

**Harvard Board of Health Meeting Minutes**  
**Zoom Meeting**  
**December 27, 2021**  
**Approved: February 14, 2022**

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

*Others Attending:* Alison Flynn, Board of Health (BOH) Administrative Assistant; Jenn Russo, Realtor; Margaret Nestler, 30 Cruft Lane; Joseph A. Shaw; Ellen & Tim Whitney, prospective buyers, 30 Cruft Lane.

*Ms. Levison called the meeting to order at 7:02 pm. Ms. Flynn read aloud the remote meeting preamble.*

**PUBLIC COMMENT-** None.

**NEW BUSINESS**

a. 30 Cruft Lane: Variance Hearing from HBOH Private Wells regulation §145-18(B) & consideration of waiver from Title 5- Ms. Levison opened the hearing at 7:05pm. Ms. Flynn stated that she generated the direct abutters list for Ms. Nestler from the GIS mapping program, and confirmed that Ms. Nestler provided return receipts for notices to all the recipients on the list. Ms. Flynn further stated that Mr. Shaw was not included on that list, and she would follow-up with the Assessor's Office to see whether or not he should have been included. Mr. Shaw stated that he believes he is a direct abutter because his property abuts the parcel from which Ms. Nestler carved out 30 Cruft Lane.

Ms. Levison stated that Ms. Nestler is selling the property at 30 Cruft Lane which is currently serviced by a spring located in a well house. The Whitneys stated that, as the potential buyers, they plan to tear down the existing house and build a new structure which will be serviced by a new well and septic system. The Whitneys provided the BOH Members with an Affidavit in support of this plan. Ms. Nestler confirmed that she is asking for a variance from the water quality testing required of a private well at the time of sale because of the plans to replace the existing water source. Ms. Nestler further confirmed that she has a separate water supply at her home located at 31 Cruft Lane.

Ms. Levison advised that 30 Cruft Lane has a septic system which failed upon inspection in 2019 and has not yet been upgraded as required within two years. Ms. Levison also noted that the issued septic permit for a new system expires in January 2022. Ms. Flynn advised that the proposed Restrictive Covenant prepared with Mr. Grossman for the Board Members' review addresses both the well and septic concerns, and is intended to be recorded to the deed once executed by Ms. Nestler. Mr. Shaw expressed concern that the appropriate testing and permitting would not be performed for the well and septic, and suggested that Ms. Nestler be required to remove the existing structure before the sale. Mr. Mitchell advised that the parcel will be treated as new construction without any infrastructure in place. Mr. Mitchell and Ms. Levison stated they were less concerned about the sequencing, and that the proposed restrictive covenant would address Mr. Shaw's concerns that a new septic system and well would be tested for and installed. Ms. Nestler indicated that she has no objection to the proposed restrictive covenant; the Whitneys agreed. Mr. Mitchell made a motion to accept the restrictive covenant; Ms. Levison seconded. All were in favor by roll call vote. Mr. Mitchell made the motion to approve the variance to allow for the sale of property without water quality testing based on the affidavit and restrictive covenant;

Ms. Levison seconded. All were in favor by roll call vote. Ms. Nestler agreed to forward a recorded copy of the restrictive covenant. Ms. Levison asked that the Whitneys advise contractors working on the property that water from the spring has not been tested. Ms. Flynn agreed to e-mail a copy of the draft restrictive covenant to the Whitneys and Mr. Shaw. Mr. Mitchell made a motion to close the hearing at 7:35 p.m.; Ms. Levison seconded. All were in favor by roll call vote.

*Mr. Mitchell made a motion to review permit for 265 Stow Road out of agenda order; Ms. Levison seconded. All were in favor.*

b. Prepare answers to FY23 budget questions from the Finance Committee- The Members reviewed and revised the draft answers to the questions from the Finance Committee. Ms. Flynn will finalize the document and send it to Mr. Bragan with a copy to the BOH Members.

c. Discuss process for providing input to other Boards- Ms. Levison stated that she'd like to have a future discussion about the process and deadlines for providing input to other Boards.

d. Discuss current COVID-19 status & new State advisory re masks- Ms. Levison noted that the case counts are going up, and that Ms. McCarthy received a request from a Harvard business who would like the BOH to consider a mask mandate. She further stated that she feels divided because the BOH does not have the ability to enforce a mask mandate. Mr. Mitchell stated that a mandate would help a business with enforcement by allowing it to post "Per the Board of Health". Ms. Levison noted that compliance complaints are no longer referred to the State, and the enforcement authority granted to the Harvard Police Department during the State of Emergency is no longer in effect. Ms. Mitchell stated that he feels Harvard should follow the lead of the State. The BOH Members reviewed and revised the BOH's 10/12/21 advisory to make it consistent with the current State recommendation. Ms. Levison and Ms. Flynn agreed to finalize the advisory with a supportive quote from the CDC or DPH. Ms. Levison stated that the Board of Health drafted the employee policy in response to a complaint. Ms. Levison and Mr. Mitchell agreed that the draft employee notification policy will need to be revised consistent with new isolation and quarantine guidelines. Ms. Flynn will advise Ms. Sobalvarro of this need and that the BOH will provide a policy recommendation shortly.

e. Discuss plans for NABH booster vaccination clinics & update from Foxglove Apartments clinic- Ms. Levison reported that the Nashoba Associated Boards of Health (NABH) vaccination clinic on January 5<sup>th</sup> is full, but they will be holding additional regional clinics in Shirley on January 12<sup>th</sup>, 19<sup>th</sup>, and 26<sup>th</sup>. She further reported that the Foxglove clinic was successful, with 28 doses administered.

f. Update from recent DPH COVID-19 Conference Calls- Ms. Levison reported that last week's DPH call included a summary of the State's effort to purchase home tests. She explained that the State is putting out a request for bids from vendors, and Towns will be able to purchase tests for distribution thereafter. Ms. Levison stated the target distribution is to any interested parties and availability is expected in late January. Ms. Levison will reach out to Ms. Sobalvarro to discuss a policy for distribution. Mr. Mitchell shared that the Ambulance Service received a grant and purchased equipment to do PCR testing of 1<sup>st</sup> Responders. He stated that he believes there will be the capacity to also test other Town employees if there is a known exposure.

g. Clerk Update, including but not limited to:

- Ms. Flynn asked the members to consider voting on payment of the AlphaGraphics Invoice #1738 which was clarified by AlphaGraphics to be an estimate. She explained that the true invoice will not be received until the mailing hits the Post Office and Finance Director

will need to submit the invoice to the State as soon as possible thereafter. Mr. Mitchell made the motion to approve payment +/- \$20 of the estimate amount to cover the cost of the final invoice; Ms. Levison seconded. All were in favor by roll call vote.

- Ms. Flynn asked the Members to consider voting on payment of the invoice from GT Smith in the amount of \$11,000 related to 41 Shaker Lane so that she may process the invoice as soon as the Betterment Notice is recorded. Ms. Levison made the motion to approve the additional \$11,000 payment for the septic system overage under the Community Septic Betterment Program for 41 Shaker Road.
- Ms. Flynn asked the Board Members to consider the letter from the homeowner for 94 Ayer Road and advise whether it should be handled as a discussion or a well variance hearing as recommended by Mr. Grossman. Ms. Levison stated that she will accept Mr. Grossman's recommendation.
- Ms. Flynn reminded the BOH members that the required ethics training and acknowledgment is due to Ms. Bowen by Feb. 1<sup>st</sup>.

### **OLD BUSINESS**

- a. Continued preparation of a town-wide mailing in support of the hauler regulation- Ms. Levison stated she will have this draft for the next meeting.
- b. Update regarding request for additional hours for BOH Administrative Assistant- Mr. Mitchell agreed to prepare comments on Ms. Levison's notes of their meeting with Mr. Bragan.
- c. Finalize letter on EEA Opt-Out Process to Representative Sena & Senator Eldridge- Mr. Mitchell stated he will also work on this draft.
- d. Review Action Items- Action items were not reviewed.

### **PERMITS**

- Baker Commodities (Waste Hauler)- The BOH Members considered this application package for hauling of used cooking oil. Ms. Levison made a motion to approve Baker Commodities as a waste hauler; Mr. Mitchell seconded. All were in favor by roll call vote.
- Mitrano Waste (Waste Hauler)- The BOH Members considered this application package for hauling of temporary roll-off dumpsters. Mr. Mitchell made a motion to approve the application; Ms. Levison seconded. All were in favor by roll call vote.
- D&D Waste (Waste Hauler)- The BOH Members considered this application package for hauling of temporary roll-off dumpsters. Mr. Mitchell made a motion to approve the application; Ms. Levison seconded. All were in favor by roll call vote.
- 265 Stow Road (Septic Permit)- Ms. Henderson explained that the system failed Title 5 and a new system has been designed for installation prior to the house being listed for sale. Ms. Levison stated that Mr. Grossman's notes indicate he is okay with the variance requested but has added a check box on the permit to ensure we receive water quality analysis prior to sale. Ms. Henderson confirmed that the well is not being replaced in connection with the septic installation. Mr. Mitchell made the motion to approve the variance request as noted with the required wells sample; Ms. Levison seconded. All were in favor by roll call vote.
- 126 Poor Farm Road (Septic)- Ms. Flynn explained this permit is for the sewer line that was installed without a permit, and is still necessary so that Mr. Grossman can issue a Certificate of Compliance. Mr. Mitchell made the motion to approve the permit; Ms. Levison seconded. All were in favor by roll call vote.

- 73 Slough Road (Septic)- Ms. Levison indicated that this permit is for a Local Upgrade Approval of a Geomat system. She stated that Mr. Grossman advised he is okay with the engineer's use of sieve analysis vs perc rates for this system. Mr. Mitchell made the motion to accept the variance requests for 73 Slough Road; Ms. Levison seconded. All were in favor by roll call vote.

**MINUTES-** Minutes review was tabled for a future meeting.

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

**ADJOURNMENT-** Mr. Mitchell made the motion to adjourn the meeting at 9:20 p.m.; Ms. Levison seconded. All were in favor by roll call vote.

***Respectfully submitted,***

***Alison Flynn, Clerk***

**Documents Referenced:**

- Agenda
- Waste Hauler Permit Applications: Mitrano, Baker Commodities, D&D Disposal
- 30 Cruft Lane: Affidavit from Mr. & Mrs. Whitney
- 30 Cruft Lane: Proposed Restrictive Covenant
- Mask advisory of 10/12/21
- Draft COVID-19 employee notification policy
- 94 Ayer Road: Homeowner letter of 12/18/21
- 265 Stow Road- LUA- Application, LU Conditions form & letter, proposed SDS, IG e-mail re water quality, unsigned permit
- 73 Slough Road- LUA- LU Conditions form & letter, proposed SDS plan, unsigned permit
- 126 Poor Farm- Sewer line- Application and unsigned permit. This is the one that was already installed w/o a permit. Permit issuance at this point is for the file, so Ira can issue a COC.