

BOARD OF HEALTH MINUTES
TOWN BUILDING – COUNCIL ON AGING
NOVEMBER 5, 2018

The meeting was called to order at 7:00 p.m., present were John G. Schuler M.D. (John S), Chair, members Susan Green (SG), Robert DeFrancesco D.M.D (RD), Arne Soslow, M.D., (AS) and Brian McNamara (7:30 pm.) Also present were Julia Junghanns, (JJ) Director of Public Health, Darren MacCaughey,(DM) Sanitarian/Health Agent and Patti White, Department Assistant.

7:00 p.m. Public Comment-

Molly Upton, Bayfield Rd. Would like clarification from S. Horsley regarding 24 School Street hydrogeo and hydro peer review. All rainfall recharge should be reconsidered, and a 100 yr. event with cumulative amounts/mounding for both 40B's.

JS: do septic engineers recognize these issues? MU: the peer review only talked about 25 or 50 yr. storms. MU: while we are considering revising our septic regulations, she is urging us to notify planning and TM regarding the potential changes in our septic regulations or how we are reviewing projects/60% rule interpretation. The town may want to have other policies in place regarding Zone II. JJ: I have advised the department heads and Town Administrator at a Land Use meeting and at the department heads meeting. People are aware, and we will follow due process and hearings will take place as required. Public input can be taken then.

7:05 p.m. Review and discuss draft of revised Local Septic Regulations.

There was a discussion and questions were raised. AS: why are we doing this now, why do we need to redo our septic regulations? JJ: There are unclear sections of the regulations regarding the design of new systems and the use of I/A technology, and other questions that have come up with the board regarding I/A policy and variances that need to be cleared up. This is something the board has discussed and agreed upon that we should revise and update the regulations so they are clear and decisions are more consistent. The septic regulations have not been revised or updated since 1999. AS: I just want to be sure we are doing this carefully so we can ensure that we protect the Town Water System/public wells. John S: I thought this was from inconsistent policy and variances; to have uniformity in our decisions. JJ: that is correct. SG: We have guidance we try to follow, to be more consistent. JJ: These changes will help staff to have a more clear interpretation of the regulations; allowing for consistent decision making at the staff level and board level. We have made some changes to simplify and clarify, eg: all systems are designed at 165 g.p.d.

7:30 Discussion regarding the changes being proposed- working draft- red lined copy

Darren and Julia started with the 10 page Wayland Septic Regulations that were originally drafted in 1985 with multiple revisions for a final publishing date of December 9, 1999. They started with the original 10 pages and redlined items that were no longer relevant or already covered in the State Title 5 regulations. The major area of discussion is when homeowners are looking to do additions to their homes increasing the living space over 60% of the original house. There was language that was confusing and was causing involved meetings and discussions with contractors and homeowners. One of the major reasons to update the regulations is for ease of understanding for major projects that would be increasing the living space over 60% but would not be adding new bedrooms and not increasing septic flow.

MU: as a former assessor- there are issues with bedrooms and deed restricted properties; they most often will not let the staff in to review or inspect. In a perfect world, a deed restriction would require inspections from BOH or other. JJ: we do not have the staffing ability to monitor that, that is a responsibility to the owner.

Some notes of potential regulation updates/changes;

All systems to be designed at 165 gpd, include the definition of home office. No closet allowed in a home office. Page 2 letter B- potentially removing the section regarding new construction stamped survey (this is not on the redlined version). On page 2- exemption, this was added, there are frequent questions to staff i.e.; a septic in significant compliance for an addition over 60% or change of use.

AS: What does this mean? An exemption for an addition to a house proposing an addition of over 60% or a change of use that does not add flow above the approve septic design flow? What is, by design, approval and installation, considered "significant" or significant compliance?

DM: Some examples of things we would consider significant would be; variances for groundwater offset, possibly sizing of the leachfield, or no reserve area provided.

JJ: An example of a situation we could encounter would be a septic repair that was done where the design meets the state Title 5 requirements; offset to groundwater is improved, but the design does not meet new construction (adding over 60%). There should be a way to improve this section of the regulation to be fairer for upgrades/repairs that are significantly improved from the original septic system which may have been a cesspool.

JJ: Typical scenarios we encounter involve projects where there is no increase in number of bedrooms, but they want to add an addition of over 60% in living space. Currently our town regulations look at these 2 scenarios (adding bedrooms and adding over 60% in living space) as being the same. For small houses the 60% is a small addition and it's not fair when you compare it to a large house adding 60%.

BM: what language can we use?

DM: We could include language that outlines a post 1995 design and with no added bedrooms allowed.

BM: 60% goes back to the original structure but on smaller properties this adds up fast.

Add in post 95 soil evaluation (soil testing).

AS: An exemption could be given to an addition (over 60%) to a house through a proposal that has no change of use of septic

7:50 p.m. 33 Main St.- Request for tobacco permit for "Cigars and More", owner of building Joe Strazzula (Joe S), proprietor Jack Patel (location next to Rite Aid)

This is a continued discussion from the October 15, 2018 meeting. When the Tobacco Regulations were revised several years ago the Board decided to cap the total number of Tobacco permits at 15. CVS no longer sells tobacco and so we had only 14 permits with one still potentially available. Both of the Country Clubs in town applied for permits to sell cigars. They had been selling cigars only to their golfing customers for many years. At that time, the Board granted both country clubs with permits and the number was raised to 16. There was much discussion regarding electronic cigarettes, Juuls (flavored electronic cigarettes) and paraphernalia sales. There was discussion as to whether the Board could issue a restricted permit that would not allow for electronic cigarettes (vapes and Juuls) and other paraphernalia. JJ: it would not be legal to issue a restricted permit as it is not outlined in our regulations. If we wanted to do so we would have to revise our regulations to include "restricted permits". At this time any tobacco permit in town has the same rules and can sell the same products.

John S: Mr. Strazulla, please join us:

Joe S: I have submitted a letter to the Board with some suggestions, after discussion with JJ there are no variances allowed to the regulations and a restricted permit is not allowed. As the owner of the building I can write a lease with restrictions and products to avoid. Such as "restriction of paraphernalia related to smoking

non-tobacco and/or non-nicotine products". Both Donelan's and Rite Aid have permits, they do not market cigars or juuls, I did not want to bring in a 3rd party selling same products, this would be a different.

AS: Would you exclude Juuls? Joe S: If we were to do that we would reduce his proposed sales by as much as 20%, it would not be a good business decision, it would result in a loss of revenue. Wayland is an exclusive community with a very small commercial base, which creates a difficult survival rate for businesses.

John S: When we discovered both Country Clubs were selling cigars we issued them a permit because they were selling cigars for many years and were grandfathered in.

AS: How are liquor licenses controlled? Joe S: these are determined by the State based on % of population, and set by BOS. This is not in the same category, this is a local decision. From a business approach, the outside forces are causing the closure of small local business centers.

John S: BOH controls tobacco retail, it is not a healthy activity, so we do not endorse more licenses than we have now. That is why we included a limit on tobacco permits when we rewrote the tobacco regulations. The preamble to the Tobacco Regulations speaks to the reason we are limiting the number of licenses.

SG: There are an existing number of people who smoke and she does not believe that this additional permit will create more smokers.

Joe S: This is a product (cigars) that is not being offered at either of the two stores in the plaza that currently hold tobacco permits.

AS: Can we get information regarding the percentage of juuls and vapes in tobacco stores? JJ: we do not currently have that information.

Jack Patel: The limit on permits was to stop the sale of tobacco; I don't sell cigarettes. BM: but you do sell paraphilia in your other stores.

John S: Let's vote on where we stand with allowing an additional tobacco permit.

Molly U: This is more than just cigarette use, the vaping and juuling. The BOH should have town wide policy on vapes and juuls.

John S: Let's do a member query:

John S: Motion that the Board extend the licenses by one to 17

Vote: one in favor (SG) and 4 opposed. Motion does not pass.

Joe S: I would like to put in a request to be put on a wait list if a permit is available. AS: You might want to check to see if there is anyone that has a license that they may be willing to give up. Joe S: Walgreens will continue with tobacco (Rite aid is to become Walgreen's). Staff will provide a list of current licenses.

8:15 p.m. Presentation and discussion regarding potential changes in the structure of town government, feedback/suggestions from BoH on Town Manager Act and new Finance process for the town- Guest Board of Selectmen member Dr. Lou Jurist (LJ)

John S: Stated that he does not like to turn over control to one person, what if the person is corrupt, a lot can be at stake for the town. There is too much risk that is why it is important for residents to be involved through boards and committees and a democratic process. Things work well with our (BoH/Health Dept.) structure now. What will be in place to prevent a rouge person from going off the rails?

LJ: The idea is for efficiency and structure as recommended by Collins Center Report. The Town Administrator (TA) reports to Board of Selectmen (BOS), issues should be resolved through the BOS. How much do you expect this to affect your day to day? No boards or departments will change at this time; elected boards will continue to be elected. Much of it is about improving the budgeting process; I feel it is a positive change.

JJ: The BoH in Wayland currently has a different structure. MGL states that if the Board of Health hires a Director and appoints a Health Agent, these positions are to report directly to the Board of Health.

LJ: do you expect that will change? JJ: I have been keeping a direct loop with the TA on important things going on with the Health Dept./BoH; Louise has been really great to work with and things have gone well since she has started with the town.

There are changes being proposed that would be different then the structure we currently have; I report to the BoH and I would report to the Town Administrator.

Potential problems could come up that involve town projects where the BoH is directing me in one direction and the Town Administrator in another direction. How does that get handled without conflict of interest for BoS or TA? Public Health should be in the focus of the Health Director's role and the BoH's influence not political influence which can happen.

JJ: This morning we had our budget meeting with the Finance Director, our BOS liaison, the TA and the Asst. TA: we went through the budget that was approved by the Board. The meeting went very well, they had questions and I answered them. The budget process has historically been very cumbersome with numerous meetings and sometimes going before the finance committee. Although most of Fincom is now familiar with our department budget over the recent years we have met with Dave Watkins, and other Fincom liaisons. This is where a lot of time has been spent. Last year we had many budget meetings with the front office.

BM: I don't know if the TA has the ability to change our budget. The Board approves the budget and goes to Town Meeting.

JJ: We are requesting Ruth's position to change from 30 hours to 35 and we are moving the Animal Control line item to the BOS budget line item. Both jobs (Animal Control and Dog officer) are now being done by one company so the contracts were combined and we are combining funding as well.

JJ: in the past we go before Fin Com and meet with our BOS Liaison; it has shifted in the past couple of years to include the TA in this process.

LJ: There is more approval in elected board and not by Fincom (appointed board) to the extent from past approval process.

BM: What if there was a surplus on flu account money and we want to offer a shingles program and the BOS would like to take the money? The money is for public health needs of the town. The board could lose control.

LJ: The DPW has had funds from their surplus that have been used for other issues; the intent is not to take away decision or funds. This is a dysfunctional town process as it is now. We are looking to create a stronger chain of responsibility.

John S: Do you see any problems with this? LJ: I think the new process has more accountability and a cohesive process. John S: what is the Finance Committee position? LJ: the Fin Com feels the current structure is too much weak. Maybe the structure you currently have works well as it is, any changes aren't needed. It sounds like you have a successful department and processes as they are.

AS: What are the problems? LJ: The Collins report gives that information. This is a work in progress.

JJ: what are the next steps?

Cherry K (CK): We are hoping this will be ready for ATM in the spring; this is being edited by department comments and Town counsel. LJ: We are looking to see how much improvement has occurred this year with the changes in the Budget process.

AS: Where is the case for change? Dr. Soslow requested more information on the Collins report and what the Selectmen's plans are for the town structure? What is triggering these major changes, has proper analysis been done, how were the conclusions arrived at?

CK: The management summary is included in the Collins report, Cherry suggested that Dr. Soslow do his homework and review the report. There was dialogue between Cherry and Dr. Soslow regarding the management summary which he still has questions about.

CK is asking the board for a summary of questions or concerns on this subject so they can respond. Boards and committees are being asked to provide questions and concerns to the BoS so they can be addressed.

Statements and questions from the BoH were discussed for future submittal to the BoS once the changes are more understood they can be finalized.

BM: How many towns have autonomous BOH?

BM; local Boards of Health in surrounding towns are operating autonomously from the TM. Further discussion will take place at a future BoH meeting.

9:30 p.m. Ch40B Projects updates and any new information: 24 School St.- Winsor Place, 113-119 Boston Post Road- Cascade Wayland
There is no new information at this time.

9:30 p.m. General Business:

Ruth will be coming to next BOH meeting to speak on the shingles program. We will also have more discussion on the revised Septic Regulations. The bills have been approved.

Minutes of September 17, 2018

SG: one small edit on pg. 1 article 2 district, 3rd line, "one small area to be zoned".

RD: Motion to approve the minutes of 9/17/18 as amended, second SG: vote 3-0 one abstain (AS).

Schedule next two meetings: December 3rd and January 14th. Dr. D. and Brian cannot make 1/7/19

9:45 SG: motion to adjourn Second.

Respectfully submitted
Patti White
Department Assistant
110518minutes
APPROVED 011419