

Harvard Board of Health Meeting Minutes
Zoom Meeting
December 11, 2023
Approved: January 8, 2024

Board of Health Members present: Libby Levison; Sharon McCarthy; Christopher Mitchell (*arriving late*).

Others Attending: Alison Flynn, Board of Health Clerk; Jim Garreffi, Health Agent, Nashoba Associated Boards of Health; Dan Wolfe, PE, Dave E. Ross Associates; Lois Luniewicz, Worcester MRCP; Pat Natoli, Harvard CERT Director; Derek Skillings, Skillings & Sons.

CALL MEETING TO ORDER

Ms. McCarthy called the meeting to order at approximately 4:03 p.m. Ms. Flynn provided remote meeting instructions, and acknowledged that Board Member, Chris Mitchell, would be joining the meeting late.

PUBLIC COMMENT

None.

NEW BUSINESS

25 Old Shirley Road: Article I: Sanitation and Title 5 and variance request hearing

Mr. Wolfe indicated that the property owners originally retained his services with the intent of expanding the septic system and the use of the home. Upon investigation, he found that their options were extremely limited because the location of the well is at the center of the property, much of the land outside the 100-foot well radius is ledge, and the existing system would be considered in failure because the distribution box is flooded above the inverts. Mr. Wolfe indicated that instead of expansion, he is proposing replacement of the existing system with a Geomat design that will require a retaining wall because of the property's slope. He stated that the variances requested are from the local regulation which requires the system be located at least 25 feet from the nearest test hole with at least four feet of naturally occurring soil, and from Title 5 requires at least four feet of naturally occurring soil. Mr. Wolfe explained that with the property's noted limitations, he feels they were lucky to find two test holes with three feet of soil. Mr. Wolfe indicated that the proposed plans include replacing the septic tank as the existing tank cover is also damaged. Mr. Garreffi agreed that the lot is challenging and that the proposed location is likely the best they can do given its restrictions. Ms. Levison noted that the applicants are her neighbors but that she feels she can review the application in a fair and impartial manner.

Ms. Levison made a motion to approve the variances for 25 Old Shirley Road, Plan No. L-14751, from the local regulation 145-3(k) requiring a 25-foot ledge offset, and from Title 5, 15.240(1) allowing less than 4 feet of depth of naturally occurring soil; Ms. McCarthy seconded. All were in favor by roll call vote.

Discuss collaboration with Lois Luniewicz of MRC and Pat Natoli, CERT Director, on outreach opportunities

Ms. Luniewicz provided the BOH with background information on the Medical Reserve Corp (“MRC”) and the Worcester Division and offered support as part of the MRC’s mission to assist local public health. Ms. Luniewicz indicated that one of her biggest goals is to have MRC partner with the local CERT team. She explained that all volunteers are vetted through CORI and SORI, and any medical licensures are checked annually to ensure they are current. She indicated that MRC is able to deploy volunteer assistance for vaccine clinics, contact tracing, warming shelters, road races, as well as provide outreach talks on preparedness or table displays at libraries or events. Ms. Luniewicz indicated that no formal agreement is needed with the community to provide assistance; the deployment protocol will be updated shortly and distributed to all communities. Ms. Levison asked that if Ms. Luniewicz is visiting Harvard to give a talk on a topic within the BOH purview, she let the BOH know so that the BOH will not duplicate efforts; Ms. Luniewicz acknowledged the request.

32 Whitman Road: Article II: Private Wells variance request hearing

Mr. Skillings explained that the property owners would like to drill two closed-loop geothermal bore holes to heat and cool the house. He indicated that the options for the location for the proposed boreholes is restricted by a steep drop-off in grade at the rear of the property and the location of the existing septic system and private well. Mr. Skillings stated that the closest proposed borehole to the private well is approximately 70 feet from the drinking water well, and this was the maximum distance they were able to identify because of the lot restrictions. Mr. Garreffo indicated that the state guidelines recommend 50 feet between a drinking water well and closed-loop boreholes. Ms. McCarthy stated that the BOH gives variances because of Harvard’s difficult geology. Ms. Levison noted that geothermal is nice to have, but not required. Ms. Flynn confirmed that the plan states the closest borehole would be 75 feet from the private well. Mr. Garreffo advised that the potential for a public health concern would be that the heat transfer fluids would get outside the tubing which is then encased in a bentonite clay. He stated that he believes they are pretty well contained. Mr. Skillings stated that the wells will be about 400 feet deep. Ms. Levison requested that Mr. Skillings’ variance request letters be more detailed in the future.

Ms. Levison made a motion to grant the variance for the geothermal wells at 32 Whitman Road under 145-23 bringing the approximate distance from the geothermal well to the water well to 75 feet; Ms. McCarthy seconded. All were in favor by roll call vote.

(Mr. Mitchell joined the meeting at approximately 4:40pm)

228 Old Littleton Road: Condemnation hearing

Mr. Garreffo indicated that he received a call from the Fire Department after they responded to a call regarding flooding in the basement. He indicated that the Fire Department was concerned that the flooding could include sewage and other concerns which made them question safety of the person living in the house. Mr. Garreffo explained that he contacted the property owner and subsequently confirmed, upon his own housing inspection, that the house is unfit for human habitation. He provided a summary of findings provided by a heating specialist and Ratta Septic Services which confirmed the poor conditions of the heating and septic systems. Mr. Garreffo indicated that he has discussed the condition of the house with the owner, in conjunction with Jen Schoenburg of the Council-on-Aging to ensure the resident feels comfortable, and that the homeowner has been extremely cooperative. He indicated that he explained to the property

owner her rights and the condemnation process, and she sent a responsive correspondence to the Board confirming her understanding. Mr. Garreffi indicated that the property owner has a friend who she is staying with at this time; he indicated that he recommended to her that the house be winterized. Mr. Garreffi stated that his recommendation at this time is to condemn the house and order that it be secured, but that the homeowner would like to visit from time to time to check on or remove her belongings. The Board Members agreed that it would be reasonable to allow infrequent visits inside the property with advance notice given to Ms. Schoenburg so that Public Safety can be made aware. Ms. McCarthy also asked that she be counseled that it is not advisable to stay for long periods of time when the heat is not on. Mr. Mitchell suggested access be conditioned on that the property be winterized.

Mr. Mitchell made a motion that, based upon the Housing Report and letter from the homeowner, the Board finds that the property at 228 Old Littleton Road is unfit for human habitation; Ms. Levison seconded. All were in favor by roll call vote. Ms. Levison moved that, having found the property unfit for human habitation, the Board orders the property be vacated and secured, with access to the property allowed for work to improve the property, to evaluate work being performed, or for the property owner to access her belongings with advanced notification of a few days via e-mail to Jen Schoenburg at COA, and Alison Flynn at the BOH, and Jim Garreffi at NABH; Mr. Mitchell seconded. The Members agreed that the notice could be to Ms. Schonburg only if Ms. Schoenburg is comfortable forwarding this to Ms. Flynn, Mr. Garreffi, and Public Safety. Mr. Garreffi will ask this of Ms. Schoenburg. Ms. Levison accepted the friendly amendment. All were in favor of the amended motion by roll call vote.

214 Littleton Road: Consider room count for proposed renovation/addition

Mr. Wolfe explained that the property owners' proposed plans for renovation includes a total of ten rooms with an existing septic system which is designed for four bedrooms. As ten rooms equates to five bedrooms, Mr. Wolfe asked that the Board Members consider a four-bedroom deed restriction. He explained that the property owners plan to use only three of the ten rooms as bedrooms, and the proposed plans includes a new room that will be used as a study. The Board Members agreed that a four-bedroom deed restriction would be appropriate to ensure future owners are aware of the septic design capacity.

Ms. Levison made a motion that the Board approve a four-bedroom deed restriction for 214 Littleton Road; Mr. Mitchell seconded. All were in favor by roll call vote.

Consider request for participation in RCAP Private Wells focus groups

Mr. Mitchell volunteered to respond to RCAP with his availability to participate in the focus group.

Consider amendments to the Board of Health Fees regulation

The Board Members agreed to discuss Ms. Flynn and Ms. Levison's comments on the regulation other than those regarding the project review fees and discuss the project review fees at the January meeting after the Members have the opportunity to review Groton's regulation. Ms. Flynn explained that her understanding of "593 Accounts" is they are escrow accounts that allow the BOH to collect project fees to be set aside for the BOH to hire a consultant to assist with the review process for more complex projects if necessary. She indicated that project review fees were collected and placed in a 593 Account for septic review of the Craftsman Village project, but none of those funds have been used to hire consultants to date. She explained that unused funds will be returned to the builder at some point, but the existing regulations are not very clear as to

when that is. She explained that her review of the records suggests that the BOH adopted the project review fees regulations with Groton's regulation as a model, but that Groton has since revised their regulation. Ms. Flynn stated that Groton's current language is cleaner than Harvard's existing language and suggested the Board Members may want to consider amending their regulation accordingly if the intent is to continue to include project review fees. Ms. McCarthy noted that project review fees are different than administrative fees and the language should be clear going forward. Ms. Flynn will work to add a "definitions" section. Ms. Levison suggested after revision of the regulation language, the Board should consider whether the existing dollar amounts are appropriate. The BOH agreed that fees should be charged for any and all variance requests, not just those relating to septic systems, with those variance requests which require abutter notification to have a higher administrative fee. Mr. Mitchell asked whether the BOH should charge a fee for consideration of bedroom deed restrictions. Mr. Mitchell indicated that in his communication with the Select Board liaison he was asked whether there might be a compromise on stable permit fees in that commercial stables might pay a fee; Ms. Levison indicated she would be amendable to that compromise.

Review draft flow chart regarding water quality requirements

Ms. Levison indicated that she was not able to update the draft flow chart.

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

- Ms. Levison made a motion to pay Nashoba Associated Boards of Health's quarterly invoice, No. 2024-309 in the amount of \$7,435.92; Mr. Mitchell seconded. All were in favor by roll call vote.
- Ms. Flynn advised that they are still on schedule to move to Hildreth House. She indicated that she believes she will be able to pack up the BOH office without any assistance from the BOH Members.
- The Board Members confirmed that they would like residents to continue to appear at a meeting for room count/bedroom deed restriction discussions.

PERMITS

Review of septic permits recently issued by the Health Agent

Mr. Garreffo reported that the only septic permit issued since the last meeting was the permit for 55 Prospect Hill Road, the local upgrade requests for which were approved at the meeting of 11/29/23.

Review of completed waste hauler permit application packages

Ms. Flynn indicated that the application for Prime Disposal is for full hauling privileges, the application for Mitrano is for roll-off dumpsters and single material recycling, and that D&D Waste Removal is applying for roll-off dumpsters only. She indicated that each application package appears complete and compliant with the current regulation.

Mr. Mitchell made a motion to approve the three waste hauler permits based on the recommendation of the BOH Clerk; Ms. Levison seconded. All were in favor by roll call vote.

OLD BUSINESS

Continued annual review Bare Hill Pond Algal Bloom Protocol, including advisory templates

Ms. Levison indicated that she will revise the templates consistent with Mr. Garreffi's comments and recirculate them for review.

Continued consideration of application(s) for Nashoba Valley Health Care Fund grant

Ms. Levison indicated that she did not prepare an application for the grant.

Review draft response to B. Leicher letter to Select Board regarding synthetic turf

Ms. Levison stated that she had not yet had an opportunity to prepare a response.

Further discussion re scheduling EDS Trailer clean-out

Ms. Flynn advised that she received an e-mail from Ms. Natoli stating she and the Fire Chief would like to try to schedule the clean-out for January and suggested the BOH propose some dates. The Members agreed to e-mail these to Ms. Flynn.

PFAS Update, including but not limited to report from attendance at the Devens RAB Meeting of 11/9/23

Mr. Mitchell reported that the Phase II investigation of Area 1, which abuts Harvard is beginning. He indicated that geophysics was to begin in November with bedrock drilling in December or January. He reported that they will be looking to receive rights of access to do drilling on four or more properties in Harvard. Ms. Levison asked whether outreach by the BOH is needed at this time. Mr. Mitchell indicated he would get a schedule of off-base actions and offer the BOH as a resource for outreach if needed.

Update re installing dial/algae signs on Pond Road

Mr. Mitchell indicated he would continue to pursue installation of the kiosk and purchase of an additional dial sign.

(Mr. Garreffi exited the meeting at approximately 6:03pm).

Review Action Items

Ms. Flynn indicated that she would circulate a list of any outstanding Action Items. Ms. Levison reminded Ms. McCarthy that she needs language about her participation in the Harvard Climate Initiative Committee for the Annual Town Report, and Mr. Mitchell that she needs language from him about his participation on the RAB and with the stroke awareness campaign.

MINUTES

The Members considered Ms. Levison's comments on the draft Minutes of November 29, 2023. Ms. Levison made a motion to accept the Minutes as amended; Ms. McCarthy seconded. Ms.

McCarthy and Ms. Levison were in favor by roll call vote; Mr. Mitchell abstained as he was not present at the November 29th meeting.

DISCUSS ITEMS FOR NEXT AGENDA

Items for the next agenda were discussed.

ADJOURNMENT

Mr. Mitchell made a motion to adjourn at 6:06 pm; Ms. Levison seconded. All were in favor by roll call vote.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda
- 25 Old Shirley Road: Variance request letter and proposed SDS plan
- Ms. Luniewicz's email offering assistance
- 32 Whitman Road: Variance request letter and proposed plan for geothermal wells
- 228 Old Littleton Road: Order to Correct, Housing Inspection Report, and Notice of Condemnation Hearing
- 214 Littleton Road: Existing & proposed layout plans, and letter with proposed bedroom deed restriction
- RCAP e-mail requesting participation in Private Wells focus groups
- Proposed revisions to Fee regulation from Ms. Flynn and Ms. Levison
- NABH Invoice No. 2024-309
- Waste hauler permit application packages from Mitrano Services, D&D Waste Removal, and Prime Disposal
- Draft Minutes of 11/29/23