PFAS testing

Mr. Grossman stated that the BOH has not received any additional results from the MassDEP program.

Continued preparation of a town-wide mailing in support of the hauler regulation

The BOH reviewed and prepared comments on the draft hauler mailing.

Review Action Items

Action items were not reviewed. Ms. Flynn will prepare an updated list of action items cumulative from the last few meetings. Ms. Mitchell did not have any suggested revisions to Ms. Levison draft stable permit reminder for Harvard Cable TV.

PERMITS

Stable

Ms. Flynn advised the BOH that Mr. Grossman and Ms. Allard reviewed the below listed stable permit applications. Mr. Grossman stated that he did not see any issues with the applications. Mr. Mitchell made a motion to approve the permits applications provided in Ms. Flynn's e-mail as reviewed by Mr. Grossman and Ms. Allard, with cursory review by the BOH Members; Ms. Levison seconded. All were in favor by roll call vote.

- 62 Old Mill Road;

- 58 Old Mill Road;
- 32 Prospect Hill Road;
- 85 Old Littleton Road;
- 121 Slough Road;
- 146 East Bare Hill Road;
- 167 Still River Road;
- 219 Bolton Road.

Septic

- 49 Tahanto Trail: Mr. Grossman stated he has no problem with the Local Upgrade Approval. Mr. Mitchell made the motion to approve the permit as requested; Ms. Levison seconded. All were in favor by roll call vote.
- 277 Still River Road: Mr. Grossman stated he has no problem with the requests. Mr. Mitchell made the motion to approve the Local Upgrade Approval request; Ms. Levison seconded. All were in approval by roll call vote.
- 332 Still River Road: Mr. Mitchell made the motion to approve the permit for distribution box replacement; Ms. Levison seconded. All were in favor by roll call vote.

MINUTES

Mr. Mitchell made the motion to approve the Minutes of January 10th as amended; Ms. Levison seconded. All were in favor by roll call vote.

Mr. Mitchell made the motion to approve the Minutes of January 24th as amended. Ms. Levison seconded. All were in favor by roll call vote.

ITEMS FOR NEXT AGENDA

Items for the next agenda were discussed.

ADJOURNMENT

Mr. Mitchell made the motion to adjourn the meeting made the motion to adjourn the meeting at 9:32 p.m.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda
- Comments on the existing Solid Waste & Recyclables Regulation;
- Mr. Grossman's e-mail of 2/1/22 to Friendly Crossways outlining permitting issues;
- Mr. Grossman's e-mails of 2/24 and 2/28 to the BOH re Friendly Crossways concerns;
- Ch.2, State Sanitary Code;
- MA DOR Letter Ruling 84-90: Bed & Breakfast Operations;

- Friendly Crossways' Availability and Hostel webpages (2/21/22);
- ZBA Decision re 37 Peninsula Road;
- Code of the Town of Harvard, 125-11 Seasonal Conversions;
- Letter 37 Peninsula re BOH decision on seasonal conversion
- Ms. Levison's draft letter to Senator Eldridge and Rep. Sena regarding PFAS regulation
- Ms. Levison's spreadsheet of Harvard COVID cases
- Draft request for FY23 submission revision
- 23 Lovers Lane update
- Ms. McCarthy's DPH Call notes of 2/15
- Draft comments re MBTA community guidelines
- Draft waste hauler mailing
- Draft minutes of 1/10/22 and 1/24/22
- 49 Tahanto Trail: Application, request letter, LU conditions form, proposed plan, unsigned permit;
- 277 Still River Road: Application, request letter, LU conditions form, proposed plan, unsigned permit;
- 332 Still River Road: Application & unsigned permit;
- 2022 Stable permit application for 62 Old Mill Road;
- 2022 Stable permit application for 58 Old Mill Road;
- 2022 Stable permit application for 32 Prospect Hill Road;
- 2022 Stable permit application for 85 Old Littleton Road;
- 2022 Stable permit application for 121 Slough Road;
- 2022 Stable permit application for 146 East Bare Hill Road;
- 2022 Stable permit application for 167 Still River Road;
- 2022 Stable permit application for 219 Bolton Road.