

Harvard Board of Health Meeting Minutes
Town Hall, Volunteer Meeting Room
Tuesday, September 10, 2019
Approved: September 24, 2019

Board of Health Members present: Libby Levison (via Telephone); Sharon McCarthy; Tom Philippou, Chair.

Attending: Alison Flynn, Board of Health (“BOH”) Clerk; Ira Grossman, Health Agent, Nashoba Associated Boards of Health (“NABH”) Franklyn Carlson, Carlson Orchard; Carl Warren; Bruce Ringwall, GPR; Joel Frisch, NGI; Neil Gorman, David E. Ross Associates, Inc.; Nick Deane, Appleworks; David Formato, Onsite Engineering; Erica Chavez, 211 Stow Rd.

Mr. Philippou called the meeting to order at 2:09 p.m.

PUBLIC COMMENT- None.

NEW BUSINESS

a. 104 Still River Road: Septic variance requests- Bruce Ringwall & Carl Warren represented the homeowners in their request for variances from Title 5 and Harvard regulations presented in GPR’s letter of August 20, 2019. Ms. Flynn confirmed Mr. Ringwall provided her with certified mail receipts to the abutters. Mr. Grossman indicated that he discussed with GPR the possibility of relocating the system to the other side of the house, but there were concerns with ledge and the existence of the well in that location. Ms. McCarthy made the motion to accept the proposed distance for the location of the septic tank to be 8.2 feet from the property line and the invert offset to be approximately 3 inches from the high ground water elevation; Mr. Philippou seconded. No further discussion was needed. All were in favor.

Mr. Grossman added that he continues to have real concern that the cottage is being used as habitable space. Mr. Ringwall stated that the homeowner, Mr. Gallagher, has indicated that the building is not currently being used as a rental. Mr. Philippou suggested a deed restriction stating that the outbuilding will not be used for habitation, and the property will only have a single-family use. The BOH members and Mr. Grossman agreed.

b. Carlson’s Orchard: Public Water Supply permitting- Mr. Ringwall, Franklyn Carlson, and Joel Frisch were present for the discussion. Mr. Ringwall updated the BOH as to the status of the Public Water Supply and requested the BOH consider the newly drilled and tested well a private water supply pending DEP approval. Mr. Grossman, Mr. Philippou, and Ms. McCarthy expressed they saw no issue with allowance. Mr. Carlson confirmed that no one will be working in the camp after December 20th, and stated there were 16 individuals working in the camp with 2 more coming. Of those 18, he indicated, 5 would also work in packing. Mr. Grossman stated that he did not have a problem with the consideration as Carlson’s is moving in the right direction toward Public Water Supply approval. Ms. McCarthy made the motion to classify the well as a private water supply until the Public Water Supply is approved; Mr. Philippou seconded. Ms. Levison requested the motion be revised to include that the consideration would

be revisited if DEP approval was not in place in 1 year. Ms. McCarthy was willing to accept the amendment. No further discussion was needed. All were in favor.

c. 70 Slough Road: Local Upgrade Approval requests- Neil Gorman presented the homeowners' request for a Local Upgrade Approval and a variance from the HBOH regulation. Ms. McCarthy made a motion to approve the variance request for offset to groundwater to 2 feet, depth of inlet and outlet tees to 0 inches, and for 1 passing perc test in the primary area; Mr. Philippou seconded. No further discussion was needed. All were in favor.

d. 2 Wilroy Ave.: Consideration of use of existing well- Mr. Gorman presented the property owners' request to continue using the existing shallow well, as prior plans to share another, deeper existing well have stalled with concerns of insufficient output. Mr. Grossman expressed his opposition, stating it does not believe the shallow well meets standards for sanitation and would at least need testing. The BOH members stated the recommendation is that a deeper or new well is drilled.

e. 325 Ayer Road (Appleworks Building): Discussion re current unauthorized occupancy, future occupancy, and property owner's request for release from agreement of 12/14/17- Mr. Deane requested release from the agreement of December 14, 2017, which requires BOH preapproval of increase or change in tenants, indicating that his tenants often do not have the time to go through this process before committing to a lease. Mr. Formato advocated that the property's average water usage over the last 16 months (409 GPD) has been well within anticipated levels for the occupancy at the site and well below the total capacity of the two septic systems (720 GPD), and suggested that vacant space if leased as office space or dry goods will allow for filling out the building without impacting the performance of systems. He added that 2017 Title 5 Inspections stated the systems are in good condition, but offered that Mr. Deane would be willing to commit his vacant land at 320 Ayer Road to support a new system if necessary. Mr. Grossman responded that the December 14th agreement was crafted because the BOH felt very strongly that the system, which is not close to compliant, needs monitoring and Mr. Formato has not provided justification for rescinding the agreement. Mr. Philippou agreed that the preapproval process should continue and questioned Mr. Deane's option to build a new, compliant system on the vacant lot at 320 Ayer Road. Mr. Deane stated that it would be cost prohibitive to do so, even if required variances and allowances were approved. Mr. Deane stated it was not economically viable, but the desire was not to take a functioning system offline unless necessary. Mr. Grossman advised that a hypothetical system on a vacant lot should not be considered, as it has not been locally permitted.

Mr. Grossman restated his opinion that there is no reason to rescind the agreement of December 2017, as Mr. Deane's occupancy is at capacity with respect to Title 5 water design limitations for both actual "flow" and by design requirements. He reminded Mr. Deane and Mr. Formato that if water meter readings are to be considered, the numbers need to be doubled. Ms. Levison made the motion leave in place the standing agreement of December 14, 2107, and clarifying memo of May 8, 2019; Mr. Philippou seconded. Ms. McCarthy abstained.

The BOH members indicated they will not act regarding Rick West's unapproved occupancy in the building at this time.

f. 7 Armstrong Road: Consideration of bedroom deed restriction- The BOH members considered the homeowners' request for consideration of a five-bedroom deed restriction. Mr. Grossman indicated he thought it was appropriate considering the homeowner's proposed renovations. Ms.

McCarthy made the motion to accept; Ms. Levison seconded. All were in favor. Mr. Philippou executed the agreement.

g. Pine Hill Village: Update from Preconstruction Meeting of 9/5/19- Mr. Grossman reported on his attendance at the meeting. He indicated that Mr. Cricones is aware of his obligations, including that a locally licensed SDS installer must be used.

h. Discussion re DEP guidance: PFAS in Private Well Drinking Water Supplies FAQ- The BOH members noted that the FAQ does not address the order that the contaminants should be removed during remediation. They agreed to review the FAQ again at a future meeting to prepare no more than three comments to be sent to DEP. Ms. Flynn will link the FAQ on the BOH webpage of PFAS resources.

Ms. McCarthy shared a Cape Cod Times article reporting on Charlie Baker's proposal of a supplemental budget which includes \$8.4 million in funds for private well testing for PFAS and \$20 million for low and no cost remediation systems. The members agreed to follow up on the status of this proposal in early November.

Mr. Philippou reported that he was in communication with Cindy Russo regarding the BOH's concerns regarding communication between the Water & Sewer Commission and the BOH. Ms. Russo indicated the BOH will be invited to the next Water & Sewer Commission meeting to discuss the same.

i. Discussion re blue algae bloom- Ms. Levison reported that the recent warm temperatures have caused blooms in abutting towns which are toxic to dogs and not good for humans.

j. Clerk and Health Agent Update-

- Ms. Flynn reminded the BOH members that an All Boards Meeting is scheduled for 9/18/19. Mr. Philippou volunteered to attend.

OLD BUSINESS

a. Discussion re scheduling an extra meeting for long range planning- Ms. Levison made a motion to table this topic; Mr. Philippou accepted.

b. Prepare comments to the Rural Life Preservation Special Permit bylaw- Ms. McCarthy made a motion to table this discussion; Mr. Philippou accepted.

c. Update re EEE risk assessment and messaging- Ms. McCarthy and Mr. Philippou reported on their participation in the telephone conference held by MA DPH on the morning of the meeting which communicated that DPH/MDAR would be initiating aerial spraying for mosquitos for 5-6 nights depending on weather conditions. They advised that a very small portion of Harvard would be included in the spraying; not because the threat level had gone up, but to provide adequate coverage to the areas at Critical and Severe risk. DPH was unable to confirm which night each area would be sprayed, but indicated that the MDAR map would be updated in the afternoon the following day to show what area was sprayed the night before. Ms. McCarthy indicated that the protected areas, surface water and EPA registered organic farms would be avoided. It was agreed that the DPH/MDAR Press Release and link to the MDAR map would be linked to the BOH and Town webpages, with e-alerts sent to subscribers.

Ms. Flynn provided the BOH members with an updated spreadsheet reflecting communications from residents regarding spraying, and a written statement from a resident who provided the same in lieu of her appearance at the meeting. Mr. Philippou advised that he was unable to persuade DPH to increase the number of mosquito samples taken in Harvard. The BOH members confirmed that inquiring residents should be advised that the BOH will reconsider the response plan if the risk assessment is changed by the DPH, and that the first line of defense is personal protection, including the use of an EPA approved repellent.

d. Consider revisions to Article III: Private Wells- The BOH agreed to table this discussion for a future meeting.

e. Status of ban of sale of flavored tobacco- The members agreed to revise the effective date to November 1, 2019. Mr. Philippou volunteered to prepare summaries of the revised sale of tobacco regulation and new regulation regarding prohibiting smoking in public spaces to be published in The Harvard Press.

f. Use of e-cigarettes, alcohol, and other substances at Prospect Hill Road- The members agreed to table this discussion and remove it from future agendas at this time.

g. Continued review of draft marijuana sales regulation- Mr. Philippou reported additional unanswered communications to Cheryl Sbarra at MAHB. The members agreed to request the review of the draft regulation by Town Counsel at this time.

h. Discussion regarding preparing the 2019 Emergency Dispensing Site (EDS) Plan- The members agreed to table this discussion until revisions to a 2020 EDS Plan is requested.

i. Continued discussion regarding emergency preparedness meeting- Ms. Levison will contact Deb Thompson to further discuss this meeting.

j. Discussion of FY20 budget feedback- Ms. Levison made the motion to table this discussion; Mr. Philippou accepted.

k. Update from the Deer Management Committee- Mr. Philippou indicated he hopes to attend the next Committee meeting.

l. Update from the Transfer Station Committee- Mr. Philippou reported that over 1,300 households have purchased stickers, exactly as anticipated. Ms. McCarthy indicated she plans to attend the recycling talk co-sponsored with the League of Women Voters.

m. Update regarding trash hauler regulation enforcement and RDP points- Mr. Philippou offered to write Mr. Kilhart to request a portion of the RDP points earned as a result of the BOH's enforcement of the trash hauler regulations and participation of BOH members on the Transfer Station Committee in anticipation of the BOH's undertaking of a town-wide mailing regarding recycling.

n. Review Action Items- Action items were reviewed.

PERMITS

Septic permits were issued for each of the following:

- 70 Slough Road
- 166 Littleton Rd., Lot 5
- 31 Still River River Depot Rd., Lot 5
- Trail Ridge Way 12A&B
- Trail Ridge Way 10A&B
- Trail Ridge Way 10C & 10D
- 166 Littleton Rd. Lot 4
- 43 Park Lane- Mr. Philippou made the motion to approve the local upgrade requests on Plan 19-0494D, Revised 9/3/19. Ms. McCarthy seconded; Ms. Levison abstained.

Ms. Chavez was present to discuss her application for a stable permit for 211 Still River Road. She explained that she was in agreement with the Conservation Commission's request to move the fence about 30 feet in to ensure the pasture is 100 feet from the wetlands, and confirmed that she does not plan to keep more than 2-3 horses on the property. Ms. McCarthy made the motion to approve the permit; Ms. Levison seconded. All were in favor.

APPROVAL OF MINUTES-

Ms. Levison made the motion to approve the minutes of 8/19/19 as amended; Mr. Philippou seconded; Ms. McCarthy abstained.

Ms. Levison made the motion to approve the minutes of 8/27/19 as amended; Mr. Philippou seconded. All were in favor.

Ms. McCarthy made the motion to approve the minutes of 8/27/19 as amended; Ms. Levison seconded. All were in favor.

ITEMS FOR THE NEXT AGENDA- Items for the next agenda were discussed.

ADJOURNMENT- Mr. Philippou made the motion to adjourn at 4:35 p.m.; Ms. McCarthy seconded. All were in favor.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda
- Draft minutes of 8/19/19, 8/20/19, and 8/27/19
- 104 Still River Road SDS application package
- 70 Slough Road SDS application package
- 2 Wilroy SDS design plan, revised 5/10/19
- 7 Armstrong Rd. bedroom deed restriction
- PFAS in Private Well Drinking Water Supplies FAQ

- DPH/MDAR Press Release regarding aerial spraying and MDAR map
- Spreadsheet of resident communication with the BOH regarding spraying
- E-mail from Lynn Stachnick, dated 9/10/19
- Septic permit application packages for 70 Slough Road, 166 Littleton Rd., Lot 5, 31 Still River River Depot Rd., Lot 5, Trail Ridge Way 12A&B, Trail Ridge Way 10A&B, Trail Ridge Way 10C & 10D, 166 Littleton Rd. Lot 4, and 43 Park Lane