

Harvard Board of Health Meeting Minutes
Zoom Meeting
April 12, 2022
Approved: May 10, 2022

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

Others Attending, including but not limited to: Alison Flynn, Board of Health (BOH) Administrative Assistant; Ira Grossman, Health Agent, Nashoba Associated Boards of Health (NABH); Patrick Wind, 37 Peninsula Road; Bill Hannigan, Hannigan Engineering; Sotir Papillio & Mark O'Hagan, Craftsman Village Harvard.

Ms. Levison called the meeting to order at 12:00 p.m. Ms. Flynn read aloud the remote meeting preamble.

PUBLIC COMMENT

Ms. Levison stated that the Annual Townwide Cleanup is scheduled for the last weekend in April. Mr. Mitchell will be unavailable to assist in distribution of information on ticks and mosquitos. Ms. McCarthy will be covering the BOH's Earth Day event display. There was no additional Public Comment.

NEW BUSINESS

Craftsman Village Harvard: Title 5 Variance Request Hearing

Mr. Grossman advised that the variance addresses a concern with the offset from the interim well protection area (herein "IWPA") to the leaching area. He indicated that the septic plans were approved with a proposed IWPA, and the BOH is being asked to consider the variance now that the IWPA has been clearly defined. He stated he had no objection to the variance request. Ms. McCarthy noted that Mr. Hannigan's documentation requesting the variance and the reasoning was very thorough. Ms. McCarthy made a motion to accept the variance request for Craftsman Village; Mr. Mitchell seconded. All were in favor by roll call vote.

37 Peninsula Road: Request for reconsideration of application for conversion to year-round status

Mr. Grossman stated that his recommendation to the Board on the issue has not changed. Mr. Wind provided a summary of his request for reconsideration and the documents he submitted in support of the request. Mr. Wind explained that the septic system was designed for year-round use and stated that he does not believe that DEP approved the tight tank only for seasonal usage. Mr. Grossman clarified that while the DEP application did not state year-round v. seasonal, DEP made its decision based on both the application of the engineer and the submittal of the BOH which included a permit which specified "seasonal use". Mr. Grossman noted that the deed notice also states seasonal use. Mr. Wind stated that the reference to "seasonal" in the deed notice is a description of the property, not a restriction. Mr. Grossman confirmed that Title 5 currently defines "seasonal" use, but did not at the time the tight tank was permitted. Mr. Grossman continued that it is well documented that the tight tank was restricted to seasonal use prior to and during the renovation process. Ms. Flynn noted that it is a Restrictive Covenant recorded to the deed which includes the word "seasonal", and that an attorney performing a title search in anticipation of closing would have found this. Mr. Grossman explained that while the Certificate of Compliance references the engineer's plan, it is for the permitted installation which specified _____

“seasonal”. Mr. Wind stated that he was unaware the property was still considered seasonal until the issue came up during the process of marketing the property. He indicated that he would like to see the home approved for year-round use like the other properties with tight tanks on Peninsula Road. Ms. McCarthy stated that strikes her as an issue that other tight tanks in the area have received such an approval. Mr. Grossman stated that the Harvard bylaws have been interpreted that a property owner cannot upgrade, such as an increase in use, without meeting full compliance. He indicated that a change from seasonal to year-round is an increase in use where full compliance would not be met. Mr. Grossman stated that it is the prerogative of the BOH members to change their minds, and if that is done it would be appropriate to talk about a maintenance plan. Ms. McCarthy stated that she was inclined to move in that direction, and does not think the BOH is being more protective of the environment by not allowing this one seasonal conversion. Mr. Mitchell agreed with Ms. McCarthy and stated he feels strongly that the BOH should be consistent. Mr. Mitchell made the motion to approve the request as submitted conditioned on compliance with to-be-developed maintenance requirements; Ms. McCarthy seconded. Ms. Levison stated that while she believes this is a confusing situation, regulations, science, and knowledge change over time. Ms. Levison stated that she is not convinced that the property should be converted, and she is not convinced that the Pond can support the other homes that already converted. Mr. Grossman indicated a maintenance contract between the owner and licensed hauler which determines a frequency of pumping, the location of disposal, and a notation of visual inspection would be appropriate. Mr. Mitchell amended his motion to approve the tight tank conversion as requested with conditions of compliance with ongoing maintenance, monitoring, and pumping; Ms. McCarthy seconded. Mr. Grossman stated that he will prepare a revised permit. Ms. McCarthy and Mr. Mitchell voted in favor of the motion; Ms. Levison voted against the motion.

295 Ayer Road: Prepare comments to the Planning Board regarding Special Permit Application & Site Plan Review

Mr. Grossman stated that he believes that Kennedy & Co. is proposing a nursery with retail store that provides landscape services. He indicated that they initially represented that they would be buying the property and cutting off a piece of the parcel but have since stated that they are considering leasing the property until they can resolve various issues. Mr. Grossman stated that any mobile office would have to connect to a waste disposal system. Mr. Grossman also advised that he has not yet received a septic permit application for the project, and that they will not be in the position to occupy the property without a working septic system and compliant water quality. Mr. Grossman confirmed that the property location requires PFAS sampling and is unaware whether the number of employees will trigger the need for a Public Water Supply. The BOH Members reviewed and revised draft comments to the Planning Board.

247 Littleton County Road: Prepare comments to the ZBA regarding Special Permit Application

The Members reviewed and revised the draft memo to the ZBA. Mr. Grossman noted that documents attached to the application included motel licenses from Littleton.

247 Littleton County Road: Consider response to property owner’s letter to the Select Board of 3/29/22

The BOH Members reviewed and revised the draft letter to the property owners advising that the BOH will revisit permitting if the property is not sold as anticipated. Ms. Levison will review the documents received from the Turners to determine the deadline date when the BoH will revisit permitting.

Consider interest in 2022 Application for Municipality Opt-Out of SRMCB Spraying

Ms. Levison noted that most of the state was determined to be of “high” risk and noted that the few Towns listed as “moderate” border NH. She further stated that she was advised last year by a DPH employee that Harvard was at “moderate risk,” and that she knows of only one positive mosquito sample in 2019. She also stated that the application indicates “high” is a designation of municipalities with positive results in the region for multiple years. Ms. Flynn advised that an application would need to be prepared for the Select Board’s consideration at their May 17th meeting. Mr. Mitchell stated it is not worth the BOH’s time to apply unless EEA will reclassify Harvard’s risk level and suggested the BOH challenge the conclusion that Harvard is “high” risk and when our data says we are “moderate”. Ms. McCarthy agreed to review the data; Ms. Levison will provide her with the link.

Consider attendance at PHEP COVID-19 After Action Conference in Worcester

The BOH Members agreed that they do not need to attend this conference.

Discuss option for hybrid meetings

Ms. McCarthy stated she heard from Mr. Ryan and Dr. Dwight that in their experience hybrid meetings are not worth the technological problems. Mr. Mitchell stated he experienced similar problems with the Ambulance Service’s attempt at hybrid meetings. Ms. Levison stated she would like to consider holding in-person meetings as soon as technology can support it.

Update from NABH Quarterly Meeting (3/31/22)

Ms. McCarthy reported on her attendance at the first portion of the meeting. She stated that Littleton’s request for a 6-month membership was denied; NABH countered with an offer for a one year extension. Ms. McCarthy stated Littleton blamed their failure to staff their Health Department on turnover in personnel. Ms. McCarthy indicated that she pitched the idea to share a sustainability expert, and while Mr. Garreffo thought it was reasonable, the Chair of the NABH Executive Board, was not supportive. Ms. McCarthy stated that she is now preparing a response which will address some of the raised questions regarding whether climate change is a public health issue. She will also draft a potential job description and responsibilities of such a position. Mr. Garreffo offered to share that with the Member Towns. Ms. McCarthy will also share that document with the BOH. Ms. Levison stated that NABH approved the changes to the Harvard population, but Ms. Levison will need to recheck the numbers again.

Update from LUB Meeting (4/12/22)

Ms. McCarthy stated that a LUB Meeting was not held.

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

Ms. McCarthy reported the most recent call was not pertinent to Harvard’s community. She confirmed that the conference calls are now held on the 2nd & 4th Tuesday of the month. The members requested Ms. Flynn add the DPH public outreach poster “Protect Yourself, Protect Your Family” to the website.

Clerk and Health Agent Update

- Ms. Flynn reminded the group that the Hazard Mitigation Plan Public Meeting was

scheduled for later in the week; Mr. Mitchell agreed to attend.

OLD BUSINESS

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

Ms. McCarthy made a motion to pass over this agenda item; Mr. Mitchell stated he was in support of her motion.

Continued discussion regarding participation in Climate Change Initiative's Earth Day event (4/30/22)

Ms. McCarthy stated she would like student volunteer, Lena Aloise, to assist in the graphic design of a poster board using text from the previously prepared "Recycling Tips" and adding a QR code to the BOH Recycling webpage. Ms. Levison agreed to work with Ms. McCarthy to select "Tips" which are still current. Ms. Levison stated she'd like the display to also include information about what the BOH is doing relating to climate change. The BOH Members will work together to print, laminate, and assemble the posters.

Status of townwide mailing in support of the waste hauler regulation

Ms. Levison stated she will send the final draft town-wide mailing for BOH Member review via e-mail.

Continued discussion regarding rota to cover emails to BOH Members on weekends

Ms. Levison stated she will prepare this rotation chart.

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

Mr. Mitchell stated he attended a PFAS conference in which keynote speakers were the MA DEP Commissioner and a representative from NH Department of Environmental Services. He indicated that his takeaway was that PFAS are a big deal in MA and nationwide, that there will be a lot of funding coming down from multiple sources, and the BOH should be on the lookout for opportunities to receive assistance for our community. Mr. Mitchell stated he does not think there is anything to report to the Town Administrator at this time, but he will keep the BOH apprised of developments and the time which may come for a recommendation. Ms. Levison noted the Private Wells PFAS testing program finding above the MCL on Stow Road. Mr. Mitchell stated that the Program's recommendation to the property owner to retest was appropriate.

Review Action Items

Action items were reviewed.

PERMITS

Waste Hauler:

The BOH Members reviewed the applications of Wheelabrator Holding Co. (herein "Wheelabrator") and United Hauling, Inc. Ms. Flynn advised that all Wheelabrator's accounts are being serviced by United Hauling, Inc., and that the entities have recently purchased several local

hauling companies. Because of this, it was explained to Ms. Flynn, not all the marketing materials, trucks, bins, and dumpsters reflect United Hauling or Wheelabrator's name. Further, Ms. Flynn advised, not all their customers receive recycling services. Mr. Mitchell suggested the BOH give them a conditional pass with the understanding that they will be working toward and implementing a recycling program for all customers, or they will not be approved for next year. Ms. McCarthy suggested the letter also include a statement that applications that are not received by December 1st will be assessed a late fee. Ms. Levison suggested the letter also state that we welcome their compliance as soon as possible. Mr. Mitchell made a motion to approve the permit conditioned on them moving toward recycling by all customers and full compliance by December of this year; SM seconded. All were in favor by roll call vote.

Stable:

Ms. Levison stated in her review of the permits she noted that some farms with fewer horses are hauling more frequently than farms with several horses. Mr. Mitchell stated the BOH cannot know what frequency is appropriate without knowing the size of the manure storage container.

The BOH Members stated they had no comments on the following applications:

- 157 Bolton Road
- 2 Depot Road
- 243 Old Littleton Road
- 25 Slough Road
- 42 Bolton Road
- 7 East Bare Hill Road
- 183 Prospect Hill Road
- 103 Prospect Hill Road
- 162 East Bare Hill Road

Ms. Levison asked whether Mr. Grossman noted any wetlands at 14 Whitney Lane. Ms. Flynn advised that Ms. Allard reviewed this application and had no concerns.

Ms. Levison asked the group whether they had any concern with the frequency of manure removal at 347 Littleton Road. Mr. Mitchell and Ms. McCarthy stated they were okay with the applicant's reported schedule.

Ms. McCarthy stated that she was okay with aged manure being spread on fields at 67 Prospect Hill Road.

Ms. Flynn advised that the stable permit for 48 Madigan Lane was not issued in 2021. She indicated that the BOH's last communications with the applicant regarding their concerns was November and confirmed that in the past the BOH required the manure piles be removed a few times during the summer months. Mr. Grossman noted that the layout plan states the large pile is compost. Ms. Levison noted that the farm's 60-70 adult goats all kid, doubling the population or more at times. Mr. Grossman stated that, in light of repeat complaints, if the property owner cannot confirm that the compost does not contain pathogens or E. coli then the BOH has to look at it as a manure pile. Ms. Levison and Mr. Mitchell stated they support this recommendation. The BOH will prepare a letter requiring the property owner test the compost pile, eliminate runoff, and minimize odor, and provide a response to the BOH within 30 days.

Ms. McCarthy made a motion to accept all stable permits except 48 Madigan Lane; Mr. Mitchell seconded. All were in favor by roll call vote.

Septic:

72 Park Lane: Mr. Grossman advised that the permit is an upgrade for a failed system which will require a long sewer line approval. Mr. Grossman stated that he has no objections to the requests listed on the engineer's letter. Ms. McCarthy made a motion to accept the permit for 72 Park Lane; Mr. Mitchell seconded. All were in favor by roll call vote.

16 Old Schoolhouse Road: Mr. Grossman advised that this permit is also for an upgrade for a failed system in a very difficult location. Mr. Grossman stated he has no objection to the requests. Mr. Mitchell made the motion to accept the repair request for 16 Old Schoolhouse Road; Ms. McCarthy seconded. All were in favor by roll call vote.

88 Poor Farm Road: Mr. Grossman advised the permit is for replacement of septic tank baffles and the distribution box. He stated he has no concerns with the permit. Mr. Mitchell made the motion to approve the upgrade request for 88 Poor Farm Road; Ms. McCarthy seconded. All were in favor by roll call vote.

MINUTES

Mr. Mitchell made the motion to accept the minutes of 2/28/22 as amended; Ms. Levison seconded. Mr. Mitchell and Ms. Levison were in favor by roll call vote; Ms. McCarthy abstained as she was not present for the 2/28/22 meeting.

The BOH Members reviewed and revised the draft Minutes of 3/14/22. Ms. McCarthy made the motion to accept the Minutes as amended; Mr. Mitchell seconded. All were in favor by roll call vote.

ITEMS FOR NEXT AGENDA

Mr. Mitchell noted that he will not be in attendance at the next meeting. Ms. Levison asked that agenda items are e-mailed to Ms. Flynn.

ADJOURNMENT- Mr. Mitchell made a motion to adjourn the meeting at 2:17 pm; Ms. McCarthy seconded. All were in favor by roll call vote.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Posted Revised Agenda
- Draft Minutes of 2/28, 3/14, and 3/28/22
- Craftsman Village Title 5 variance request letter and plan

- E-mail regarding PHEP Region 2 After-Event Conference
- Mr. Bragan's e-mail regarding hybrid meetings
- 247 Littleton County: ZBA application of prospective owner, Mr. Grossman's draft comments
- 247 Littleton County: Current owner's letter to the SB of 3/29, and Ms. Levison's draft response letter
- COVID-19 7 Steps to Stay Healthy
- NABH assessment letter
- 295 Ayer Road: Planning Board Special Permit Application, Plan, Mr. Grossman's draft comments
- 37 Peninsula Road: Mr. Wind's e-mailed request for reconsideration with attachments
- Waste Hauler Permit application packages of: Wheelabrator Holdings & United Hauling
- 16 Old Schoolhouse Road: Application, LU Conditions Form, Request Ltr, Proposed Plan, Unsigned Permit
- 88 Poor Farm Road: Application & Unsigned Permit.
- 72 Park Lane: Unsigned septic permit, proposed SDS, variance request letter, Local Upgrade Conditions Form, proposed long line sewer notification
- Stable permit application: 157 Bolton Road
- Stable permit application: 2 Depot Road
- Stable permit application: 243 Old Littleton Road
- Stable permit application: 25 Slough Road
- Stable permit application: 347 Littleton Road
- Stable permit application: 42 Bolton Road
- Stable permit application: 67 Prospect Hill Road
- Stable permit application: 7 East Bare Hill Road
- Stable permit application: 183 Prospect Hill Road
- Stable permit application: 103 Prospect Hill Road;
- Stable permit application: 162 East Bare Hill Road;
- Stable permit application: 14 Whitney Lane;
- Stable permit application: 48 Madigan Lane.