



BOARD OF HEALTH

Meeting

Town of Nantucket

131 Pleasant Street

Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Commissioners: Stephen Visco (Chair), (Vice Chair), James Cooper, Meredith Lepore, Melissa Murphy, Kerry McKenna

Staff: Roberto Santamaria, Kathy LaFavre, John Hedden, Cathy Flynn, Jake Visco, Anne Barrett

~~ MINUTES ~~

Thursday, July 21, 2022

4 Fairground Road, Community Room

This meeting was held via remote participation using ZOOM and YouTube.

Called to order at 4:00 p.m.

Staff in attendance: R. Santamaria, Health Director; K. LaFavre, Health Inspector; J. Hedden, Health Inspector; C. Flynn, Health Inspector; J. Visco, Health Inspector; T. Norton, Town Minutes Taker

Attending Members: Stephen Visco; James Cooper; Melissa Murphy, Select Board; Kerry McKenna

Absent Members: Meredith Lepore

I. ANNOUNCEMENTS

II. PUBLIC COMMENTS – ANY MEMBER OF THE PUBLIC MAY ADDRESS COMMISSIONERS AT THIS TIME

- Murphy – She is resigning from the Select Board effective November 2nd; she’s not sure she will be able to attend BOH meetings in the interim.

III. ELECTION OF OFFICERS

- Chair:

Action **Motion to Nominate Mr. Visco as Chair.** (made by: Cooper) (seconded)

Roll-call vote Carried 3-0//Murphy, Cooper, and McKenna-aye; Visco abstain

- Vice Chair:

Action **Motion to Nominate Ms. Lepore as Vice-chair.** (made by: Murphy) (seconded)

Roll-call vote Carried 4-0//Murphy, McKenna, Cooper, and Visco-aye

III. APPROVAL OF MINUTES

- June 16, 2022

Cooper – He was absent from that meeting; his name needs to be deleted from sitting members.

Action **Motion to Approve as amended.** (made by: Murphy) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

IV. DIRECTOR’S REPORT

None

V. BOH APPLICATIONS REVIEW

- Release ACO for 11 Washington Avenue, 60.2.1-141, application for compliant system received

Sitting Visco, Cooper, Murphy, McKenna

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – No objection for release.

Action **Motion to Accept.** (made by: Cooper) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

2. Loan request for 5 Folger, 80-169, loan request septic to sewer, hydraulic failure

- Sitting Visco, Cooper, Murphy, McKenna
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – No objections. We are down to only \$500,000 left in the program; there are changes coming but currently don't have any extra money after that's gone. Explained that the State is making Nantucket's regulations state wide and how that impacts the program.
Action **Motion to Approve.** (made by: Murphy) (seconded)
Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

3. Request to waive sewer connection requirement for 14 Cathcart Road, 43-101

- Sitting Visco, Cooper, Murphy, McKenna
Documentation Supporting documents and plans, staff recommendations.
Discussion **Mike Wilson**, for the current owner – This property is under contract to sell to Nantucket Islands Land bank; the closing is next week. The Land Bank will remove the structure and use the property as open space. No effluent has been going into the system for over a year.
Cooper – The last time the Land Bank came to us for something like this, the Land Bank used the structure for 5 years with a failed system. Asked what happens to the house once the septic is abandoned; will it be demolished.
Wilson – He doesn't represent the Land Bank; suggested adding a condition the waiver on an affirmative effort that no effluent will be introduced into the system.
Santamaria – We can add that stipulation.
LaFavre – The Health Department would have no objections with a stipulation that the abandonment permit to be pulled within 30 days; that allows time to transfer. We could then require the system pumped, as witnessed by staff, and the pipes capped. We would then condemn the property while they wait to move or demolish the structure.
Wilson – Pointed out that no houses can be moved until after Labor Day. He will pull the abandonment permit tomorrow or Monday.
Action **Motion to Approve with conditions outlined in discussion.** (made by: Murphy) (seconded)
Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

4. Condemnation of 56 Arkansas, 59.4-156

- Sitting Visco, Cooper, Murphy, McKenna
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – Ratification of a condemnation of an abandoned structure.
Flynn – We received a complaint from abutters complaining about poor condition of the structure. We did an exterior inspection and have a photo of the condemnation sticker on the door is in the packet. The deceased owner's son is in the process of receivership for the property and will reach out to the Building Commissioner. This is between 2 units of five. There has been no meter usage for about years according to the electrical company.
Alicia Ruggiero, 52 Arkansas Avenue – No one has been living there for 12 years. Asked what this means for the future of the property and the steps for someone else to clean it up.
Santamaria – Condemnation is the first step of a receivership; once the son applies as a receiver, the court sets the timeline. Its condition shouldn't affect the neighbors; if it does, that's a civil issue. We set timelines for specific housing habitability issues; if they don't start work within the set timeline, we start fining.
Action **Motion to Approve the Condemnation Order.** (made by: Murphy) (seconded)
Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

5. Variance request for 283 Hummock Pond Road, 83-6, tight tank

- Sitting Visco, Cooper, Murphy, McKenna
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – We don't have any objections.

LaFavre – We would like a contract with a septic hauler; we’ve done that in the past with Tight tanks. We would also want to limit it to seasonal use only and to 3 bedrooms.

Don Bracken, Bracken Engineering – This is on an eroding beach; we have approval to move the house to the east side of the lot. The septic is still functioning, but this feels the most appropriate way to go.

Cooper – Asked if the number of bedrooms could be changed. (No)

Action **Motion to Approve with Ms. LaFavre’s caveats.** (made by: Cooper) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

6. Variance request for 5 High Brush Path, 56-388, 56.02 A & 64.04B, flow per square feet

Sitting Visco, Cooper, Murphy, McKenna

Documentation Supporting documents and plans, staff recommendations.

Discussion **Dan Mulloy**, Site Design Engineering – Asking for a bedroom credit to increase to 7 bedrooms; the lot is just shy of 65,000 square feet (sf) when the requisite is 67,000 sf. They are installing a new I/A system.

Cooper – If we vote for this, we would have to grant similar variances for the next person to come along.

Mulloy – He’s worked on several in the Hummock Pond Watershed where BOH has granted the variance.

Santamaria – There is a net benefit in nitrogen reduction with an I/A system.

McKenna – He’s concerned about increasing the density of usage in a sensitive area.

Santamaria – We can’t regulate use, only a specific nitrogen loading number.

Visco – We haven’t done this in the Madaket or Polpis watershed districts.

Action **Motion to Approve the variance.** (made by: Murphy) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

7. Variance request for 4 Canonicus Street, 87-116, BOH Reg 64.04 B nitrogen loading

Sitting Visco, Cooper, Murphy, McKenna

Documentation Supporting documents and plans, staff recommendations.

Discussion **Dan Mulloy**, Site Design Engineering – This is a similar request to 5 High Brush Path. This lot was created back in the 1920s and is grandfathered to “do the best you can” under Nantucket regulations; Title 5 limits it to 1 bedroom. Asking 1 bedroom per 9,000 feet with a new I/A system. We will create a deed restriction limiting the bedrooms in perpetuity. This is one of several properties under single ownership.

McKenna – Concerned BOH might be overloading the area by approving these.

Santamaria – This replaces a 1-bedroom system with a 1-bedroom system.

Visco – This lot was buildable prior to 1995. He doesn’t think this is an unreasonable request with the deed restriction.

LaFavre – We looked at the two family-owned properties, we would support the I/A system with the deed restriction; the property on Western Avenue has an existing home. Asked if the leach facility could be limited to 110 gallons per day; with that we would have no objections.

Action **Motion to Approve with the deed restriction.** (made by: Murphy) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

8. Variance request for 11 Western Avenue, 87-117, BOH Reg 64.04 B nitrogen loading

Sitting Visco, Cooper, Murphy, McKenna

Documentation Supporting documents and plans, staff recommendations.

Discussion **Dan Mulloy**, Site Design Engineering – This is the same request for an existing dwelling with a 4-bedroom system. They are removing the existing house and building a new house and installing a new 4-bedroom I/A system.

Hedden – Originally, the plan was to merge this with 167 Surfside; but there’s a paper road between the two. The leach for the system is a pit on 167 Surfside. Mr. Mulloy will be applying for

a 1-bedroom I/A system for 167 Surfside. He'd like 167 Surfside restricted to an I/A system because there will be 5 bedrooms between the two lots.

Action **Motion to Approve the Variance.** (made by: Murphy) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

9. Variance request for 189 Hummock Pond Road, 65-27, nitrogen loading 56.02(A)

Sitting Visco, Cooper, Murphy, McKenna

Documentation Supporting documents and plans, staff recommendations.

Discussion **Jeff Blackwell**, Blackwell & Associates – This is 6-bedroom dwelling served by a pre-1995 conventional system. We want to upgrade to a 6-bedroom, I/A system. Hummock Pond Watershed District requires a variance. No new construction proposed.

LaFavre – No objections with this as the Board has been allowing this. One of the original permits had a garbage disposal; we would want verification that has been removed.

Blackwell – Regarding the garbage disposal, there is room for a larger leach field to accommodate it; he'd like the decision to include no prohibition against a garbage disposal. Ms. LaFavre could walk through to confirm installation of the system. The property is maxed out with 6 bedrooms.

Visco – By Title 5, you can't substitute the garbage disposal space to get another bedroom.

Santamaria – The property is 46,000 sf. Everything that comes out of the house has to sit for 48 hours before going into the leach field. The garbage disposal is allowed by Title 5.

LaFavre – The garbage disposal would be considered area, not flow.

Action **Motion to Approve.** (made by: Murphy) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

~~10. Variance request for 8 New Hummock Circle, 56-363, 64.03 B groundwater~~

11. Variance request for 29 Millbrook Road, 56-68, Local Reg 64.04 B & 56.02 A nitrogen loading

Sitting Visco, Cooper, Murphy, McKenna

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – This replaces a conventional with an I/A within the Hummock Pond Watershed District; same conditions as before.

Art Gasbarro, Nantucket Engineering & Survey – Looking to install a 3-bedroom I/A with a greater reduction in loading. I/A systems are required to have the Operations & Maintenance (O&M) contract.

LaFavre – No objections; this has been approved in the past.

Action **Motion to Approve.** (made by: Murphy) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

12. Variance request for 9B Crows Nest Way, 12-20.2, Local Reg 52.02A, 64.03E & F, setbacks & wetlands

Sitting Visco, Cooper, Murphy, McKenna

Documentation Supporting documents and plans, staff recommendations.

Discussion **Jeff Blackwell**, Blackwell & Associates – This is to upgrade a 1977 conventional system to an I/A system. There will be no increase of flow to the system. A Variance is required because of the uniqueness of situation of the house, system, and wetland resource and flood areas all within a FEMA Velocity Zone. House and system are at elevation 16-18 well above the FEMA flood elevation of 10. The plan is to use the current location because the groundwater flow is toward the Atlantic Ocean; the thinking is you can't pollute the ocean with the small amount of nitrogen from a residential septic.

Santamaria – The BOH approved a tight tank at 10C Crows Nest a few years back; this is for an I/A system. The tight tank was accepted because of a clay layer preventing leaching; this property doesn't have that issue. With the erosion rate, they can get about 5 years use; once the system becomes destabilized, it must come out.

Blackwell – This coastline has been accreting for decades.

Action **Motion to Approve.** (made by: McKenna) (seconded)

Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

13. Non-compliant IA systems for 67 Bartlett Road, 39 Tennessee Avenue, 100 Low Beach Road, 34 Brewster Road, & 13 Arkansas Avenue
- Sitting Visco, Cooper, McKenna
- Documentation Supporting documents and plans, staff recommendations.
- Discussion **Santamaria** – These have all been referred to us from Barnstable County. For 13 Arkansas, we’ve received a draft O&M; once we have that signed, we won’t be asking for a letter.
Hedden – If we give 13 Arkansas until next July 29, that should give them time to come into compliance.
Murphy – As the property manager for 13 Arkansas, she just forwarded the email to the owner.
- Action **Motion to extend the time period for 13 Arkansas Avenue 1 week and issue letters immediately for the others.** (made by: McKenna) (seconded)
- Roll-call vote Carried 3-0//Cooper, McKenna, and Visco-aye ; Murphy recused

VI. BOH BUSINESS

1. Short-term Rental – Discussion

- Discussion **Murphy** – As a real estate agent, she has taken part in the conversation on this with the Select Board but will check with Town Counsel into continuing doing that going forward.
Santamaria – He’s in the process of creating a memo for the rental regulation. He’s been meeting with Town Manager, Director of PLUS, Director of Finance and Town Counsel to create draft regulations. The Select Board is looking at having a joint meeting with BOH in August; he’ll let members know the date. The BOH will look to life-safety issues by limiting the number of people per bedroom and structure; the regulations will also adopt the existing noise and lighting regulations. Any parking complaints will go to Zoning. The regulation will set up a rental registry using information from the State as well as our own, so we know where the properties are, who the owners are, and who the operators are. It will also require establishment of operator or someone to respond within 2 hours of an emergency; this will prevent dealing with absenteeism. The draft will be in the email no later than Monday.
McKenna – Asked if the registry will be available on line.
Santamaria – Yes. Granicus has a software that scours the various on-line rental systems; they look at website compliance for us. If someone is not registered with the Town, they will contact them; if there is no response, they refer them to us for enforcement. There will be an enforcement phone number people can call; Granicus will forward those complaints to the appropriately responsible departments. We will deal only with the public safety aspect.
Murphy – If an operator or owner has multiple violations, asked what’s the threshold to withdraw the permit – 3-strikes you’re out. It will be important to define nuisance violations.
Santamaria – That is discretionary by the BOH; we can suspend the license or the operator. If Granicus finds people not registered, they will let us know immediately. The way the bylaw was written, the deadline to begin registration is January 2023; we will start collecting data ahead of time.

2. **Santamaria** – Asked if the BOH wants to continue holding meetings at the 4 Fairgrounds Road Community Room (yes).

VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes June 22, 2022

VIII. ADJOURN

- Action **Motion to Adjourn at 5:29 pm** (made by: Murphy) (seconded)
- Roll-call vote Carried 4-0//Cooper, McKenna, Murphy, and Visco-aye

Submitted by:
Terry L. Norton