

Harvard Board of Health Meeting Minutes
Zoom Meeting
July 26, 2022
Approved: August 16, 2022

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

Others Attending: Alison Flynn, Board of Health (BOH) Administrative Assistant; Ira Grossman, Health Agent, Nashoba Associated Boards of Health (NABH); Nick Pauling, GPR; Frank O'Connor, Director of Planning; Tony Svarczkopf, 16A South Shaker Road; Wayne Adkins and Nicole Catarino, 3 Pine Hill Way.

Mr. Mitchell called the meeting to order at 7:00 p.m. Ms. Flynn read aloud the remote meeting preamble.

PUBLIC COMMENT

None.

NEW BUSINESS

295 Ayer Road: Discuss proposed subsurface sewage disposal system (SDS)

Mr. Grossman asked the Board Members to consider whether the property's proposed use, by landscaping company, Kennedy & Company, should be required to meet the requirements of an upgrade or new construction. He advised that by Title 5 definition there is not an approved capacity for the property which includes an existing, now abandoned, house. Mr. Grossman explained that while the BOH has considered upgrades for other properties in Town which have undocumented existing systems, this review is different because there is also a change of use from a single-family home to a commercial establishment with multiple uses proposed. Mr. Pauling confirmed that the business will offer landscaping services and stock landscaping materials for purchase. He indicated that the house will be converted into an office space for 1-2 employees, and other than the occasional customer who might meet with the employees, will not be open to the public or house public restrooms. Mr. Pauling asked the BOH Members for a determination of whether the project can be considered an upgrade designed with three-bedroom flows and outlined the differences in design requirements. Mr. Grossman advised that the BOH could consider the proposal as new construction but entertain variances from local requirements; Mr. Pauling stated that would be helpful if the BOH would consider waivers on trench requirements.

Mr. Grossman and Mr. Pauling advised that there is a pending Approval Not Required (ANR) plan to split off this parcel from Harvard Plaza to create a stand-alone lot to be sold to Kennedy & Company. Mr. Grossman also noted that either a Title 5 Inspection and water quality test need to be performed at the time of sale of the parcel or a binding agreement for the upgrade of the septic system and installation of a new well in compliance with the regulations would need to be approved by the BOH. Mr. Grossman and Mr. Mitchell agreed with Mr. Pauling that there is no need to require Title 5 Inspection and water quality testing if both will be replaced but stated that a binding agreement will be required. Mr. Mitchell noted that testing for PFAS will also be required of the well. Mr. Grossman stated that his recommendation is that the proposal be considered new construction with a binding agreement required for septic and water quality testing. He also noted that a building permit should not be issued until there is an approved water supply. Ms. Flynn will prepare a draft binding agreement for consideration at the next meeting.

3 Pine Hill Way: Hearing for variance request from State Sanitary Code, Chapter II: 105 CMR 410.250 (A), for a habitable space with less than 8% window glass of the floor space

Mr. Grossman advised that the homeowners' are seeking a variance as their proposal to finish their basement does not meet the requirements for natural light. Mr. Grossman advised that in order to allow the variance there needs to be plans for mechanical ventilation to introduce two complete air exchanges per hour for the space. Mr. Grossman recommended the BOH approve the variance pending demonstration that a HVAC professional will install the required ventilation system. The BOH explained that the purpose of this requirement is to ensure proper air quality and to prevent mold growth.

Ms. Levison made a motion to approve the variance for the basement at 3 Pine Hill Way pending Mr. Grossman's review of the air exchange system that will be installed; Ms. McCarthy seconded. All were in favor by roll call vote.

16A South Shaker: Discuss status of building permit application and water quality compliance

Mr. Mitchell stated that his understanding is that the homeowner has applied for a building permit which Mr. Grossman has not signed off on because there is an outstanding water quality compliance issue. Mr. Grossman confirmed that at the time of property sale to the homeowner the property was not in compliance with the Private Wells regulation, that the BOH allowed the homeowner one year to provide compliant water quality results, that it has been over one year and results have not yet been submitted to the BOH. Homeowner, Mr. Svarczkopf, indicated that Skillings & Sons took a sample for analysis in compliance with the regulation that morning and asked that the BOH approve the building permit while the results are pending. The Members asked that the results be submitted to the BOH and authorized Mr. Grossman to sign off on the building permit.

Meet & Greet with new Director of Planning, Frank O'Connor

The Members and Mr. O'Connor exchanged introductions of their backgrounds. The BOH provided an overview of some of the BOH-related challenges of planning in Harvard, including septic systems and water quality issues. The Members encouraged Mr. O'Connor to reach out to them directly with any questions.

Consider removing radium water quality testing requirements

Mr. Grossman asked the BOH to consider dropping the requirement for radium testing. He indicated that of the 150 or more radium tests performed since the requirement was adopted, only one resulted in a radium finding above the MCL. He further stated that radium analysis is costly and requires three weeks of turnaround time. Mr. Grossman advised that the areas with wells resulting in high gross alpha and uranium has been limited to Blanchard Road and Ann Lees Road, but that he has not seen a correlation between high uranium and high radium. Further, Mr. Grossman indicated that remediation for gross alpha and uranium also removes radium. Mr. Mitchell stated that as there are such low incidence of high radium and the BOH is incidentally treating for radium when requiring remediation for gross alpha and uranium, he does not have a problem removing the radium testing requirement; Ms. McCarthy agreed. Ms. McCarthy made the motion to remove the requirement for radium testing from the water quality testing requirements; Ms. Levison seconded. Mr. Grossman advised that the regulation still allows for additional testing

requirements where deemed necessary by the BOH. All were in favor by roll call vote.

Discuss MA Statewide Opioid Settlement Funds, including designation of BOH point-person

Ms. Levison stated that Harvard is slated to receive about \$340,000 over the next 17 years to counter-act the use of opioids in Town. She indicated that it is not clear to her who is responsible for deciding how to spend the funds within the terms of their allowed uses and thinks it should be considered. Ms. Levison said she has briefly discussed the issue with Jason Cotting; Ms. McCarthy said she reached out to Dr. Dwight regarding the same. Ms. Levison stated that Ms. Montgomery, of the NABH, sent out an e-mail asking whether communities were interested in pooling funds and resources. Ms. Levison agreed to invite Ms. Montgomery, Dr. Dwight, and Mr. Cotting to prepare a joint recommendation to Mr. Bragan or the Select Board about how the funds could best serve their purpose.

Recent complaints re delayed pick-up by waste haulers

Ms. Flynn advised that she contacted Waste Management regarding recent complaints from residents regarding pick-up delays. She indicated that Waste Management responded the delays were due to labor shortages, but that they have been working to onboard new staff and hope we will not see future delays in the Town of Harvard.

Ms. Flynn also reported that the delayed pick-up at Foxglove Apartments which was initially reported to also be Waste Management was discovered to be a delay by Republic Services. She indicated that she spoke to Republic Services and the trash has since been removed.

Ms. Flynn will continue to reach out to haulers with resident complaints of delayed pick-up and advise residents that the Transfer Station is an option if the haulers are unable to remove waste and recyclables in a timely manner. Ms. Levison suggested that the BOH recommend to the Select Board suspending the late fee for Transfer Station stickers considering the current issues with trash haulers. She will research the current Transfer Station sticker fees and draft a letter to the Select Board if appropriate.

Update of Installation of radio base on school roof

Ms. Levison stated that she learned from Town Electrician, David Woodsum, that he has not installed the satellite phone base station because he was not directed on the installation location. Ms. Levison and Mr. Grossman will review the EDS plan to identify the appropriate location for installation.

Pond algae update

Mr. Grossman advised that his readings are creeping up slowly with the temperature reading 76.5 degrees, fluorometer readings are not approaching an area of concern, and the clarity is holding relatively steady. Ms. Levison reported that she is in the process of preparing a Google Sheet with the Pond data to be shared with the BOH Members and Mr. Leicher. Mr. Grossman advised that Lake Boon in Stow has visible scum.

HHAN EEE/WNV weekly report

Ms. Levison reported that there have been no positive EEE samples and two positive WNV samples that are not in close proximity to Harvard. Ms. Levison stated that she has been

responding to all HHAN alert tests and will continue to do so.

COVID-19: Current Status

Ms. Levison reported that she updated the spreadsheet of case counts, and that cases are still going down.

Update from DPH Interagency Local Boards of Health Webinar

Ms. McCarthy reported that the call included a Novavax overview; Ms. Levison noted it is not yet approved for use as a booster. Ms. McCarthy stated DESE is not likely going to require schools to report cases. Ms. McCarthy also advised that there will be another webinar on the opioid settlement 8/11/22; Ms. Levison will ask if Dr. Dwight, Mr. Cotting, or Ms. Montgomery plan to attend.

Clerk and Health Agent Update, including but not limited to:

- Ms. Flynn asked the Members to consider approval of reimbursement to her for USPS shipping of Bare Hill Pond samples of 7/12/22 and 7/26/22 to Aquatic Analysts. Ms. Levison made the motion to approve the reimbursement in the amount of \$48.45 for each of the shipping dates; Ms. McCarthy seconded. All were in favor by roll call vote.
- Ms. Flynn asked the Members to consider payment of Aquatic Analysts for analysis of the 7/12/22 sample. Ms. Levison made the motion to approve payment in the amount of \$205.00; Ms. McCarthy seconded. All were in favor by roll call vote.
- Ms. Flynn asked the Members to consider whether they would like to respond to NACCHO's request for participation 2022 Profile of Local Health Departments. The Members agreed to opt out at this time.
- Ms. Levison stated that she has not heard back from Minuteman Senior Services regarding her request for clarification of Harvard's FY23 assessment.

OLD BUSINESS

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

Mr. Mitchell opened the hearing at approximately 8:31 p.m. Ms. Flynn advised that the homeowner would not be able to attend the meeting but provided a written update included in the BOH Members' merged packet. Mr. Grossman stated that he provided written guidance as to the BOH's options for handling such housing issues. The BOH Members discussed that the hearing has been open for almost 3 years and the issue does not seem to be moving forward. The group discussed that the path forward, providing that the house does not become a nuisance or danger to the Town and community, is to close the hearing with the requirement that existing conditions, including lack of septic, water, and numerous other State Sanitary Code violations be disclosed to any potential buyers. Ms. Flynn and Mr. Grossman will prepare a letter advising the property owner of the same.

Ms. McCarthy made a motion to close the hearing regarding 23 Lovers Lane in accordance with the letter discussed being sent to the current owner; Ms. Levison seconded. All were in favor by roll call vote.

Review After Action Report from test kit distribution

The Members agreed to send Ms. Levison any questions or comments on her After Action Report.

Continued report from Cyanobacteria Monitoring Collaborative Forum: Algae Control Methods (3/24/22)

Ms. Levison stated she has not had the opportunity to review the remaining forum videos.

Continued discussion of Board of Health (BOH) liaisons for FY23

Mr. Mitchell confirmed that the designated topic liaison can update The Harvard Press on behalf of the Board. Ms. Levison will update Ms. Hurley on the Pond.

Consider waste hauler regulation revisions

This discussion was tabled until a future meeting after Mr. Mitchell has the opportunity to prepare suggested revisions.

Update re status of Town Meeting warrant article for non-criminal disposition bylaw and discuss when ticketing is required

This discussion was tabled until the next meeting.

Update on Climate Action goals from meeting with HCIC Chair & Preparedness sub-group

Ms. McCarthy indicated that she will provide an update at the next meeting.

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

This discussion was tabled until the next meeting.

Review Action Items

Action items were reviewed.

PERMITS

- **Septic: 131 Warren Ave.** Mr. Grossman advised that this application for a Local Upgrade Approval is for a four-bedroom capacity instead of the five-bedroom capacity that was previously approved. He noted that the Assessors will need to be informed. Ms. Levison made the motion to approve the local upgrade request for 131 Warren Ave.; Ms. McCarthy seconded. All were in favor by roll call vote.
- **Septic: 87 Oak Hill Road.** Mr. Grossman advised that he has no concerns regarding this application for a distribution box replacement. Ms. Levison made the motion to approve the distribution box permit for 87 Oak Hill Road; Ms. McCarthy seconded. All were in favor by roll call vote.
- **Waste hauler: Republic Services.** Ms. Flynn advised that she recently learned that her follow-up letters to Republic Services regarding their incomplete application package went unanswered due to her misspelling of the recipient e-mail address. She indicated that Republic has subsequently provided additional documents which are still not fully compliant with the regulation in that they did not provide a compliant example of the notice given to

customers who set out visible waste ban materials and did not provide Commercial Generator Exemption Forms for their commercial customers who are not recycling. Ms. Flynn suggested that issuing the permit with a letter asking the hauler to make the required changes to be in alignment with the regulation would be consistent with prior decisions. Ms. McCarthy made a motion to grant the permit to Republic Services; Ms. Levison seconded. All were in favor by roll call vote.

MINUTES

The Minutes of 6/14/22 were reviewed and revised. Ms. McCarthy made the motion to approve the Minutes of 6/14/22 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

Ms. Levison made the motion to adjourn at 9:14 p.m.; Ms. McCarthy seconded. All were in favor by roll call vote.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda
- 295 Ayer Road: E-mail from N. Pauling requesting a discussion, E-mail exchange re initial review between N. Pauling & I. Grossman, BOH comments to the ZBA, proposed SDS plan;
- 3 Pine Hill Way: Building permit application and variance request letter with attachments;
- 16A South Shaker: June 2022 e-mail exchange with homeowner & contractor, and BOH Minutes of 10/27/20;
- E-mail NABH re pooling opioid settlement funds, and State opioid settlement presentation;
- 23 Lovers Lane: E-mailed update of 7/26/22
- Receipts from USPS shipping of 7/12/22 and 7/26/22 to Aquatic Analysts;
- NACCHO request for survey response;
- IG guidance re housing decisions;
- BOH liaison chart;
- Republic Services application package;
- E-mailed action items from 6/14/22;
- Draft Minutes of 6/14/22;
- Republic Services hauler permit application package;

- 131 Warren Ave.: Application, local upgrade conditions request letter and form, proposed plan, and unsigned permit;
- 87 Oak Hill Road: Application and unsigned permit.