

Harvard Board of Health Meeting Minutes
Zoom Meeting
March 14, 2022
Approved: April 12, 2022

Board of Health Members present: Libby Levison, Chair; Sharon McCarthy.

Others Attending: Alison Flynn, Board of Health (BOH) Administrative Assistant; Ira Grossman, Health Agent, Nashoba Associated Boards of Health (NABH); Keith Turner and Mary Helan Vesenska Turner, 247 Littleton County Road; Stu Sklar, Select Board; Bruce Ringwall, GPR.

Ms. Levison called the meeting to order at 12:01 p.m. Ms. Flynn read aloud the remote meeting preamble.

PUBLIC COMMENT

None.

NEW BUSINESS

Request of Skillings & Sons for extension on consideration as an Approved Sampler for water quality testing

Mr. Grossman stated that as Skillings & Sons has submitted results to the BOH in a timely manner, it would be appropriate to extend the consideration as an Approved Sampler at this time. He confirmed that they have been considered an Approved Sampler for greater than 6 months. Ms. McCarthy made a motion to approve Skillings & Sons for the Approved Sampling Program for the next 12 months; Ms. Levison seconded. All were in favor by roll call vote.

Consider Town Meeting warrant article for non-criminal disposition bylaw

Ms. Flynn stated that Mr. Bragan advised that, if the BOH wishes to pursue a bylaw, it may have to wait until the Fall Town Meeting. Ms. McCarthy recommended the BOH pursue the bylaw for Fall Town Meeting with measured action. She suggested a working group be established of all the interested Committees and Departments. Ms. Levison volunteered to write to the other groups listed on the ticket book prepared by Chief Babu to gauge interest.

Prepare comments on the Planning Board's proposed revisions to Chapter 133 pertaining to Scenic Road Consent and the Erosion Control Bylaw, along with those revisions and Erosion Control application

The BOH Members reviewed Ms. Levison's comments on the proposed revisions to Chapter 133, and suggested language be included that states catch basins should be designed in accordance with best management practices for vector control. Ms. Flynn will send these comments to the Planning Board.

Prepare Public Health Week News/Announcement messages

The BOH Members reviewed and revised the Public Health Week announcements from 2018. Ms. Levison will provide Ms. Flynn with a revised announcement regarding PFAS.

COVID-19: Discuss current status, test availability, and mask advisory

Ms. McCarthy noted that one of the DPH calls included the announcement that the State will be providing each Town with a minimum of 1,028 test kits. Ms. Levison will reach out to the Emergency Response Team to discuss a distribution plan. Ms. Levison noted that the March 3rd DPH report reflected 5 cases in Harvard.

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

Ms. McCarthy reported that Ms. Ferguson will be retiring and that DPH plans to reduce the webinars to two per month. Ms. McCarthy noted that once vaccine is approved for the youngest residents, pediatric nurses will be needed at clinics for administration.

Clerk and Health Agent Update

- Ms. Flynn asked the BOH to consider approval of Nashoba Associated Boards of Health (NABH) Fourth Quarter Billing FY2022, Invoice No. 2022-409 in the amount of \$7,068.52, for Nursing & Environmental Services. Ms. McCarthy made the motion to approve the invoice; Ms. Levison seconded. All were in favor by roll call vote.
- Ms. Flynn advised the BOH Members that she has not yet received the recorded deed restriction for 126 Poor Farm Road, originally required by the Board at the second meeting in December. Mr. Grossman will draft a follow-up letter to the property owner for BOH review.

OLD BUSINESS

247 Littleton County Road, Friendly Crossways: Continued discussion regarding noncompliance with appropriate permitting

Ms. Levison reported that she called several Massachusetts Towns which permit hostels and found that how other hostels are permitted hinges on the number of rooms and whether they serve food. She stated that it is important for Town Boards to work together to ensure that the Town Code very clearly defines permitting requirements to ensure that businesses can succeed. She also stated that she learned that some hostels hold simultaneous Town permits depending on their hosting activities. Ms. McCarthy stated that she would like to see the Select Board (SB) take the lead in establishing a method of licensure application for these entities. Ms. Levison stated that while she believes that Harvard could do more to support such businesses, the BOH still needs clarification on some of Friendly Crossways' activities. Ms. Vesenska Turner stated that their retreats in the past have been either self-catered or catered by Ms. Vesenska Turner, but all retreats going forward will be self-catered. Ms. Levison stated that she noted that five retreats are booked to be held in the upcoming months. Ms. Vesenska Turner also confirmed that the caterers will not use the Friendly Crossways kitchen and will work out of their own commercial kitchens. Further, she confirmed that the caterers are aware that they need to submit notification to the BOH.

Mr. Grossman stated that the Turners' narrative of how Friendly Crossways is to be run requires a motel license under MGL Ch. 140, Sec. 32B, and does not qualify the business for an Innkeeper license. He stated that Friendly Crossways received a motel license in the past, and Ms. Levison noted that this was from 1991-1998. Ms. Vesenska Turner stated that she was not aware of the prior owner holding a motel license; she indicated that she has held an Innkeeper license from 1999- present. Ms. Levison stated that it is her understanding that an Innkeeper must provide food, and is subject to a kitchen inspection. Mr. Turner stated that their business has been

devastated by the BOH decision in December not to support renewal of their Innkeeper license which had been issued by the SB every year for 23 years; Ms. Vesenska Turner added that the kitchen is inspected every 2 years. Mr. Turner further explained that Friendly Crossways does not meet the definition of a motel which he defined as a single building or series of buildings which are not connected by internal hallways that cater to transient motorists where food is or isn't provided, which has en-suite bathrooms and often cooking facilities within the room, and where long-term guests has become the norm. Mr. Turner also stated that a requirement for a hostel is that it includes a dormitory, such as that of Friendly Crossways. Mr. Turner also explained that their guests come by car, bicycle, school bus, and train. He also indicated that a hostel is required to provide a kitchen where guests can provide their own food, and that some inns also provide food. Ms. Vesenska Turner explained that they provide coffee, English muffins, oatmeal, pasta, and canned sauce for travelers to prepare and serve themselves in the kitchen. She stated that Innholders and hostels can hold events, and that motels cannot as they do not have communal space to prepare meals or congregate. Further, Ms. Vesenska Turner indicated, Town Counsel advised that an innholder license can be issued on its own as long as food is not consumed on the premises. Ms. Levison indicated that it would've been helpful to have received a copy of Town Counsel's advice; Ms. Vesenska Turner stated that she did not provide it to the BOH because she was not asked. Ms. Levison asked that such information be shared in the future. Mr. Turner stated that as there has been no ill effect on the community, he does not see a reason to change the permitting requirements at this time. Mr. Grossman advised that the detailed definition of a motel provided by the Turners is not in the Mass. General Laws, and indicated that Friendly Crossways as it currently functions meets the definition of a motel as defined by MGL. Further, Mr. Grossman explained, he spoke with the Department of Public Health about the issue and they confirmed that it should be licensed as a motel pursuant to MGL Ch. 140, Sec. 32A and 32B. Mr. Grossman also advised that Friendly Crossways has not had a Food Service Permit since the changes to the Food Code which addressed operation as a bed and breakfast. Mr. Grossman also stated that it was disingenuous to say that the BOH stopped Friendly Crossways' business activities when the Turners reported to the BOH that they were not hosting simultaneous activities while sheltering the Afghan families. Mr. Grossman stated that the Town would like to see Friendly Crossways succeed but needs a clear picture of their activities.

Ms. Levison asked the Turners why they are reluctant to apply for a motel permit. Ms. Vesenska Turner indicated that the Mass. General Laws are intentionally general in nature to allow the latitude of municipalities, and opined that Barnstable is very specific that a hostel is licensed as an innholder. Mr. Turner stated that they do not want the moniker of a motel and expressed concern that the Town of Harvard would not want a motel because of the potential for long term stays.

Ms. McCarthy stated that she was not completely convinced by Mr. Grossman's position that Friendly Crossways is a motel, and indicated that she believes it's the domain of the SB, in collaboration with other Boards, to address the deficiencies in the Town Code and protocol to allow businesses to operate. Ms. Vesenska Turner offered to read aloud the definitions from the MGL regarding hotels and motels; Mr. Grossman clarified that the definitions Ms. Vesenska Turner is referencing is from the Tax Code. Mr. Sklar indicated that he'd like the SB and BOH to work together, and does not want to issue an innholder permit over the objections of the BOH. Mr. Sklar stated that he would like to see the current owners through the sale or the end of the year, knowing that the new owner will have hoops to go through. The Turners confirmed that the new owner plans to have transient guests. Mr. Sklar stated the Boards will need to start defining requirements so that everyone is on the same page for the new owner. Ms. Levison stated that she gleaned from her research that sometimes issuing multiple licenses is the cleanest way to address activities. Mr. Grossman stated that operating as a hostel and conference center with an Innholder license is not an issue, but that hosting retreats and overnight wedding guests complicates things. Ms. Levison recommended that if the SB approves an Innkeeper license, a

time limit is applied; Mr. Sklar stated that made sense to him. Ms. Levison agreed to attend the SB meeting; Mr. Grossman reiterated that he holds the opinion, in accord with that of DPH, that Friendly Crossways should be licensed as a motel under MGL Ch. 140, Sec. 32A & 32B.

Ms. Levison advised Mr. Ringwall that the BOH received confirmation from Town Counsel that the Purchase and Sale Agreement allows the buyer to perform soil testing on the property. Mr. Ringwall stated that the application has been completed and will be filed with the BOH once he has the fee from the buyer.

Mr. Grossman confirmed that he has had conversations with the potential buyer and the buyer is aware of the permitting requirements for his planned use.

Mr. Grossman confirmed that as there is no food being prepared for guests in the kitchen, the Turners do not need to apply for a food service license at this time.

Mr. Ringwall advised that he filed a special permit application with the Zoning Board of Appeals on behalf of the buyer for continued use of a structure larger than permitted in the Zoning District. He indicated that they expect to have that hearing mid-April.

Report from discussion with Irene Congdon re potential revisions to waste hauler permitting requirements

Ms. Levison indicated Ms. Congdon confirmed the BOH can revise the regulation to meet its needs. The BOH Members agreed to look at Ms. Flynn's proposed revisions at the next meeting. Ms. Levison stated that two of her neighbors set out their recycling in plastic trash bags and did not see notifications from the haulers regarding the improper set-outs.

Continued discussion regarding BOH interest in goals of the Community Action Plan

Ms. McCarthy suggested this item be tabled for another meeting.

Update regarding request for revision to the FY23 budget submission

Ms. Levison stated that she is waiting to hear back from Mr. Sklar on this matter. Ms. Levison also reported that Ms. Finch advised her that a response from FinCom was in process.

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

Ms. Levison stated that she plans to get revised text to student volunteer, Ms. Aloise.

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

Mr. Grossman did not have any PFAS updates to include.

Review Action Items

Action items were not reviewed.

PERMITS

Stable:

78 West Bare Hill Road: The BOH Members reviewed the 2022 and 2019 Stable Permit Applications for this property. Ms. Flynn advised that Mr. Grossman and Ms. Allard did not express concerns with issuance. Ms. Levison noted that the property is using a manure dumpster. Ms. McCarthy made a motion to accept the stable permit application as presented; Ms. Levison seconded. All were in favor by roll call vote.

Septic:

8 Hillcrest Drive: The BOH considered the application for a Local Upgrade Approval. Mr. Grossman stated that he does not have a problem with the request for less than 4 percolation tests. Ms. McCarthy made a motion to accept the variance request for 8 Hillcrest Drive and to approve the permit; Ms. Levison seconded. All were in favor by roll call vote.

MINUTES

The BOH Members reviewed and revised the draft Minutes of 2/28/22. The Minutes were not accepted as Ms. McCarthy was not in attendance on 2/28/22 and Mr. Mitchell was not present to vote on approval.

ITEMS FOR NEXT AGENDA

Ms. McCarthy asked to discuss the Climate Initiative Committee's plans for Earth Day. Ms. Levison stated that she'd like to move back to Tuesday meetings as soon as possible.

ADJOURNMENT- Ms. McCarthy made a motion to adjourn the meeting at 1:25 p.m.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Posted Agenda
- Non-criminal disposition bylaws of Acton & Littleton
- Planning Board's proposed revisions to Ch. 133 and the erosion control application
- Public Health week alerts from 2018
- Notes from the DPH conference calls of 3/1 and 3/8
- 247 Littleton County: Response letter, P&S Agreement, Ms. Levison's e-mail of 3/9/22 re hostel research, Ms. Levison's email re West Tisbury permitting, Ms. Levison's e-mail re Hyannis permitting, Ms. Levison's e-mail re Eastham permitting, Attorney Lanza's e-mail of 3/10/22
- NABH 4th Quarter FY 22 Invoice
- 78 West Bare Hill Road: 2022 & 2019 Stable Permit Applications
- Draft Minutes of 2/28/22