

Harvard Board of Health Meeting Minutes
Zoom Meeting
March 25, 2024
Approved: April 30, 2024

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

Others Attending, including but not limited to: Alison Flynn, Board of Health Clerk; Jim Garreffi, Health Agent, Nashoba Associated Boards of Health; Dan Wolfe, PE, David Ross Associates; Attorney Aveni, counsel for Mr. Smith; Sam Lowenstein and Diane Badar, 73 Bolton Road; William G. Schultz & Jennifer Lane (via telephone); Bob Kody.

CALL MEETING TO ORDER

Ms. McCarthy called the meeting to order at 4:00 p.m. Ms. Flynn provided abbreviated remote meeting instructions.

PUBLIC COMMENT

None.

NEW BUSINESS

Public Hearing to consider proposed amendments to Chapter 145, Article XI: Fees, in the Code of the Town of Harvard

Ms. McCarthy opened the hearing at 4:05 pm. The Board considered and accepted additional proposed revisions from Ms. Levison. The Members agreed that the environmental restoration fee within the range specified would be determined on a case-by-case basis in a meeting discussion based on the complexity of the issue. Mr. Wolfe questioned the cost increase of the fee associated with variance hearings that require abutter notification. Ms. Flynn explained that the fees were set after the Board asked Ms. Flynn to rank how much time each application takes for her to process. She indicated that hearings which require abutter notification require additional time for her to ensure the applicant notified abutters sufficiently. Mr. Wolfe noted that the applicants are already paying exorbitant certified mail postage fees associated with abutter notification. Ms. McCarthy explained that many of the BOH's fees changed, with some increasing and some decreasing. The BOH Members indicated that they considered the fees of several other Towns when setting the new fees.

Ms. Levison made a motion to accept Article XI, Fees, Regulations of the Town of Harvard, as amended; Mr. Mitchell seconded. All were in favor by roll call vote.

At approximately 4:15pm, Ms. Levison made a motion to close the hearing; Mr. Mitchell seconded. All were in favor by roll call vote.

73 Bolton Road: Consider property owner concerns regarding septic installation and decide next steps

Mr. Lowenstein indicated that Mr. Gary Smith was contracted in August 2022 to install the septic system at the property. He stated that the septic permit indicates that two installer's Certificates

are required; one for the leach field and one for the completed system. Mr. Lowenstein stated that the leach field was completed in December of 2022 and subsequently inspected by Mr. Garreffi and the engineers. He stated that they have repeatedly requested a Certificate from Mr. Smith for the work which he completed and for which he was paid. Mr. Lowenstein stated that as a result of Mr. Smith leaving the distribution box uncovered for over 400 days, the distribution box was damaged and had to be replaced. Mr. Lowenstein indicated that they would like the BOH to consider a variance to accept the Certificate of their subsequent installer and for the BOH to suspend Mr. Smith's license for what they consider to be a flagrant violation of Title 5.

Mr. Garreffi clarified that one permit was issued for construction of a new house on a lot where there was an existing house and upgraded septic system. He indicated that the permit was to put the new septic system in, to tie in the existing house to that system, and remove parts of the older system to facilitate the covering of the new system. Mr. Garreffi indicated that he would consider the system complete when the lines were connected and the new system was put online. He indicated that he inspected the leaching trenches in January 2023, and they stayed open until they were backfilled this past winter. Mr. Garreffi stated that the tank for the new house was placed, connected, and a line from the new house to the distribution box was installed by a second installer. Subsequently, he explained, the second installer used fill from the old system to backfill the septic system. Mr. Garreffi reported that certification was received from the second installer, and the engineer's as-built indicates that leaching trenches installed by Mr. Smith are at the location and elevated needed. Mr. Garreffi advised that Title 5 requires installers to submit as-built plans and certification within 30 days of completion of the system and provides the Board of Health with the ability to suspend or revoke a license for cause. He advised that the BOH could consider a variance which does not require a certification from the installer of the leaching trenches, but first requires abutter notification. The Members agreed that consideration of a variance would be the best path forward to allow a Certificate of Compliance to be issued.

Mr. Garreffi indicated that the NABH issues licenses for septic installers under the BOH's authority and any action on a license would be from the BOH. Mr. Mitchell suggested that the BOH consider suspending the license of the first installer until the civil proceedings have been resolved. Mr. Garreffi indicated that the work of the installer has been fine in the past and that the engineer confirmed the work here was done appropriately. Mr. Garreffi and Ms. McCarthy agreed that the dispute is contractual and not regarding poor performance.

Attorney Aveni, counsel for Mr. Smith, stated that revoking Mr. Smith's license as a result of a one-sided discussion would be unfair and should be resolved in another forum. Ms. Flynn stated that the BOH historically considers disciplinary action in a public hearing. Ms. McCarthy and Ms. Levison agreed that any consideration of suspension or revocation of a license would follow a formal hearing process.

Ms. McCarthy stated that the BOH would accept a request for a hearing to consider a variance from Title 5 for 73 Bolton Road to grant a Certificate of Compliance without an as-built for a portion of the system. Mr. Garreffi indicated that the hearing would require direct abutter notification.

Mr. Garreffi advised that the property owners could submit a letter to the Board to request consideration of Mr. Smith's license.

40 Woodchuck Hill Road: Consider room count for Title 5 Inspection Report

Title 5 Inspector, William Schulze, joined the Board Meeting via telephone. He indicated that he provided the BOH with copies of the existing floor plan of the house which has not changed since

1957 for the Members' consideration and explained that while the Assessors' list the property as 2 bedrooms, the actual bedroom count is three, and the leaching field is amply sized to meet the requirements for a three-bedroom house. He indicated that investigation confirmed that the leaching area is above the water table and the stone material in the trenches is very clean. Mr. Garreffi indicated that in the absence of a BOH permit, which was not located in this case, the usual course is to accept the Assessors' record, but he indicated that Mr. Schulze has provided information that suggests the Assessors' record may not be accurate. Mr. Garreffi advised that the system is older, but there is no evidence of current failure, the distribution box has been replaced, and there is sufficient room on the property to install a new three-bedroom system if needed. Ms. McCarthy noted the BOH has run into discrepancies with the Assessors' records on multiple occasions. Mr. Schulze confirmed that the "Bonus Room" in the basement is finished. Ms. Lane, the property owners' real estate agent, indicated that the windows in the "Bonus Room" are the small windows that you typically see in a basement and do not provide egress.

Mr. Mitchell made a motion to accept the request and require a three-bedroom deed restriction so that future owners understand the limits of the system; Ms. McCarthy seconded. All were in favor by roll call vote.

Discuss Board of Health meeting schedule, including second meeting in April

Ms. Flynn advised that she will be away the 4th Monday in April. The Members agreed to keep meeting on the 2nd and 4th Mondays at 4pm except for the next meeting which will be scheduled for Tuesday, April 30th, and for the Tuesday after Memorial Day. All parties agreed that they would be open to considering a change in meeting days in the future.

Consider Board Member recruitment

Ms. Flynn agreed to review BOH emails to identify residents who have expressed interest in the BOH activities in the past; Ms. McCarthy will reach out to those individuals. Mr. Garreffi indicated that in his experience, finding volunteers who are educated, open-minded, and have a good approach to the public is most important piece of filling a Board.

Consider handouts for Spring Town Meeting (4/6/24)

Mr. Mitchell agreed to find out whether a quarterly update from the Devens investigation would be available for distribution. Ms. Levison indicated that she would like to put together a poster regarding battery recycling, and hand out information regarding household hazardous waste.

Consider participation in Garden Club Plant Sale (5/18/24)

Mr. Mitchell stated he will be available on May 18th. The Members agreed to hand out tick removers and demonstrate tick gators sprayed with Permethrin.

Report from Land Use Boards (LUB) Meeting (3/12/24)

Ms. McCarthy reported on her attendance at the LUB Meeting including regarding discussions of the potential raising of the housing cap at Devens, the status of parking for the MART shuttle and the MBTA housing bylaw, hiring of a consultant to assist with a tree bylaw, project updates on 203 Ayer Road, Pine Hill Village, 247 Littleton County Road,

Update from the Transfer Station Committee

Ms. Levison reported that the Transfer Station Committee (TSC) is getting organized to start drafting their report. She indicated that Mr. Mitchell met with committee member Sarah Bunce on environmental issues and Ms. McBee has requested that she stay on the TSC after her term as a Select Board Member to finish the report. Over 300 people responded to the survey. Mr. Mitchell stated that they are struggling to make concrete recommendations because of the uncertainty surrounding the old landfill. He stated that one of the recommendations will be that the TSC revisits the issue of reuse pending the design considerations of the old landfill remediation. Mr. Mitchell indicated that the TSC is also looking at the traffic and parking flow issues.

Clerk & Health Agent Update

- Ms. Levison made a motion to approve the Nashoba Associated Boards of Health Invoice No. 2024-409 in the amount of \$7,435.92 for Fourth Quarter FY24 Nursing and Environmental Services; Mr. Mitchell made a friendly amendment to approve one invoice in FY25. Ms. Flynn advised that Mr. Mullane indicated that he has no preference on whether the invoice is paid quarterly or annually. The Members agreed that Ms. Flynn can process it annually. Ms. Levison accepted the friendly amendment. Mr. Mitchell seconded the amended motion. All were in favor by roll call vote.
- Ms. Flynn advised that the MAHB conferences are approaching. Ms. Levison noted that the Agenda appears identical to the prior year.
- Ms. Flynn reminded the BOH Members that they received an invitation for a May 16th event, hosted in part by Ms. Montgomery of the NABH, encouraging LBOH communication and collaboration. Ms. Levison and Ms. McCarthy will consider attending together.
- Ms. Flynn indicated she received a request from HCIC to borrow a BOH “sandwich” board from April 9- 23. The BOH Members consented to allow the same.
- Ms. Flynn reported that she received a request from Ms. Eliyesil of the Harvard Press asking what services would be cut if the request for additional hours was not approved. The BOH Members agreed that Ms. Flynn should reply with answers to similar budget questions.

PERMITS

Review of septic permits recently issued by the Health Agent

Ms. Flynn advised that no septic permits were issued by Mr. Garreffi on behalf of the Board since the last meeting. Mr. Garreffi indicated that the septic permits for Buildings B & C at 203 Ayer Road will be coming up for issuance shortly. He explained that the applicant convinced the state to adjust the well radiuses off the property enough to allow them to no longer require nitrogen reduction measures. He stated this was done because they were able to prove that one of the sets of wells had enough capacity to reduce the reserve that it needed and that allowed them to

reduce the Zone 1 and IWPA significantly.

Review of stable permit applications

Ms. Levison stated that she reviewed the applications and made a motion to approve 2 Depot Road, 7 East Bare Hill Road, 261 Old Littleton Road, 62 Old Mill Road, and 83 Prospect Hill Road because Mr. Garreffi, Ms. Allard, and Ms. Flynn all said they were okay; Mr. Mitchell stated he reviewed them as well and seconded the motion. All were in favor by roll call vote.

Waste hauler permits

Ms. Flynn advised that she issued Cease and Desist letters the prior week to Win-Waste and Baker Commodities via certified mail. She stated that she sent Chief Babu copies of the letters but let him know that the BOH was not requesting Harvard Police Department assistance in enforcement at this time. She stated she has not heard from either hauler in response.

Ms. Flynn indicated that she included in the merged packet her spreadsheet tracking follow-up with commercial generators who Waste Management or EL Harvey reported as not accepting recycling services. She stated that from those commercial generators who have responded, some have indicated that their hauler reported incorrect information, that they are self-hauling to various transfer stations, or that they have since signed up for or contacted haulers about recycling services. She stated that she will continue to follow-up and suggested that they share the information regarding commercial generators self-hauling to the Harvard Transfer Station with Mr. Kilhart as Ms. Levison believes the Transfer Station is not open to businesses. Ms. Flynn reported that she also contacted Irene Congdon for advice on encouraging commercial generator compliance and Ms. Congdon put her in contact with a solid waste enforcement official at DEP who suggested the BOH could also fine the generators if outreach does not work.

OLD BUSINESS

Review draft flow chart regarding water quality requirements

Ms. Levison agreed to provide Ms. McCarthy with a clear copy of the draft.

(Mr. Garreffi exited the meeting at approximately 4:43pm)

Plan for tick and mosquito outreach

Ms. Levison indicated that she believes ticks are a bigger threat and will prepare a mailing for Ms. Aloise's design over the long weekend at the end of the month.

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

Ms. Levison indicated that she has not had an opportunity to work on the advisory templates.

Update re installing dial/algae signs on Pond Road

Mr. Mitchell indicated the next step is for him to request from Parks & Recreation permission to install the new kiosk. He will also measure the existing kiosk this weekend.

Update on use of opioid abatement funds

Ms. McCarthy indicated that she is working with Dr. Dwight to obtain a revised quote from a consultant who will run a survey and listening session. Ms. Levison suggested the listening session include a mechanism for submitting anonymous questions/comments.

Further discussion of talking points on synthetic turf

This item was tabled for a future discussion.

Further discussion re messaging for National Public Health Week (April 1-7)

Ms. Levison indicated she will prepare an 8th message on battery disposal.

PFAS Update

Mr. Mitchell indicated that the PFAS working group will be meeting on Thursday, and sent an Agenda for a PFAS conference that he will be attending the following week. He indicated that he will be able to obtain the talks for any of the agenda items that are of interest to the BOH Members.

Update re installation of satellite phone bases at EDS and Public Safety Buildings

This item was tabled for a future discussion.

Review Action Items

Action items were reviewed. Ms. Flynn will recirculate any items which are outstanding.

MINUTES

The BOH Members reviewed Ms. Levison's comments on the draft Minutes of 3/11/24. Mr. Mitchell made a motion to approve the amended Minutes; Ms. Levison seconded. All were in favor by roll call vote.

DISCUSS ITEMS FOR NEXT AGENDA

Items for the next Agenda were discussed. Ms. Levison requested approval to purchase posterboard for Town Meeting; Ms. McCarthy approved.

ADJOURNMENT

Ms. Levison made a motion to adjourn at 5:45: pm; Mr. Mitchell seconded. All were in favor by roll call vote.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda
- Draft Fees regulation amendments
- Draft Minutes of 3/11/24
- 73 Bolton Road discussion request letter
- Layout plan for 40 Woodchuck Lane
- Nashoba Associated Boards of Health Invoice No. 2024-409
- Ms. Flynn's spreadsheet re commercial generator recycling compliance