



Town of Boylston Board of Health boh@boylston-ma.gov

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MEETING MINUTES

October 22, 2018

Members Present: Sarah Scheinfein, John Wentzell, Robert Thibeault

Members Absent: None

Others Present: Dennis Costello

Recorder: Melanie Rich

OTHER BUSINESS

Jim Haynes (Status on Lots 9D, 11D and 46C) – Mr. Haynes, Mike Kent (Partner), and John Grenier (Engineer) were in attendance. Mr. Haynes asked the board to sign off on his building permits. Dennis said the board has been looking at the 20-day time travel line as a setback line. In order to do a shared system, the lots have to be able to support a septic system on the lot. What's left after the setback line is not enough on those lots to put a septic system on to meet the shared system requirement. At the last meeting Mr. Haynes said they were going to do a Master Condo Association Deed for the septic system; Dennis was hoping that Mr. Haynes would bring that tonight. Mr. Haynes did not; he provided a map he received today showing the 20-day and 60-day line. He said the study says that you can't put septic leach fields on those three lots if they are within the 20-day time of travel. The Planning Board put that into the Order of Conditions. Mr. Haynes' attorney (by email) commented that the 1994 report does not bar all septic systems or call for eliminating lots that fall within the calculated 20-day time of travel. It calls for the selection of alternative waste water disposal locations outside the 20-day time of travel, and that is precisely what he is doing. Dennis agreed, but he also has to respect the setback line. If those lots had enough room to put a septic system on it after the setback line, it would be fine. Dennis said you cannot build anything before the time of travel line. Mr. Grenier said the 20-day time of travel is part of a settlement agreement with the Planning Board. Dennis disagreed and said the study was commissioned by the Board of Health and the Water Department. It was then brought to court and put into the Planning Board decision. Mr. Grenier said a 20-day time of travel does not exist under Title 5 regulations. Dennis agreed. Mr. Grenier said you could put a septic system on those lots according to Title 5. Dennis said the board, being a regulatory board, has to look at what the study encompassed and then use the standard of Title 5. It says in terms of nitrogen loading or having a shared system or a community system, you have to show that you have the ability aggregate-wise to put a system on that lot. He said the system itself as built will accept the flow. The BOH in its purview has to look at both things, a line which is a setback, and Title 5. Jack Wentzell thought the board should have Town Counsel review it. Mr. Haynes said the attorney has been looking at it since March; he has had the language, been contacted by two different attorneys, he doesn't get

back to the attorneys, and when he sends him information, he says he has to talk to Dennis and see what he thinks about it. On March 24th the BOH approved those lots subject to Town Counsel signing off on them. Town Counsel has had the information for eight months and has been unable to make a decision, nor has he gone anywhere to get the information to make the decision. Mr. Haynes said he has been in limbo for eight months. His attorney also told him the BOH agent has no grounds to withhold the sign-off under CMR regulations; it is not applicable. Dennis said that becomes an increase in flow. Mr. Haynes said he tried to make it a Condominium Association before they started this and Town Counsel would not allow it. At the July 17th meeting it was brought up and said it has to be a Condo Association. DEP regulations do not say that; it says "controlled by one entity". It doesn't say controlled by one entity as being a condo association. Mr. Haynes said it is controlled by one entity, a Homeowners Association. It is broken down separately and it meets the standards of DEP regulations. It comes down to condo documentation vs. shared system documentation. Town Counsel said the letter from Mark Donahue states that they will provide evidence to the BOH that the design flow of the facility does not exceed the design flow which could have been constructed without the use of a shared system including all applicable testing on each individual lot. Mr. Haynes said Town Counsel has gotten more documentation since the March 24th meeting. He also said Section 31E of the DEP regulations say if the BOH doesn't respond within 45 days, then it is automatically approved. Dennis said the plan was approved. Mr. Haynes said it is not fair to him to wait eight months. Jack asked if you use the 20-day time travel line in a shared system, does each individual parcel have to pass to get its own septic; Dennis said correct. He thinks that is the only standard of review the board has to look at. The line was drawn with nothing on the other side of it. Dennis did come across the Master Deed for the Condominium. Mr. Haynes said Town Counsel would not allow it to be done as a condominium; he said it has to be an HOA. Mr. Haynes also wanted to say that in January 2017 when he submitted the plans, he had four separate septic systems to handle all the over 55 condominiums. Dennis thought he should reduce the number of septic systems, which was done. Mr. Haynes said why not put them all in one location; Dennis agreed that would be great. The documentation was sent to Town Counsel. It first said "a facility and a condominium association". Dennis said he would not approve it as a facility, it would have to say "shared". By them doing that, Town Counsel said they had to do it as an HOA and not a Condominium Association or he would not sign off on it. They changed it and Dennis said those lots had to come out. He asked for one facility with no lot lines and he didn't receive it. Mr. Haynes said they could not do the deed restrictions because they were single family lots, and in order to put a duplex on a single-family lot, they couldn't wipe away all the lot lines. Sarah will personally reach out to Town Counsel tomorrow via the telephone. She will follow up with Mr. Haynes.

Mr. Kent said the time of travel information was not submitted to the DEP, it was not adopted, and therefore a mute-point, whether the town wants to do it or not. Dennis will check. He said that what was agreed to in the beginning was two Condominium Associations overrun by a Master Condominium Association to run the septic system. That way the ownership of that septic system is in a different entity than an HOA. Mr. Kent said HOA does exactly the same as a Condo Association; you can't take the money of out that separately monitored account. Their regulations, which are recorded, state that they can't touch the money for anything but septic. Dennis said the system is in place and the language is in place, it is the entity of who's running

it. He said if they could provide a letter from DEP that says they will look at the HOA as presented, the same as a Condominium Association, Dennis would have no problem. Mr. Haynes said DEP will not get involved until the BOH denies the permit. Mr. Haynes thanked the board for their time.

GENERAL BUSINESS

Sarah Scheinfein made a motion to approve the Meeting Minutes dated September 24, 2018; John Wentzell seconded; all voted in favor; motion approved.

November 26th was confirmed as the next meeting date.

AGENT'S REPORT

Mosquito Control – With the cooler weather, positive findings are beginning to slow down. As a reminder, the Mosquito Control Program cleans waterways during the winter; if any are known that need to be cleaned, residents should contact Mosquito Control directly.

Flu Clinics – The flu clinic will be held at the town hall on November 6th from 10AM to 2PM. It has been put on the BOH Facebook page and will be in the senior newsletter.

There will be a Region 2 set-up drill in the town hall on November 6th.

Sarah commented that we have an empty trailer. She suggested asking other towns what they are stocking. Once stocked, it will need ongoing maintenance since all of the items have expiration dates.

Warrant Article for Special Town Meeting – The article will not be on the Special Town Meeting. It was found that it has to be brought before the Annual Town Meeting.

PLAN REVIEW

14 Cottonwood Place (Prince) – Approved.

211 Sewall Street (Gaucher) – Approved.

66 Perry Road-Lot 46 (Barnard Hill Estates) – Approved.

2 Stark Terrace (Goulet) – Approved. It will require a Deed Restriction.

Informational Review (Cross Street Extension Definitive Subdivision Plan of Land) – The board reviewed the plan. They have no issues at this time.

Sarah Scheinfein made a motion to adjourn; Jack Wentzell seconded the motion; all voted in favor. The meeting was adjourned at 7:30 p.m.