

Harvard Board of Health Meeting Minutes
Zoom Meeting
January 24, 2022
Approved: February 28, 2022

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

Others Attending: Alison Flynn, Board of Health (BOH) Administrative Assistant; Ira Grossman, Health Agent, Nashoba Associated Boards of Health; Mark O'Hagan, Craftsman Village Harvard; Steve Moeser & Chris Tracy, Harvard ZBA; Dan Wolfe, David E. Ross Associates; Barbara Romero; Nadine & Tim Rueter, Prospective Buyers, 37 Peninsula.

Ms. Levison called the meeting to order at 7:00 pm. Ms. Flynn read aloud the remote meeting preamble.

PUBLIC COMMENT

None.

NEW BUSINESS

Craftsman Village Harvard: Consider application for use of irrigation well

Mr. Grossman advised that the well in question was original drilled for use as a potable water supply, but as the project necessitated a Public Water Supply (PWS) the application is now to convert it for use as an irrigation well. Mr. Grossman advised that Harvard's Private Wells regulation says irrigation wells cannot be in the Zone II of a PWS and the proposed irrigation well is in the Zone I. Mr. Hagan stated that the distance between the proposed well and the production wells for the PWS is about 100 feet. He further explained that the anticipated area to be irrigated is less than 1 acre. Mr. Grossman advised that the proposed irrigation well is 505 feet deep. Mr. O'Hagan stated that the PWS well depths are 225 feet, 285 feet, and 285 feet. He further stated that DEP indicated upon recent evaluation that the irrigation well has limited impact on the PWS wells. Mr. O'Hagan offered that the withdrawal rate of the PWS is less than 5 gallons/min., and the pump tests indicated the wells could sufficiently provide 25-30 gallons/min. Mr. O'Hagan confirmed that the area where they are disposing of the bulk of the impacted materials is out of the Zone I buffer, far from the site of the proposed irrigation well. Mr. Grossman confirmed that the BOH regulations are loosely based on those of DEP. Mr. O'Hagan stated that it would not be the preference to use the water from the PWS for irrigation because that would cause too much strain on the treatment system and is limited to 4,400 gallons/day. Mr. Grossman and Mr. Mitchell expressed concern that if the irrigation well was somewhat affected by the PWS, the wells may be interconnected hydraulically. Mr. Mitchell stated that he would like more information about the connection between the wells. Ms. McCarthy asked Mr. O'Hagan to provide information about how much irrigation is needed and whether they have considered drought resistant grasses. Mr. O'Hagan confirmed that the irrigation would be used in limited areas where the grass is anticipated between homes, out in front, in the detention basin and central green, and a few areas around the backside of the homes. Mr. O'Hagan agreed to provide further information on the interconnectivity of the wells, look into drought resistant grasses, and touch base with DEP regarding restrictions on irrigation wells in the Zone II buffer. Mr. Mitchell also requested an estimate of the anticipated production of the irrigation well. The group agreed to schedule the next discussion when Mr. O'Hagan can provide this information.

Offer of assistance from Dan Wolff of Tick Ease

Mr. Mitchell reported that he met Mr. Wolff recently at a social event, thought he had an interesting tool, and wanted to bring to the attention of the other Members that Mr. Wolff offered to assist with outreach. Ms. Levison noted that she previously looked at the prices for bulk purchasing of the tool and found it was not within the BOH budget. The BOH Members agreed to consider reaching out to Mr. Wolff for participation in a future tick forum.

Review outreach communication plan

The members reviewed the outreach communication plan. Ms. Levison asked the group to start thinking of Public Health Week messages. Ms. Levison will prepare a slide for Harvard Cable TV and Mr. Mitchell will prepare one paragraph for The Harvard Press reminding residents to apply for stable permits.

Request for assistance from Building Dept. & Conservation Agent re violation reporting

Ms. Levison asked that Mr. Grossman confirm we have a stable permit for any properties where he observes stabled animals. Ms. Flynn advised that while there is no formal system for sharing observed violations between the Town Departments, the staff frequently communicate and let each other know if they observe something during a property inspection that may be of concern to another Board. Mr. Mitchell suggested the BOH prepare a “wish list” to share with other agents to inform them of what kind of issues we would like to be made aware of; Mr. Mitchell agreed to draft this “wish list”.

Availability for attendance at WebEx re updates to EDS

Ms. Levison and Ms. Flynn agreed to work together to cover this WebEx. Ms. McCarthy offered to make herself available if needed.

Discuss use of meeting time and meeting preparation

Ms. Levison asked the group whether they would consider attending a two-hour retreat to discuss meeting efficiency. Ms. McCarthy made a motion in support of scheduling the same; Mr. Mitchell seconded. All were in favor by roll call vote. Mr. Grossman also agreed to attend. Ms. Flynn will prepare a Doodle Poll to assist with scheduling.

Discuss bedroom deed restrictions

Ms. Levison asked Mr. Grossman to explain why he discourages use of bedroom deed restrictions, and his experience with deed restrictions in Groton. Mr. Grossman stated that the Groton BOH is extremely restrictive when considering granting variances from the local regulations or allowing deed restrictions for new construction. Mr. Grossman suggested when granting deed restrictions, the BOH must consider whether they are being careful and protective. Mr. Mitchell stated that he wants to be supportive as residents are using their homes more for different uses, but also honor the impact on the septic system. Ms. McCarthy volunteered to contact Cheryl Sbarra of MAHB for advice. Mr. Wolfe agreed that it is an issue, and stated that sometimes he thinks it's better to acknowledge and deed restrict the extra rooms so that people are aware at the time of sale. He stated that if the system is then abused, the responsible party will have been warned before they have to fix it. The Members agreed to discuss the issue more at the retreat.

Waste hauler annual permit renewal

Ms. Levison explained that as very few haulers have submitted a complete application package to date, she prepared draft paragraphs to help explain this to any residents questioning the shorter permitted hauler list. Ms. Flynn agreed to add these paragraphs to her permitted hauler list, and confirmed that she has not had any complaints from residents thus far.

Update from NABH Quarterly Meeting of 1/6/22

Ms. Levison reported that she was not able to attend the quarterly meeting, but she provided Mr. Garreffo with Ms. Kenney's adjusted population data (adjusted from the federal census data) for his use in determining Harvard's NABH assessment for 2022.

COVID-19: Discuss current status, mask mandate, and test availability

Ms. McCarthy reported that the Harvard Public Schools School will be offering at home tests and pooled testing to its students and staff. Ms. Levison acknowledged that the BOH received two e-mails from parents urging the Schools to leave their mask mandates in place. Ms. Levison confirmed that the COVID-19 case count data do not include the prison cases. Ms. McCarthy stated that she suspects case counts are underreported because not all home tests are reported to physicians. Ms. Levison stated that her recommendation is to leave the BOH mask mandate in place at this time. Ms. Levison reported that while she has not received a response to her recommendation that Harvard purchase rapid test kits for distribution to residents, she learned Stow has distributed home test kits to its residents. Ms. Levison stated that she learned from Mr. Garreffo that other NABH Towns were requesting 2,000-2,5000 test kits purchased on their behalf. Ms. Levison confirmed that if NABH orders test kits for Harvard, Harvard will pay for the tests. Ms. McCarthy stated that ARPA funds can be used for purchase; Mr. Mitchell confirmed that Mr. Bragan advised that some of the ARPA funds are earmarked for the water treatment facility. Mr. Grossman will ask Mr. Bragan if all ARPA funds are earmarked for other purchases. The Members agreed that Ms. Flynn should send out e-alerts with NABH's upcoming vaccine clinics and guidance on how to use home tests. Ms. Flynn will also add the telephone number to request home tests from the federal program to the COVID-19 webpage.

Update from recent DPH COVID-19 Conference Calls

Ms. McCarthy reported that MA residents can now request their electronic vaccination record from the State, with receipt often within 24 hours, and suggested the BOH send an e-alert advising residents of this option. Ms. McCarthy also indicated that schools are reducing their contact tracing because it's overwhelming nurses, and MA residents are being asked to self-report to employers.

Clerk & Health Agent Update

- Ms. Flynn reminded the Members to complete their ethics training and provide the certificate to Ms. Bowen by February 1st.
- Mr. Grossman advised the Members that Carlson Orchards is requesting an entertainment license from the Select Board and asked whether there are additional parameters that they would like included. The Members discussed the appropriateness of the existing requirements, and did not suggest changes. Mr. Grossman confirmed he has no issues with reissuance with the existing requirements, and stated he will need to make time to confirm compliance.
- Mr. Grossman asked the Members whether they have additional suggestions for the resident trying to locate his well at 94 Ayer Road; the Members had no additional ideas.

Mr. Grossman will advise the resident.

- Ms. Levison noted that she observed suspicious groundwater running behind the old dump near wetlands and sent a photograph to the Members, Health Agent, Clerk, and Conservation Agent. Mr. Mitchell stated that it looked like typical landfill leachate.

OLD BUSINESS

37 Peninsula Road: ZBA Application for Conversion to Year-Round Use and Limits of Use (Bedrooms)

Mr. Grossman reminded the Members that at the last discussion he recommended that the Members not approve the conversion to change from seasonal to year-round use nor issue a new permit for the tight tank. He indicated that Mr. Wolfe prepared information regarding how other properties in the neighborhood have been permitted, but stated that those approvals do not change his recommendation. He stated that many of the prior approvals were given during a different era with different Board Members, and quite a bit has been learned about environmental protection since that time. Mr. Wolfe stated that the design for the tight tank at 37 Peninsula Road is no different than any other tight tank. He indicated that the property owners met all the BOH's requirements, including providing affirmation that the bedroom deed restriction, as well as arsenic remediation and a deed notice, are in place, a water quality test was submitted and passing, a tight tank pumping contract was prepared by a local septic hauler, and an application & filing fee was submitted for approval for year-round use. Mr. Wolfe stated that while any homeowner can do what they want in the confines of their home without the public's knowledge, the safeguards have been put in place and the system is working. Mr. Wolfe confirmed that in the transfer of this property, everyone is aware of the property's limitations. He noted that the potential buyers were present at the BOH meeting, as well as the ZBA meeting, and are fully aware that the property is limited to two bedrooms with proper care & maintenance requirements for the tight tank. Mr. Wolfe advised that the schematic he prepared reflects that he worked on five of the six last homes on Peninsula Road which converted to year-round use, and five of the six have tight tanks. Mr. Wolfe stated that the merits of 37 Peninsula Road are no different than the others which were converted successfully and currently have no known problems. Mr. Mitchell stated that he is struggling with authorizing approval when DEP's original approval was for seasonal use; Ms. McCarthy and Ms. Levison agreed. Ms. Levison stated that in her review of the BOH's Peninsula Road files, she found only one other letter from DEP stating that a tight tank was allowed for that ownership with no change in use. Mr. Mitchell stated that it puts the BOH in a difficult spot to approve a use contrary to the statement of the BOH's guiding agency. Mr. Wolfe stated that there is no difference in design of a tight tank for seasonal v. year-round use. Mr. Grossman reminded the Board that Title 5 states use of tight tanks is a last resort and you cannot use a tight tank for new construction. He indicated that DEP has been accommodating in the use of tight tanks for preexisting homes, approving them as a last resort, but a conversion to year-round is a change in use. Mr. Grossman stated that past boards have been concerned with requested conversions, including that of 44 Peninsula Road. He indicated that the BOH previously prepared draft conditions to be considered before issuing approval of a conversion, and noted that the increased issue of water quality at the Pond should also be considered. Ms. McCarthy stated that she agrees with Mr. Grossman. Mr. Mitchell stated that he is going to be very cautious with approvals going forward because of the water quality issues on the Pond. Mr. Wolfe stated that the Bare Hill Pond Watershed Committee has noted phosphorous from new lawns is causing the biggest problem for the Pond, and that the landscaping of 37 Peninsula was designed without lawn. Ms. Levison stated that fertilizer is a different issue than what currently concerns the BOH. Mr. Grossman advised that there is an ongoing compliance issue with pumping of tight tanks. Mr. Tracy stated that it is confusing to see approval for 5 out of 6 tight tanks for conversion, and advocated for the BOH to ensure compliance with pumping records or fine those not submitting.

Ms. Levison noted that the BOH has limited staffing support. Mr. Grossman stated that the requirement for pumping records to be submitted has also been a condition of ZBA approval which has not been met. Mr. Grossman stated that each lot and situation is different, that some of the approvals date back 20 years, and the BOH must consider the build-up impact to the Pond. Ms. Levison agreed that the BOH knows a lot more about environmental impact and climate change now. She further stated that she is also leaning toward being more careful with properties around the Pond, and ensuring that those which have been converted are reporting as required. Ms. Levison suggested Mr. Tracy attend another meeting in the future to consider best communication with the ZBA. Ms. Levison stated that any property which has year-round v. seasonal use has more of an impact on the environment. Mr. Grossman stated that compliance with tight tank requirements needs to be addressed across the board at a later date, but does not have much bearing on this approval. Mr. Mitchell stated the request for change of use brings into consideration whether we treat the approval as a new or existing construction. Ms. McCarthy made a motion to grant the variance for change in use be approved. Mr. Mitchell stated he could not support such a motion and preferred to get clarification from DEP regarding the basis of the restriction. Ms. Levison stated she also would not second the motion. Mr. Grossman stated that DEP is pretty clear on tight tank use, and clarified that the request is for permitting the new use of the tight tank and is not a variance. Ms. Levison made a motion to deny the permit issuance; Mr. Mitchell seconded. All were in favor by roll call vote.

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

Ms. Levison stated that, as Ms. Thomsen was unable to join, the hearing would be continued until the second meeting in February.

Review draft submission to the Annual Town Report

The BOH Members reviewed and commented on the draft Annual Town Report prepared by Ms. Levison.

PFAS update, including but not limited to continued discussion re MassDEP Private Well PFAS testing program, and MassDEP guidance on regulatory actions

Mr. Mitchell reported that he was appointed to the Former Ft Devens RAB. He indicated that he will be trained, and his appointment will be announced at the February 10th RAB meeting.

Continued review of draft policy recommendation re notification to employees of a positive COVID test

Ms. McCarthy agreed to revise the draft policy consistent with the updated CDC guidelines on quarantine and isolation. Ms. Levison asked that she also update the DPW employee who contacted the BOH.

Continued preparation of a town-wide mailing in support of the hauler regulation

Ms. Levison stated she will continue to prepare a draft town-wide mailing.

Finalize letter on EEA Opt-Out Process to Representatives Sena & Eldridge

The BOH Members reviewed and revised Mr. Mitchell's draft letter to Representative Sena and Senator Eldridge in preparation for the legislative briefing. Ms. Flynn will finalize the letter and e-mail it, along with a request for attendance at the briefing.

Review Action Items

Action items were not reviewed.

PERMITS

- **Waste Hauler: Waste Management of Massachusetts, Inc.**

Ms. Flynn advised that the application package meets compliance with the exception that the examples of marketing materials do not state “recycling is mandatory” as required by the HBOH’s regulation. The members reviewed the examples of marketing materials submitted. Mr. Mitchell made the motion to approve the application as submitted; Ms. McCarthy seconded. All were in favor by roll call vote.

MINUTES

The BOH Members reviewed and revised the draft Minutes of 12/13/21. Mr. Mitchell made the motion to approve the minutes as amended; Ms. McCarthy seconded. All were in favor by roll call vote.

ITEMS FOR NEXT AGENDA

Items for the next agenda were discussed.

ADJOURNMENT- Ms. Levison adjourned the meeting made the motion to adjourn the meeting at 9:32 p.m.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda
- Draft minutes of 12/13/21
- Draft submission to the Annual Town Report
- Craftsman Village Harvard: Irrigation well application & attachments
- E-mail from PHEP Region 2 re WebEx sign-up
- Ms. Levison’s e-mail of 1/7/22 re meeting preparation & use of meeting time
- BOH public outreach plan
- 37 Peninsula Road: Mr. Wolfe’s e-mail of 1/11/22 with attachments