

Harvard Board of Health Meeting Minutes
Tuesday, September 12, 2017
Approved: October 10, 2017

BoH Members present: Libby Levison; Sharon McCarthy, Chair; Tom Philippou.

Attending: Ira Grossman, Health Agent, Nashoba Associated Boards of Health (“NABH”); Alison Flynn, Board of Health (“BoH”) Clerk; Joanne Karohl, homeowner, 48 Madigan Lane; Nancy Cole, homeowner, 184 Old Littleton Road, Amanda Risch, Esq., counsel for homeowner of 53 Turner Lane; Dan Wolfe, David E. Ross & Associates;

Ms. McCarthy called the meeting to order at 1:59 p.m.

PUBLIC COMMENT- None.

NEW BUSINESS-

- a. *325 Ayer Rd.- New business proposal-* Muddy Water Coffee Roasters (“Muddy Water”) intends to move in to a retail space at 325 Ayer Road. Mr. Grossman has been in communication with both Mr. Van Sipe of Muddy Water and Nicholas Deane regarding usage of the property.

The BoH members discussed allowing Muddy Waters to operate as coffee roasters for coffee bean sales of coffee beans, only; that coffee cannot be brewed on site and tastings of brewed coffee will not be offered. Further, Ms. McCarthy raised the issue of ventilation and odors that might be create an issue with other tenants, and it was agreed that Mr. Grossman will request confirmation that adequate ventilation will be in place.

Mr. Grossman indicated that Mr. Deane’s recollection of the BoH’s approval of water usage by Siam Pepper was tied to a specified number of gallons of water, and indicated that he had a water meter installed for this purpose to monitor usage. Mr. Grossman and Mr. Philippou were in agreement, however, that BoH had approved Siam Pepper’s 15 seats without a specified number of gallons of water allowed. Mr. Grossman is to follow up with Mr. Deane for copies of the readings from the water meter. Mr. Grossman is to also request a Title 5 Inspection be performed on the property. It was also noted that a grease trap had been installed for Siam Pepper for which logs were to be submitted to the BoH. Mr. Grossman is to follow-up with Mr. Deane for copies of those logs as they have not been received by the BoH in quite some time.

- b. *Stable permit application: Joanne Karohl, 48 Madigan Lane-* Ms. Karohl was present to discuss her submitted application for a stable permit. She indicated that her goats are able to breed year round and she may have as many as 60-90 goats at the highest point. Her current manure management plan is to have the manure removed by Mark Shaw twice a year, with that time varying dependent

on weather. At the request of the BoH, she agreed to increase her removals to three times per year with one being during the summer months, noting the same on her original application. The BoH addressed the concern regarding the locations of the manure piles and asked if it was possible to move the piles to a point on the property. farther away from neighbors. Ms. Karohl expressed this would be too much of a hardship as she and her 13-year-old “helper” would be moving the loads uphill, and that Mr. Shaw and his equipment would not be able to reach the piles. Further, she felt the proximity of the piles to her chickens was instrumental in turning the piles and keeping the files down.

Mr. Philippou made a motion to approve the application for a stable permit as amended. Ms. Levison seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye.

- c. *Stable permit application: Nancy Cole, 184 Old Littleton Road-* Ms. Cole was present to discuss her application for a stable permit for a temporary structure for her four miniature horses while she plans to build a permanent barn. She has hired Mitrano to deliver an open container for the manure that will be emptied every 90 days or sooner, if needed. Ms. Cole also expressed interest in fly control methods and Ms. McCarthy shared her positive experience with Fly Predator.

Mr. Philippou made a motion to approve the application for a stable permit. Ms. Levison seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye.

- d. *Review ZBA application for comments: 53 Turner Lane-* Amanda Risch, Esq., of FletcherTilton, PC, appeared on behalf of Ms. Rogers who would like to convert the existing seasonal structure to year-round. Mr. Grossman prepared three draft comments for the BoH’s consideration prior to the meeting: 1) providing documentation detailing compliance with the Chapter 2 of the MA Sanitary Code; 2) providing a valid water quality testing report; and 3) reconciling the Harvard Assessor’s property record to reflect the 3 bedroom tight tank approval. Each comment was discussed in detail with Attorney Risch.

Ms. Levison moved to accept the comments as drafted. Mr. Philippou seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou; aye.

Ms. McCarthy signed the comments and the original was given to Attorney Risch.

- e. *Review ZBA application for comments: 12 Peninsula Road-* Mr. Grossman indicated that his only draft comment to the ZBA for consideration was a request to provide a valid water quality testing report.

Mr. Philippou moved to accept the comments as drafted. Ms. Levison seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye.

- f. *Discussion of capital requests*- It was discussed that capital requests are due in October and budgets are due November 3rd. The BoH members agreed that no capital requests will be made this year. Ms. Levison reported in preparation for budget planning that she learned it costs approximately \$800 to do a town-wide mailing, and a \$180-189 for a ½ page or \$360 for a full page in the Harvard Press. It was also discussed and agreed that the BoH would include a new laptop in the FY2020 budget.
- g. *Clarify policy re radon notice language*- It was discussed how the policy's requirement for "notification" to the BoH of levels between 4,000- 10,000 pCi/L should be interpreted. The BoH members agreed that this is by way of providing a copy of the water quality results to the BoH of Health and not by deed restriction. It was decided that the policy posted on the website will be amended to clarify and Ms. Flynn will begin to keep a spreadsheet of such results received by the BoH of Health in compliance with the policy.
- h. *Reach out to schools about mentoring for Science Fair*- Ms. McCarthy reached out to Deb Pierce via e-mail. The Science Fair is scheduled for March 9, 2017. Ms. McCarthy and Ms. Levison agreed to co-mentor a Middle School student. Ms. McCarthy will contact Ms. Pierce further to discuss timing and details.
- i. *Reach out to contact the Council on Aging regarding winter preparedness*- Ms. Levison reported that she brought emergency preparedness pamphlets to Deb Thompson at the Council on Aging. Ms. Thompson will include them in the emergency kits that she will then distribute. Mr. Philippou indicated he will reach out to Ms. Thompson for the BoH to give a talk at the Council on Aging regarding winter preparedness if there is a need and schedules permit.
- j. *Update from Health Agent & BoH Clerk*
- Ms. Flynn reported that ConComm extended the invitation to attend a meeting regarding deer management 10/19/17.
 - Ms. Flynn reported that the BoH received a bill from NABH. Ms. Levison moved to submit the invoice for payment. Mr. Philippou seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye.
 - Ms. Flynn reported that we received correspondence from the Upper Blackstone Water Pollution Abatement District providing notice of dumping by Harvard septic haulers. Mr. Grossman will bring these to the NABH to be tracked.
 - Ms. Levison asked about the location of the emergency beaver permits recently signed.

OLD BUSINESS-

- a. *Discussion of seasonal conversions*- Mr. Wolfe was present to provide his personal perspective on the interpretation of "new construction" as defined by Title 5. He was concerned that should the BoH choose to rely on the language "which requires an occupancy permit" many of his client's

projects will fall into this category and he will have to advise his clients that it is in their best interest to circumvent the process by applying for their permits piecemeal. Mr. Wolfe expressed that “new construction” under the Building Code does not equate to “new construction” under Title 5, and that Title 5 does not differentiate seasonal v. year round. Mr. Wolfe referenced his experience with Littleton in the early ‘90s where an advisory letter from DEP allowed for upgrades to the septic and the entire house. He also cited a 2010 case which clarified for ZBAs that the homeowners have the right to remove and replace a septic system without the being treated as new construction.

Mr. Grossman explained that the most important consideration is that there is no local upgrade authority if the project is considered new construction. If the job is considered new construction, the BoH can require complete Title 5 compliant systems. He stated local upgrade approval was designed for those who cannot meet those requirements, and that Title 5 requires maximum feasible compliance whenever possible.

Mr. Wolfe suggested that if that is the concern, the BoH could consider scrutinizing the granting of variances versus changing their interpretation. Ms. McCarthy volunteered to update the guidance document for a seasonal conversion which would prioritize local upgrade considerations, including what the options and trade-offs can be, with offsets based on the plot of the land and the value of the construction. Mr. Wolfe expressed an interest in reviewing the draft, and the BoH members agreed.

- b. *Stable permits timeline*- Ms. Levison and Ms. Flynn reported their conversations with the Town Clerk exploring whether it might be possible to include a slip of paper in the census or January real estate tax bill reminding residents to apply for stable permits and providing the website link. It was decided that Ms. Flynn will e-mail the Town Clerk, Town Administrator, and Tax Collector to follow-up on that possibility.
- c. *28 Deerfoot Trail*- Mr. Roginski’s letter received 8/8/17- The BoH members reviewed Mr. Roginski’s letter received on August 8, 2017 and asked Mr. Grossman to draft a response to Mr. Roginski’s letter confirming the BoH’s letter of August 3, 2017 was accurate and that the BoH does not agree with the contents of Mr Roginski’s letter.
- d. *58 Blanchard Road*- Ms. Mezidor-Philippe’s request of 9/4/17 for an extension on time- Ms. Flynn reported that Ms. Mezidor-Philippe contacted the BoH to request an extension on time to remove the rubbish from her yard. The members agreed to give her until the end of October. Ms. Flynn will send Ms. Mezidor-Philippe a letter confirming the same.

Mr. Grossman indicated that as he has not received additional neighbor complaints of odor or bubbling in the leaching field he is currently satisfied that replacing the pump and pumping the system addressed the concerns regarding the septic system.

- e. *Update on Sullivan & Son Disposal*- Ms. Flynn advised that Mr. Sullivan contacted the BoH office to report that he had notified his residential customers that he would be stopping service as of September 18, 2017,. In addition he wanted to know whether if he could continue to do commercial work in Harvard or whether the cease and desist order applied to all work. Ms. Flynn also reported that Mr. Sullivan subsequently had his liability insurance certificate e-mailed to the BoH office. The BoH members discussed that Mr. Sullivan had still not provided a complete signed application after the BoH's multiple attempts to assist Mr. Sullivan in compliance with the permitting process. It was agreed that Mr. Grossman would draft a letter to Mr. Sullivan to advise that the cease and desist order applies to all work in 2017, and he is welcome to provide a full application packet for permitting in 2018.
- f. *Planning for updating trash hauler's regulations: Nov. 15th is America Recycles Day*-The Board discussed that Irene Congdon of DEP would like to know if the updated trash hauler regulation would be complete by America Recycles Day, Nov 15.. It was decided that Ms. Flynn would run a legal notice for a hearing to be held at the first BoH meeting in October.
- g. *Comments for the Charter Commission*- Mr. Philippou and Ms. Levison expressed that they feel strongly that the BoH members should not be elected. Ms. McCarthy stated she stands by the Charter Commission's suggestion that the BoH members be appointed. It was agreed that Mr. Philippou and Ms. Levison will prepare a letter to the Charter Commission.
- h. *Review action points from last meeting*- Action points from the last meeting were reviewed.

PERMITS-

- 32 Stow Road- A permit for a d-box replacement was signed.
- 56 Old Mill Road- A permit for a local upgrade approval was signed.
- Poor Farm Road- A permit for construction of a new Presby system was signed.
- 86 Brown Road, Lot 8- A permit for a d-box replacement was signed.
- 175 Littleton County Road, Lot 2A- A permit for a new system was signed.
- 169 Littleton County Road, Lot 4A- A permit for a new system was signed.
- 34 Peninsula Road- Mr. Philippou made a motion to accept the variances as noted on Plan 61006. Ms. Levison seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye. A permit for an I/A system was signed.
- 44 Littleton Road, Lot 3A- A permit for a local upgrade approval was signed.
- 12 Peninsula Road- Mr. Philippou made a motion to accept variance of a reduction to 2 feet groundwater offset for Plan L13245, dated 8/17/17. Ms. Levison seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye. The septic permit was signed.

APPROVAL OF MINUTES-

- 7/25/17- Mr. Philippou made a motion to accept the minutes of 7/25/17 as amended. Ms. Levison seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye.

- 8/1/17- Ms. McCarthy made a motion to accept the minutes of 8/1/17 as amended. Mr. Philippou seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye.

ADJOURNMENT- Ms. Levison moved to adjourn the meeting at 5:01 p.m. Mr. Philippou seconded. A roll call vote was taken: Ms. McCarthy, aye; Ms. Levison, aye; Mr. Philippou, aye.

***Respectfully submitted,
Alison Flynn, Clerk***

Documents Referenced:

- *Stable permit application: Joanne Karohl, 48 Madigan Lane*
- *"Streets" file for 48 Madigan Lane*
- *Stable permit application: Nancy Cole, 184 Old Littleton Road*
- *"Streets" file for 184 Old Littleton Road*
- *Draft comments to the ZBA re 53 Turner Lane*
- *"Streets" file for 53 Turner Lane*
- *Policy re Radon Notice*
- *E-mail to Deb Pierce re Science Fair*
- *Mr. Roginski's letter for August 8, 2017*
- *2017 Trash Hauler file*
- *DEP "Best Practices for Municipalities Developing Trash Hauler Regulations"*