

**VIRTUAL
SHERBORN
BOARD OF HEALTH MEETING
MINUTES
March 29, 2023**

Members Present: Matt Vitale, MD, Chair, Daryl Beardsley, Lisa Campe, Rebecca Hunnewell, MD, and Matt Bevers, MD, PhD

Members Absent: None

Others Present: Bill Buckley, Tom Trainor, Courtney Ek, Jeff Waldron, 1508****066, Daniel McIntyre, P.E., Eric & Terry Luskin, Eric Dickinson, Maryalyce Henning, Julie Dreyfus, Michael Burgess, Joyce Simon, Rob Rose, “mm”, Laura Mastrobuono, and Mark Oram, Agent.

By a roll call vote:

Vice Chair Ms. Beardsley - Present

Member Dr. Bevers – Present

Member Ms. Campe – Present

Member Dr. Hunnewell – Absent

Chair Dr. Vitale - Present

This VIRTUAL meeting came to order at 7:00 PM via Zoom. It was noted that all votes shall be taken via roll call vote.

1. The Chair noted the members present, and stated that this would be Ms. Campe’s last meeting. He congratulated her for her 6-years on the Board. Dr. Vitale then reviewed the agenda, noting the following items not anticipated by the Chair 48-hours in advance of the meeting, requesting that they be added to the agenda:

(1) 65 Farm Road – soil testing for stormwater management

(2) Public Hearing for proposed regulations changes

A motion was made to amend the agenda as stated, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

APPROVED 4-0

2. **65 Farm Road, Fenix Partners Farm Road Development LLC** – Dr. Vitale stated that the Board of Health received notification of an Administrative Approval from the Conservation Commission today for soil testing to be conducted on the site for stormwater management and roads. He acknowledged receipt, but noted that there is nothing currently before the Board of Health. The Board is not the permit-granting authority and it is not in the Board’s jurisdiction.

3. **Temporary, 1-Day Mobile Food Truck** applications were reviewed:

(1) Jackson Effie Coffee Cabin of Princeton - #TF23-23 – will attend the COA event on 4/8/23

(2) Jackson Effie Coffee Cabin of Princeton - #TF23-24 – will attend the Library Fair on 5/13/23

(3) Big T’s Jerky House of Worcester - #TF23-22 – will attend the Library Fair on 5/13/23

(4) Trolley Dogs of Framingham - #TF23-26 – will attend the Library Fair on 5/13/23

A motion was made to approve each of the above-noted applications, and it was seconded. By a roll call vote:

Vice Chair Daryl Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Chair Dr. Vitale – AYE

The motion passed and the applications were approved.

APPROVED 4-0

4. A **2023 Disposal Works Installer Permit renewal application** was received from **Rebco Inc.** of South Walpole (#I23-22). The Agent commented that this installer would be doing the system for 156 Nason Hill Road, and he recommended approval conditional to a pre-construction conference. Such a motion was made and seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved with condition.

APPROVED 4-0 with condition

5. **Minutes** – The 3/15/2023 Minutes were reviewed. Ms. Beardsley stated that she had provided minor edits. A motion was made to approve the Minutes as amended and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Chair Dr. Vitale – AYE

The motion passed and the Minutes were approved.

APPROVED 4-0 as amended

[Dr. Hunnewell arrived at the meeting.]

6. **Massachusetts Association of Health Boards (MAHB) annual certificate program** – The Administrator stated that MAHB will be holding this training program on April 15th in Taunton, May 6th in Marlborough, and June 3rd in Holyoke. This year the Charles River Public Health District will cover the cost, as a result of the Shared Services agreement. Both Ms. Beardsley and Dr. Hunnewell expressed interest in attending. The Administrator will forward the link so they can each register through the Charles River Public Health District.

7. **13 Course Brook Road, Nathan Berkowitz and Veronika Bulkin – Septic Replacement #21-30** (approved 8/18/21) (See Minutes of 9/21/22, 8/18/21, 6/2/21, 5/19/21, and 5/5/21) – The Agent reported that he received an email from Mr. Berkowitz indicating that the septic replacement installation would begin in April 2023. Installer Collin Mayo had confirmed that is correct. The Agent was instructed to monitor this matter.

8. **21 Morse Road, Edward & Elisa Coppelman – New Septic #23-10 for a 2BR Accessory Unit** – Mr. Coppelman was present with his engineer Bill Buckley. The Agent stated that the accessory unit is located in the barn, and will be restricted to 2-bedrooms with no garbage grinder allowed. He recommended approval of the plan as presented, with the garbage grinder prohibition and 2-bedroom limit per the deed restriction document. Ms. Beardsley questioned the wording of #2 on the deed recording, and it was slightly amended for clarity. A motion was made to approve this plan as presented, with the

amended deed recording (prohibiting the installation of a garbage grinder and limiting the accessory unit to 2-bedrooms), and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with conditions. **APPROVED 5-0 with conditions**

9. **267 South Main Street, Patrick O’Shaughnessy – Septic Replacement/Expansion #23-08** (see Minutes of 2/1/2023) – Engineer Daniel McIntyre was present. The Agent stated that this plan is a replacement with expansion from 4-bedrooms to 6-bedrooms. He noted that the system is limited to 6-bedrooms due to the acreage. The replacement system is a traditional stone and pipe system, and meets all new construction standards. The Agent recommended approval of the plan as presented, conditional to the garbage grinder prohibition deed recording, and such a motion was made and seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plans was approved with condition. **APPROVED 5-0 with condition**

10. **3 Nason Hill Lane, David & Carol Carter – New Septic Renewal #23-11** (see Minutes of 4/7/21 and 3/17/21) – This plan was previously approved on 4/7/21 under New Septic #21-10. A motion was made to renew the approval as requested, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the previous approval was renewed. **APPROVED 5-0**

11. **7 Nason Hill Lane, David & Carol Carter – New Septic Renewal #23-12** (see Minutes of 4/7/21 and 3/17/21) – This plan was previously approved on 4/7/21 under New Septic #21-12. A motion was made to renew the approval as requested, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the previous approval was renewed. **APPROVED 5-0**

12. **263 Western Avenue, Eric & Theresa Luskin – Preliminary Building Application #P23-07** – Mr. and Mrs. Luskin were present, as was septic designer Eric Dickinson. The Agent noted that the existing system was built in 1969-1970 as a 4-bedroom system, but he noted that under today’s standards, the design flow is only 244-gallons/day vs. the 440-gallons/day now required for a 4-bedroom house. The proposal is for a 1st floor renovation, but the Agent noted that there are basement rooms that do not appear to have been approved by the Building Department, as we have not found any permits for those rooms.

The Assessor's records show a 5-room, 3-bedroom house. Dr. Vitale reviewed the Board of Health flow chart, and it was determined that a septic replacement would be required. Mr. Luskin responded that he is fine and that they understand, noting that they have already applied for soil testing. Dr. Vitale advised the Luskin's to work with their septic designer to understand the requirements and what can be done with the property.

13. **15 Pleasant Street, Joyce Simon – Septic Replacement #22-91** – Ms. Simon was present with her designer, Eric Dickinson. The Administrator reported that the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts and/or usps.com printouts had been received and all was in order. The Hearing was opened.

Mr. Dickinson stated that this 3-bedroom ranch was built in 1963. A failed cesspool is located in the back yard, and the well is in the front yard. Site constraints include high groundwater and wetlands. The proposed replacement system is the Eljen Geotextile Sand Filter system. The needed variances were reviewed:

(1) Section 8.0(1) – to allow the proposed soil absorption system to be installed 2-feet above seasonal high groundwater rather than the required 5-feet, with the use of the Eljen B43 Geotextile Sand Filter system, per MassDEP's "Modified Remedial Use Approval", last revised March 30, 2022. *No increase in design flow is allowed.* A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

APPROVED 5-0

(2) Section 8.0(2) – to allow the proposed soil absorption system to be located in an area with less than 5-feet of natural grade above seasonal high groundwater, and where groundwater is less than 5-feet below natural grade. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

APPROVED 5-0

(3) Section 10.2 – to allow the proposed soil absorption system to be located 50.7-feet from a bordering vegetated wetland rather than the required 125-feet. A motion was made to approve this variance as requested, and it was second. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

APPROVED 5-0

(4) Title 5 Local Upgrade, 310 CMR 15.405(1)(j) – to allow a reduction of the requirement of a 12-inch separation between the inlet and outlet tees to high groundwater, provided that all boots and pipe joints are sealed with hydraulic cement or installed with watertight sleeves, and the tank is proven watertight. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

APPROVED 5-0

The Hearing was closed.

The Agent recommended approval of the plan as presented, conditional to the garbage grinder deed recording and the DEP Notice of Alternative System deed recording, and such a motion was made and seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plans was approved with conditions. **APPROVED 5-0 with conditions**

14. **60 Brush Hill Road, Kerri Rose – Preliminary Building Application #P23-08** (see Minutes of 1/20/21-#8, 11/18/20, 11/4/20, 5/17/17, 3/15/17, 3/1/17 and 1/4/17) – Rob Rose was present with Realtor Maryalyce Henning and Attorney Michael Burgess. The Agent reviewed that this proposal is to move an existing basement bedroom to the 2nd floor, and he expressed concerns with the room count. This property is served by a 4-bedroom septic system.

Dr. Vitale reviewed the room count, noting that according to the 2017 Minutes, the Board at that time counted the kitchen and dining room as one (1) room. He felt this Board should accept what a previous Board determined, so the room count is as follows:

- 1st Floor – 4 rooms (based on a decision made in 2017 be the Board at the time)
- 2nd Floor – 3 rooms
- Existing Basement – 3 rooms

This results in a total of 10 rooms, which is over the allowance for a 4-bedroom septic system.

The actual plans received by the Board of Health on 2/28/17 were reviewed and it was noted that they show one large room in the basement, aligning with the 2017 Minutes. Those plans did not include a bedroom in the basement. Ms. Campe noted the February 2017 letter from David Parrish and the 3/1/17 Minutes, noting that a bedroom in the basement was not mentioned.

In response to a question from the Realtor, Dr. Vitale stated that the removal of a closet from a room does not render that room not a bedroom, and Dr. Bevers noted that the plan that was approved by the Board in 2017 does not match with the “existing” floor plan in 2023. It was felt that the only scenario permitted in the basement would be to deed record room(s) or have just one room in the basement. If the game room and exercise room are one room, there would still be one room needing to the deed recorded. In addition, the ¾-bath is an issue.

Dr. Hunnewell stated that it is important that the Board be fair and treat all applicants the same. This should be what the Board thinks is appropriate in 2023 – we cannot be consistent with the old permit.

Realtor Maryalyce Henning stated that the existing house is definitely 9 rooms:

- Kitchen and dining = 1 room, plus family room, sunroom, and office – 4 rooms
- 2nd floor – 3 bedrooms
- Basement – one large room (gym and family room)
- ¾-bath off the hallway

Noting the connection between the game room and the fitness area, Dr. Vitale asked if anyone had any concerns with counting that space as one room. Ms. Beardsley responded that she had concerns with the

size of the large room/space that is serving different functions, and also with the other buildings on this property that have not been reviewed. Dr. Vitale noted that there is a 1/2-wall between the 2 areas (game room and fitness area). Ms. Henning stated that the basement is one large space with a walkout, and she asked why this is now an issue. Dr. Vitale responded that the plan we have in the Board of Health office does not match the 2023 “existing conditions” plan – the plan in the office shows only one large open space.

Ms. Campe stated that the 3/4-bath is definitely a problem. She stated that the fewer walls there are would inhibit the privacy. Dr. Bevers agreed with the discomfort of the 3/4-bath, but he noted that it isn't connected to the bedroom. Rather, it is connected to a hallway.

Ms. Henning stated that anyone could use a finished basement space as a bedroom, and she asked what they would need to do to this floor. Ms. Beardsley stated that, given no restrictions on room size, she could see the game room / fitness room as one space. In response to suggestions of changing characteristics of the current basement bedroom, she noted that it likely has an egress window per building code requirements for bedrooms (clarifying that she wants that egress to stay for safety) which would make it the type of space that is not typically deed restricted, and thus changing the 3/4-bath to a 1/2-bath would help. Ms. Campe stated that going to a 1/2-bath in the basement would alleviate any hesitation on her part. This issue is what are the things that could conceptually happen, noting that the Board has never had this – taking an existing definite bedroom and saying it is no longer a bedroom – before

Dr. Bevers asked if the 1/2-wall between the game room and fitness area was gone, would the Board grant a deed recording? Dr. Hunnewell felt the design flow was a problem, saying that once a room is a bedroom, it is difficult to make it not a bedroom. She stated that she was a “no” no matter what.

Ms. Henning stated that the 3/4-bath was always there. She asked the Board if it was illegal to decommission a bedroom, and asked what would need to be done to “unfinish” that room. Dr. Vitale responded that the dry wall would need to be removed, along with the heat, flooring, and any finished ceiling. The space would need to be completely converted to unfinished space. Alternatively, the 3/4-bath would need to be converted to a 1/2-bath.

In order to get to a “yes”, Dr. Vitale advised that the 3/4-bath would need to be changed to a 1/2-bath, OR, the existing basement bedroom just be completely unfinished as noted above. He noted that this was conditional that, with further review, the Board is aware of everything/anything else on the property. Ms. Henning stated that she would communicate this to potential buyers.

Attorney Michael Burgess asked if they could just relocate the shower – have the sink and toilet in one area and have the shower elsewhere on the basement level, but both Dr. Vitale and Ms. Campe felt that would make it more difficult.

Ms. Beardsley asked about the possibility of expanding the existing septic system, but the Agent noted that the existing system is Innovative/Alternative Technology (Eljen Geotextile Sand Filter System) which does not allow any increase in design flow.

15. **Status of legislative action regarding virtual / in-person meetings** (see Minutes of 3/15/23-#9) – Select Board Chair Jeff Waldron stated that this legislation is still awaiting the Governor's signature, but he stated that he is treating it as a “done deal”, with the extension of virtual meetings permitted through March 2025.

16. **Advisory Committee Budget Meeting** – Dr. Vitale reported that there was much thoughtful discussion about the Administrator's hours being increased to 40-hours/week, and it was voted by both the Advisory Committee and the Select Board. There was much discussion regarding the exempt / non-exempt status.

17. **Regulations Review** (see Minutes of 3/15/23, 3/1/23, 2/15/23, 2/1/23-#11 and #14, 1/4/23-#6 and #8, 12/7/22, 11/16/22, 11/2/22, 10/5/22, 9/21/22, 9/7/22, 7/20/22, 6/1/22, 5/18/22, and 4/6/22) –
Regulation I – Sewage Disposal,
Regulation II – (Domestic) Water Supply and
Regulation III – Public and Environmental Health Review Regulations and Standards (For Selected Site Development Activities or Other Special Conditions, or) For Other Than a Single-Family Dwelling on a Single Lot

The final document detailing all proposed changes was reviewed for completeness. Discussion was held regarding Regulation II, Section 17.3(A), Laboratory Tests. Following discussion, the Administrator was instructed to add the following after the first sentence of this section: “An initial non-compliant analysis result may be superseded by two subsequent and consecutive compliant results.”

Section 17.3(G), Laboratory Tests was also reviewed, and the Board agreed that the initial proposed wording (“confirmed”) will remain.

Timing of the Public Hearing was discussed. The Board was in agreement that the Hearing should be scheduled for Wednesday, June 7, 2023 at 8:00 PM. Ms. Beardsley, Dr. Bevers, and Dr. Hunnewell all stated that they would be available for that meeting.

18. **Administrator Vacation** – The Administrator reminded the Board that she would be away on vacation from March 30, 2023 through April 10, 2023, returning to the office on Tuesday, April 11, 2023.

19. **5/3/2023 Agenda Items** – The Administrator stated that there were no known items for this agenda at this time. The Chair requested that an update to confirm the proposed regulations changes for the public hearing be added.

Dr. Hunnewell asked if the questions she submitted regarding the threshold for bedrock disruption were ever submitted to Town Counsel. Dr. Vitale responded that they did go to Town Counsel and they were discussed at the meeting last week. He stated that they are incorporated in the version of the regulations that we have, and are in the Minutes of the last meeting.

20. **Adjournment** – A motion was made to adjourn the meeting, and again thank Ms. Campe for her 6-years of service on the Board of Health, and it was seconded.

By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

This virtual meeting adjourned at 9:01 PM.

Respectfully Submitted,



Ellen J. Hartnett
 Administrator

cc: Town Clerk; and File.

[cc: via email to: Planning Board; Conservation Commission; Board of Assessors; Select Board; Fire Chief; Building Inspector; and Mark Oram, Agent]

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DOCUMENTS REVIEWED AT THE VIRTUAL 3/29/2023 MEETING
(All items stored in the Board of Health files unless otherwise noted)

1. **15 Pleasant Street –**
 - Septic Replacement plan #22-91, drawn by Eric Dickinson, CIVILized Solutions, last revised 2/7/23
 - Revised variance request letter dated 12/5/22 (received 3/6/23) from Eric Dickinson, R.S.
 - Application for Local Upgrade Approval, Form 9A
 - Certified list of abutters from the Assessor's office, dated 12/12/22
 - Copy of abutter notification letter from Joyce Simon dated 3/2/23
 - Certified mail return receipts and/or usps.com printouts, or original, returned envelope from abutter notification letters
 - Local Upgrade Approval, Form 9B
2. **60 Brush Hill Road –**
 - Preliminary Building Application #P23-08, including plans
 - BOH meeting Minutes of 1/4/2017 and 3/1/2017
3. **13 Course Brook Road –**
 - Septic Replacement plan #21-30 (approved 8/18/2021)
 - BOH meeting Minutes of 11/16/22, 11/2/22, 9/21/22, 8/18/21, 6/2/21, 5/19/21, and 5/5/21
 - Non-compliance letter sent to owner 11/10/22 from Health Agent
 - 11/16/22 contract with Nathan Berkowitz and Veronica Bulkin from C. Mayo Excavating
4. **263 Western Avenue –**
 - Preliminary Building Application #P23-07, including existing and proposed floor plans
 - Title 5 Inspection report dated 7/1/2019
 - Agent's response letter, dated 3/23/23, to Preliminary Building Application P23-07
5. **21 Morse Road –**
 - New Septic plan #23-10 (for a 2BR accessory unit), drawn by Bay Colony Group Inc. and dated 2/14/23
 - Proposed deed restriction document for garbage grinder prohibition and limitation to 2-bedrooms
6. **Temporary 1-Day Mobile Food Trucks –**
 - Jackson Effie Coffee Cabin - #TF23-23 – for 4/8/23 COA event
 - Jackson Effie Coffee Cabin - #TF23-24 – for 5/13/23 Library Fair
7. **2023 Disposal Works Installer Permit renewal –**
 - Rebcoc Inc. of South Walpole - #I23-22
8. **Minutes –**
 - BOH meeting Minutes of 3/15/23
9. **Regulations Review –**
 - Summary of proposed regulations changes to Reg. I, II, and III, prepared by BOH Administrator
10. **Temporary Mobile Food Permits –**
 - Jackson Effie Coffee House of Princeton #TF23-23 (for 4/8/23 COA event)
 - Jackson Effie Coffee House of Princeton #TF23-24 (for 5/13/23 Library Fair)
 - Big T's Jerky House of Worcester #TF23-22 (for 5/13/23 Library Fair)
 - Trolley Dogs of Framingham #TF23-26 (for 5/13/23 Library Fair)
11. **267 South Main Street –**
 - Septic Replacement/Expansion plan #23-08, drawn by McIntyre Engineering and dated 2/8/2023
 - BOH meeting Minutes of 2/1/2023

- Floor plans dated 1/9/2023

12. **65 Farm Road** –

- Conservation Commission Administrative Approval dated 3/28/23 with attached soil testing plan for a 40B Development