



BOARD OF HEALTH

Meeting

Town of Nantucket
131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Commissioners: Stephen Visco (chair), James Cooper, Meredith Lepore, Kerry McKenna, Brooke Mohr
Staff: Roberto Santamaria, Kathy LaFavre, John Hedden, Cathy Flynn, Jake Visco, Sean Reid, Anne Barrett

~~ MINUTES ~~

Thursday, October 20, 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; J. Visco, Health Inspector; S. Reid, Health Inspector; T. Norton, Town Minutes Taker
Attending Members: Meredith Lepore (acting chair); James Cooper; Brooke Mohr, Select Board; Kerry McKenna
Absent Members: Stephen Visco

I. ANNOUNCEMENTS

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

1. None

III. APPROVAL OF MINUTES

1. September 15, 2022

Action **Motion to Approve as drafted** (made by: McKenna) (seconded)
Vote Carried unanimously

IV. DIRECTOR’S REPORT

V. BOH APPLICATIONS REVIEW

1. Loan request for Jennifer Fraker, 1H Street, 60.1.2-65, MHWS, Zone A, septic repair
2. Loan Request for Garret Roberts, 29 Long Pond Drive, 59.4-19, MHWS Zone A, septic repair
3. Loan Request for Hobson-Dupont, 11 Washington Avenue, 6021-41, MHWS Zone A, septic repair
4. Loan Request for Susan Landmann, 6 Squam Road, 21-49, septic repair

Sitting Lepore, Cooper, McKenna, Mohr

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** - These are all septic repairs with I/A systems in compliance. We have no objections to approval of these loans. We are putting in a request for more money at the 2023 Town Meeting; it will also restrict the loans to year-round residents which is more in keeping with the spirit of the program.

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

Roll-call vote Carried unanimously

5. Variance for 6 Squam Road, 21-49, reduction of setbacks to property line

Sitting Lepore, Cooper, McKenna, Mohr

Documentation Supporting documents and staff recommendations.

Discussion **Santamaria** – This is for the new system. We have no objections. The variance is for a property line setback with the system in full compliance.

Hedden – Abutters were notified of this request per Title V. They’re replacing an old leach pit with a bed using maximum feasible compliance. There have been no concerns from the neighbor.

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

Vote Carried unanimously

6. Condemnation of 28 Sheep Pond Road, 63-34, due to septic system failure

Sitting Lepore, Cooper, McKenna, Mohr

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – Need to ratify the condemnation; the dune has receded and exposed the system. Once the new system is installed, the condemnation is lifted

Action **Motion to Ratify the condemnation.** (made by: Cooper) (seconded)

Vote Carried unanimously

VI. BOH BUSINESS

1. Discussion of seating at Bar Yoshi

Sitting Lepore, Cooper, McKenna, Mohr

Documentation Food Establishment Permit Application, inspection documentation, staff recommendations

Representative Steven Cohen, Cohen & Cohen Law P.C

Terrence Noyes, owner

Public None

Discussion (4:07) **Cohen** – Explained why he thinks this issue is now moot due to steps they are taking to rectify the situation. There are 64 areas where someone can be seated; we are proposing having only 50 chairs available to patrons; there would be a different area available only to employees. Once the weather gets cold, the seating will move inside where there are only 42 seats. They have NIR permission to use the adjacent Slip 14 bathroom; he thinks both restaurants should be credited with use of that bathroom. Mr. Noyes will be renting the space across the path for additional restaurant space next season – raw bar and alcohol with no cooking. Working with Mr. Hedden on the transfer of food. A fully handicapped bathroom will be built in that facility giving them Bar Yoshi of their own bathrooms to cover their occupancy of both structures.

McKenna – The NIR bathroom is a Slip 14 public bathroom; confirmed that would be taken out of the equation once the new bathroom is built.

Santamaria – In the Slip 14 lease, asked who is responsible for the bathroom maintenance.

Cohen – Slip 14 maintains the bathroom. For the rest of the season, we want the BOH to recognize the Slip 14 bathroom and the reduction to 50 seats. The patio outside has already been broken down.

Hedden – They are allowed 50 seats with 1 bathroom. There were 3 violations on 3 separate inspections over the summer. At the last meeting you voted to uphold the enforcement.

Mohr – If you commit to only 50 chairs, you don’t need the second bathroom.

McKenna – Asked for clarification on what the BOH is ruling.

Santamaria – Reiterating 50 patron chairs.

Action Consensus approves the 50 chairs.

Vote N/A

2. Discussion of seating at Millie's Restaurant

Sitting Lepore, Cooper, McKenna, Mohr

Documentation Documentation of past violations; 2014 letter from Richard Ray; Minutes October 16, 2014

Representative Steven Cohen, Cohen & Cohen Law P.C
Dunadel Daryoush, Millie's Manager

Public Bill Grieder, 10 F Street

Discussion (4:22) **Cohen** – This came up originally in 2014 when neighbors complained about noise and parking. We ensured we had everything in place to address those concerns. The Planning Board permit says Millie's can have 124 seats total indoors and outdoors. Another issue is Millie's acts as the public bathroom for Madaket Beach; up to 300 people use the bathroom who aren't paying patrons; there was an attempt by the Planning Board to address how that impacts the restaurants and the area. Read into the record a letter from Richard Ray about the BOH approval of the special permit restrictions. The implementation of the 124 seated patron has been consistent since 2014 by using an electronic system that tracks open checks. Hoping the BOH will honor that system. The accommodation of Millie's allowing public use of its bathrooms does tax the septic system but is better than prohibiting public use. Want the BOH to recognize its 2014 decision.

Lepore – Doesn't recall it ever being mentioned that the system was pumped monthly.

Cohen – The manager confirms that the grease trap is cleared every 2 weeks and the septic is pumped monthly. The septic leaches and perks efficiently in the sandy soil.

Mohr – Regarding interior space, asked when it was reconfigured for stand-up high-top tables.

Cohen – Those were in existence in 2014.

Mohr – People who are standing don't count even if they drinking and eating; do they count as open checks.

Cohen – Yes, according to Title 5, which is based upon a formula. The downstairs bar does not serve food. Those tables do count as open checks not seated. The reservations system tracks how many people are seated.

Cooper – The permit says 124 people

Cohen – If they removed all the chairs, they could have 200 people as allowed by the Fire Code.

Hedden – The application in Title V says 124 seats. Brian Dudley, former Head of wastewater for Massachusetts Department of Environmental Protection, agreed standing drinkers count toward the septic as well; that includes the dishwasher, cleaning, etc. The problem is what's going into the ground.

Cooper – If you have 124 people eating and more people come in for a drink, they don't count to the 124 seats.

Cohen – They don't count; Millie's has been operating that way.

Santamaria – Read the motion from the 2014 minutes.

Lepore – Asked how many Island restaurants are on septic (4). Asked how they keep the bar checks and food checks separate.

Cohen – The reservation system. For 8 years we've been counting seated patrons.

Further discussion about one patron equals one seat and capacity is 124 seats and a person counts against the 124 seats whether or not they are sitting at a table or standing at the bar.

McKenna – It comes down to what the septic system can handle; the septic capacity is allowed 4,870 gallons per day and that is all water going down the drain. There is water usage that accompanies every person who comes in.

Cooper – In his mind, if a person walks in, they should be able to sit down. If 124 people are already seated, they can't sit and you're making them stand.

Cohen – Under Title V, you're allowed.

Mohr – She wants a DEP read on a definition of a seat and how standing customers wouldn't count. She believes people stand at the high-tops and eat. We need to craft a motion clearer than the 2014 motion which counts a standing customer against the 124 seats.

Santamaria – We’re running into management of expectations. With the season closed, we can come up with a plan and interpretation.

Cohen – We’ll work the staff and comes back with a plant that’s a public health service.

Hedden – 124 seats up would make things simple.

Grieder – Thanked the department for doing the inspections. Last month, a rep said it was the 1st time Millie’s was cited, which was true but there had been violations. The idea that the system rests in the off season; the reason it’s there is for environmental and nitrogen load and when it’s in use, it’s loading nitrogen into the system. Also, the 124 cap doesn’t include employees, patrons at the store, public who stop to use the bathroom, and standing patrons eating.

Daryoush – The discussion is fruitful and enlightening. Mr. Hedden and Mr. Visco came out several times this past summer; there is enforcement. The number of seats is reflected in the size of our staff. We are the public bathroom for the west end; he feels Millie’s has become a custodian of the west end.

Action No action at this time.

Vote N/A

3. Discussion of short-term rentals (STR)

Sitting Lepore, Cooper, McKenna, Mohr

Documentation STR registration application; BOH Strategic Plan

Representative None

Public None

Discussion (5:02) **Santamaria** – He’s been in meetings with Granicus to set up the software. The applications will be available on the website November 1st, but we won’t be accepting applications until January 1, 2023. We’ll probably need another staff member or 2, depending on the number of STRs we get.

McKenna – Asked if there’s a mass mailing going out to property owners.

Santamaria – The initial push will be obvious rentals. Granicus scours rental websites tagging Nantucket keyword; they will reach out directly to them. They will also do a mass mailing to anyone on the State list, which includes all properties previously registered. The last step is mailing those we haven’t seen.

McKenna – Regarding the 5-year plan 2017-2022, asked if there will be a new 5-year plan for 2023-2028.

Santamaria – Yes; he’s been talking with Janet Scholte, Strategic Planner. Once the Select Board plan is done, he’ll meet with Ms. Scholte to get ours updated for 2023-2028. It’ll be a full-blown strategic plan process.

Mohr – Asked if the final version of the application has been forwarded from Town Counsel.

Santamaria – Once the application is live, we’ll post it on the website; he’ll forward it out to BOH members tomorrow.

Lepore – Asked if anyone wants to take her place on the Marijuana Advisory Committee.

Cooper – Volunteered.

Santamaria – He’ll let Ms. Mooney know.

Action No action

Vote N/A

4. Ms. Lepore asked for someone to take over her position as representative for the Marijuana committee. With the STR committee, she has too much to do. They meet once a month.

Mr. Cooper volunteered.

Mr. Santamaria said he would contact Erika Mooney about Mr. Cooper taking over for Ms. Lepore.

VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes September 15, 2022
2. STR registration applications

VIII. ADJOURN

Action **Motion to Adjourn at 5:10 pm** (made by: Mohr) (seconded)
Vote Carried unanimously

Submitted by:
Terry L. Norton