

Town of Concord
Board of Health

Minutes of the Meeting
Tuesday, March 20, 2018

PRESENT: Raymond Considine, Chairman
Dr. Deborah Greene
Mark Haddad
Alma Healey
Jill Block

Susan G. Rask, Public Health Director
Karen M. Byrne, Administrative Assistant

OTHERS: Molly Obendorf, EIT, Stamski and McNary, Inc., Acton MA; Alice Kaufman, BOS Liaison; Jason Springer, The Umbrella Summer Arts Program

The Chairman called the meeting to order at 7:00 p.m.

1. PUBLIC HEARING – Definitive Subdivision Plan

Definitive Subdivision Plan 254 & 254A Fairhaven Road (PCL: 4001)

The Board met with Molly Obendorf, EIT, Stamski and McNary, system designer, for their client Joan Campbell, Trustee/owner for the Joan Campbell Trust for the Definitive Subdivision known as 254 and 254A Fairhaven Road, Concord MA.

Background

The applicant proposed to divide an existing parcel (4001)¹ into two (2) separate building lots as follows:

- Proposed Lot 1 will include an existing 2-bedroom dwelling with a deed restriction limiting the use of the dwelling as such. The onsite sewage disposal system serving this dwelling was installed in 1998. The system was inspected by a DEP licensed Title 5 Inspector on December 20, 2017 and the system passed inspection.
- Proposed Lot 2 will include the existing dwelling known as 254 Fairhaven Road. The onsite sewage disposal system for this dwelling was installed approximately 42 years ago (1976) according to a Title 5 inspection report from 1997. Health Department records do not contain an original design plan for the home however the Title 5 inspection report from April 1997 indicates that the septic system consists of a septic tank, distribution box and three large leaching pits.

Discussions with the applicant (owner) triggered further investigation into the location of existing system components serving her home at 254 Fairhaven Road (4001) and it was discovered that some of the

¹ Parcel 4001 currently has two dwellings located on it (254 and 254A Fairhaven Road) The parcel line delineation made in 1990 should not have been allowed without an easement or relocation of the onsite sewage disposal system.

components were located across the property line. The new parcel line delineation made in 1990 should not have been allowed without the proper easements or relocation of the onsite sewage disposal system.

Ms. Rask said that it was an unfortunate situation for the current owner because the Title 5 inspection report submitted in April 1997 (when she took ownership) did not indicate that system components crossed property lines and Title search did not reference it either at the time. The adjacent parcel was put into a conservation restriction and is now owned by the Walden Woods Project. They are not willing to grant an easement to Ms. Campbell.

Stamski and McNary conducted additional soil tests and plan to design a new onsite sewage disposal system for 254 Fairhaven Road to ensure full compliance with Title 5 as well as reconfigure the property lot lines for the new subdivision to accommodate such design.

Following a brief discussion, Health Division staff recommended the Board of Health approve the plan contingent upon the following:

1. The on-site sewage disposal system serving dwelling #254 (proposed lot 2) shall be upgraded in full compliance with all requirements of 310 CMR 15.000 and Concord Board of Health Regulations 3.00. All system components must be located on proposed Lot 2.

Mark Haddad moved that the Board APPROVE the Definitive Subdivision plan submitted by the Joan Campbell Trust for the proposed 254 and 254A Fairhaven Road Subdivision plan dated January 30, 2018 revised February 3, 2018 by Stamski and McNary, Inc., with the above referenced condition. Alma Healey seconded it. All VOTED in favor.

2. PUBLIC HEARING – Recreational Camp Site Assignment

The Board met with Jason Springer, Director of Education at The Umbrella Community Arts Center for a recreational camp site license assignment at 57 Old Road to Nine Acre Corner (Parcel 3988) for the 2018 and 2019 camp season. This property is the temporary office space for The Umbrella while extensive renovations are completed at their location on 40 Stow Street, Concord.

According to State Regulations, (MGL Ch. 140, s 32B) a summer camp/recreational camp cannot be issued a license to operate until the Board of Health holds a public hearing “reasonable notice of which shall have been published once in a newspaper in such city and town.”

Section 105 CMR 430 of the State Sanitary Code for Recreational Camps for Children reads:

“No person shall operate a recreational camp for children unless it is located:

- (a) So as to be accessible at all times during the designated camp season;
- (b) Where surface drainage conditions create no health or safety hazards;
- (c) Where approved water supply and sewage disposal facilities can be and are provided; and
- (d) Where traffic conditions create no undue safety hazards”

In the past, the Board has granted licenses with the understanding that the annual “operating license” would be granted on the condition that the Health Division staff verified compliance with the applicable sections of the State Sanitary Code, 105 CMR 430.000, *Minimum Safety Standards for Recreational Camps for Children*.

Mr. Springer reviewed the proposal and parking/traffic plan stating that all of the necessary criteria had been met and that The Umbrella Staff was currently working through some code related issues with

Public Health Inspector Gabrielle and those would be dealt with prior to the camp season. Ms. Rask noted that a separate site license assignment was required regardless.

Dr. Greene moved that Board GRANT the Recreational Camp Site Assignment to The Umbrella Community Arts Center at 57 Old Road to Nine Acre Corner for the 2018 and 2019 camp seasons. Mark Haddad seconded it. All VOTED in favor.

3. DISCUSSION – Town Meeting Warrant Article 30

The Board reviewed, discussed and finalized its Power Point presentation for Town Meeting. All agreed that it needed to be shortened time-wise based upon input received following the Select Board's Public Hearing. Board members also agreed to mainly focus on the public health data outlining the impact that marijuana usage has had on communities where retail sales were allowed (particularly the youth) allowing other boards and committees to discuss the zoning and fiscal components.

The Chair asked whether the Board should consider a fallback position if the article was modified at Town Meeting (i.e., if someone suggested language to include a marijuana-testing-facility. Dr. Greene felt it was unnecessary to do so; in her opinion, at that point, it would be the will of the Town Meeting Body. Board members agreed. BOS Liaison Alice Kaufman added that it was absolutely within the Board's purview to take a few moments to caucus on an amendment (if it were made) and then speak to it if members were so inclined.

Mark Haddad and Dr. Greene reiterated that the Board had already debated and decided upon its position to completely opt out of retail sales of non-medical marijuana and entertaining modifications felt disingenuous. No further action was taken.

The Board briefly discussed CBD products² and how it might weigh in on how the Town should address those types of products. PHD Rask felt confident CBD products would be considered similarly to other marijuana derived items and regulated by the State. However, Ms. Rask would confirm.

Town Meeting Related

The School Committee has scheduled TM Warrant Article 30 on its March 27th meeting agenda and will decide whether it will take a position to support it at Town Meeting. On the Board's behalf, Ms. Rask offered that one or more member would gladly attend if necessary.

Marijuana Related Town Meeting Articles

- Article 31 – Accept MGL Ch64 N & 3 and Adopt a 3% Local Sales Tax on Marijuana Products (impose a local sales tax upon the sale or transfer of marijuana and marijuana products)
- Article 32 - Zoning Bylaw Amendment – Marijuana Establishment Temporary Moratorium Extension (through December 31, 2018)

The Board discussed whether to take an official position on either article. Because it could not be assured the funds generated from a local tax (3% tax on marijuana products) would be dedicated specifically towards substance abuse education, public safety, etc., the Board decided Article 31 did not require any further discussion or comment.

² (products containing the non-psychoactive ingredient of cannabis)

After a short debate it was decided that recommending affirmative action for Article 32 - Zoning Bylaw Amendment was more aligned with its position on retail sales of marijuana. Dr. Greene moved that the Board of Health recommend AFFIRMATIVE ACTION on Article 32. Mark Haddad seconded it. All VOTED in favor.

Miscellaneous

Alice Kaufman, BOS Liaison commended the Board on the presentation it made at the Selectmen's Public Hearing. Mr. Considine asked if the Select Board had taken a vote to support Article 30. Ms. Kaufman noted after a healthy debate of the issue, the Selectmen voted 4-1 in support.

Board members brainstormed on how to best facilitate getting its message out in the last few weeks leading to Town Meeting. Some ideas were writing a letter to the editor, outreach to medical professionals and the Youth Services Coordinator for contacts.

4. SEPTIC BETTERMENT LOAN PROGRAM

Preliminary Lien Assessments

Application for loans for the following properties were reviewed and processed by the Health Department's Administrative staff. Acting as its agent, the Assistant Public Health Director reviewed the Title 5 inspection reports and confirmed that the on-site sewage disposal systems were in failure:

- 11 Woodland Road (Lydon) - \$30,000
- 105 Prescott Road (Grant/Rubin) - \$30,000

Staff requested that the Board find the onsite sewage disposal systems on the above listed properties as public health nuisances per MGL, CH 111 s., 127B and 127 B ½ and to authorize the initial betterment lien assessments.

Jill Block moved that the Board VOTE to find the onsite sewage disposal system at 11 Woodland Road be deemed as public health nuisances per MGL, CH, 111, s., 127B & 127B ½ and to authorize the initial betterment lien assessments not to exceed \$30,000 for that property to be filed at the Registry of Deeds. Dr. Greene seconded. All VOTED in favor.

Dr. Greene moved that the Board VOTE to find the onsite sewage disposal system at 105 Prescott Road be deemed as a public health nuisance per MGL, CH 111 s., 127B and 127 B1/2 and to authorize the initial betterment lien assessment. Jill Block seconded it. All VOTED in favor.

5. CHAIRMAN & BOARD MEMBERS REPORTS

Chair Report

Chairman Considine planned to contact the Concord Journal for consideration to write an informational article on the Board's position/rationale for the warrant article proposing a ban of non-medical retail marijuana establishments in Concord. He asked staff and Board members to be available to potentially speak with the Concord Journal staff.

At the last meeting, the Board discussed appointing PHD Rask as its designated representative on the Pollinator Health Advisory Committee (PHAC) however, he was reminded that only residents could serve on a town committee and staff should not be assigned those duties. Therefore, Mr. Considine reached out to Concord Resident Joe Levine, a local biologist and avid gardener who is well-informed on the issue of bee health and in developing alternatives to the use of neonicotinoid. Mr. Levine expressed an interest to represent the Board of Health on the PHAC. Chairman Considine asked if anyone objected to recommending Mr. Levine and/or if others

had anyone in mind. Mark Haddad moved to recommend Mr. Levine as the Board of Health designee on the PHAC. Jill Block seconded it. All VOTED in favor.

Ms. Kaufman reminded staff to ask Mr. Levine to complete the Green Card for a Committee membership.

Board Member Reports

Mark Haddad informed the Board that the Warrant Article banning leaf blowers had been withdrawn; Ms. Kaufman confirmed that and advised that Mr. Richardson had recommended to the Selectmen that a task force or study group (Sustainable Landscape Committee) be initiated. The BOS decided not to take action until the conclusion of Town Meeting. Ms. Kaufman noted there may already be a committee in place that could be tasked with this endeavor.

Jill Block is nearing completion on the project (April 2018) for the tool kit for Massachusetts Health Officer's Association for opioid abuse. One of the main recommendations for Health Departments is for consistent data collection and outlining the challenges/needs of coordinating efforts with Police, Fire, Schools, and pertinent town agencies.

Alma Healey attended a seminar conducted by Dr. Ruth Potin on the effects of marijuana, alcohol, and other substances on the developing teen brains. Ms. Healey said it was an excellent presentation and some of her other seminars could be found on UTube. She strongly urged Board members to query them and hoped that the Board of Health could utilize her expertise on future endeavors on this topic.

4. STAFF REPORTS

Ms. Rask provided the Board a copy of letter dated 2/9/18 to the Cannabis Control Commission from the Massachusetts District Attorneys Association (MDDA). In the letter, the MDAA urges the Commission to “act responsibly and cautiously in promulgating Marijuana regulations.....and authorizing and regulating only that which the statute permits plainly and clearly.....”³

The Substance Use Assessment Breakfast date has been changed to Friday, March 23 at 141 Keyes Road. At that meeting the findings from the Assessment (CHNA grant funded) will be presented by the Town's consultant Louisa Paushter to stakeholders who may be interested in creating a Substance Use Task Force (Schools, School Committee, Police, Board of Health, etc.). Ms. Rask said it was a very challenging project and collecting the data was difficult for a variety of reasons (HIPA, lack of organization, etc.) and Ms. Paushter literally dug through old paper records to compile it. Nonetheless, Ms. Rask said it was a starting point and a shared knowledge base was the best way to implement any sort of useful Task Force.

³ Letter dated 2/9/18 – MDDAA to Cannabis Control Commission

Ms. Rask submitted the February Health Director's report that was not given last month summarizing the Health Department's activities since January.

PHD Rask also provided the Board with a copy of an Order Letter sent to the Asian Gourmet and Sushi House due to serious critical violations observed during its last routine food service inspection conducted by Maureen Lee (Health Department's contracted Food Service Inspector). The violations were extensive and the owners will be required to attend the April Board of Health meeting.

6. BOARD CALENDAR & MINUTES

The Board reviewed the calendar for the next coming meetings. The next regular Board of Health meeting is Tuesday, April 23, 2018.

The minutes of the December 17, 2017 meeting were discussed and reviewed. Approval will be deferred to the April meeting.

Other Business

Ms. Kaufman had been approached by a fellow Select Board colleague to inquire whether the Board of Health would consider taking the issue of concussions in sports as an initiative. Board members and PHD Rask advised that there was already a state mandated concussion protocol for all schools and recreational camps to follow and that it was well adhered to; Board members did not feel a separate local public health policy was required at this time.

The meeting adjourned at approximately 9:05 p.m.

Board of Health
Signature Page

Respectfully submitted by,

Karen M. O’Keefe-Byrne, Administrative Assistant
Concord Board of Health

Raymond Considine, Chairman

Dr. Deborah Greene

Mark Haddad

Alma Healey

Jill Block