

Town of Concord
Board of Health

Minutes of the Meeting
Tuesday, February 15, 2022

PRESENT: Jill Block, Chair, MPH
Mark Haddad, Esq.
Dr. Deborah Greene
Alma Healey, RN

Karen Byrne, Senior Administrative Assistant
Gabrielle White, Public Health Inspector
Casey Mellin, Assistant Public Health Director
Marcia Rasmussen, Director Planning Land Management

OTHERS: Jeffrey Perley, PE, Perley Engineering (via phone); Carole Wayland, 51 Walden Street; Henry Dane, Liaison, BOS; Todd Benjamin; Tricia McGean, Public Health Nurse; Molly Oberdorf, PE, Stamski and McNary, Inc.; Mark white AWMW, LLC, Jim Kelly, Bentley Builders.

1. OPEN MEETING

Chairman Jill Block opened the public meeting at 7:00 p.m. stating that it was held on the Zoom Platform in accordance with the Town of Concord's Policy Directive and Guidelines on April 1, 2020 as amended. She read a brief statement outlining meeting protocol and noted that the meeting was being recorded and available for later viewing on the Town's website. All Board votes will be taken via roll call starting with attendance. Board Members present (Block, Haddad, Healey, Greene).

2. PUBLIC HEARING – ONSITE SEWAGE DISPOSAL

736 Strawberry Hill Road – Request for Variance

Jeff Perley met with the Board via phone for his clients/owners Ellen Whiteman and Scott Cremer to request a variance from Local CBHR 3.06, Table (A) Minimum Setbacks to Wetland Resource Area to locate a soil absorption system (SAS/Leaching Field) 63 feet from a wetland resource area instead of 75 feet.

Mr. Perley explained that due to existing lot constraints he was limited in positioning the bed (leaching field) from being positioned further out; particularly due to a large 18-inch crabapple tree with large low-hanging branches that would prevent excavation as well as potential root intrusion if the leaching bed is positioned closer. He also noted that the proposed set back of 63-feet conforms to Title 5 and the Massachusetts Wetlands Protection Act of 50-foot setback to leaching field from wetlands.

The plan has been reviewed by APHD Mellin and complies with Title 5 other than the wetland setback. After a brief discussion, Dr. Greene said she was fine with issuing a variance but was wary to set a precedent to grant a waiver simply because an owner did not want to eliminate a tree in the yard. Mark Haddad concurred however because the replacement system was basically going back in the same location as the existing, he felt the waiver was acceptable. The consensus of the Board was that variances are reviewed on a case-by-case basis and that the removal of the tree would not eliminate the need for the wetland waiver. Mr. Perley reiterated Mr. Haddad's

comments. There was no further discussion. Alma Healey moved to approve the local variance as requested. Dr. Deborah Greene seconded it. All VOTED in favor. (Roll Call: Block, Greene, Haddad, Healey in favor; motion carried 4-0).

3. PUBLIC HEARING – DEFINITIVE SUBDIVISION

Sunnyside Lane (4) Lot Subdivision (PCLS: 2088, 2089, 2092, 2092-1, 2093)

Molly Oberdorf, PE, Stamski and McNary, Inc. met with the Board for her client AWMW, LLC (Mark White, Bentley Building) for approval of the proposed 4-lot subdivision for 4 single family homes with individual onsite sewage systems (4-bedroom system carrying capacity each – 440/gpd; project total 1760/gpd).

Background

Under MGL, Chapter 41, Sections 81-S and 81-U, the Board of Health is responsible for the review of preliminary and definitive subdivisions prior to the applicant's submittal to the Planning Board. The Board of Health's responsibility in reviewing the plan is to determine whether areas shown on the plan can be used for building sites without injury to the public health. In practical terms, this means reviewing the subdivision plan for whether the installation of septic systems is feasible on the proposed lots.

Discussion

Ms. Oberdorf reviewed the soil testing results and proposed location for the four proposed soil absorption systems noting that the soil was primarily sandy soils with a percolation rate of <2 minutes/inch which will require a 5-foot vertical separation between the bottom of the SAS/leaching field and groundwater stating that this will require the systems to be constructed in fill as defined in Title 5 (Section 15.255).

Chair Jill Block asked if the Board or staff had any comments. No comments by the Board. Sr. Administrative Assistant Karen Byrne noted that she, APHD Mellin and Director of Planning and Land Management Marcia Rasmussen had reviewed the plan and the preliminary design information submitted by the applicant and it shows that the construction of the septic systems in fill and in the locations proposed appears feasible. Staff recommends approval of the Definitive Subdivision plan with the following conditions:

1. Individual sewage disposal systems shall be designed, permitted and constructed in accordance with (a) Title 5 of the State Environmental Code, 310 CMR 15.000, Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of Onsite Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage, and (b) Concord Board of Health Regulations (CBHR 3.00), Wastewater Management.
2. Town water shall be available.
3. Any wells for domestic water, irrigation purposes, or heat pump use, shall be designed, permitted and constructed in accordance with Concord Board of Health Regulations (CBHR 7.00) "Minimum Sanitation Standards for Private and Semi-Public Water Supplies"
4. No underground fuel storage systems shall be installed without a variance granted by the Board of Health in accordance with Section 4 of the Underground Storage Tank Bylaw adopted by the April 1993 Town Meeting.
5. Tree stumps and wood wastes generated by land-clearing operations shall not be buried on site. (DEP's solid waste regulations 310 CMR 16.05(3)(d) and 310 CMR 19.013(1)(h) prohibit stump dumps on lots being developed for sale.

Mark Haddad moved to APPROVE the proposed Definitive Subdivision Plan prepared by Stamski and McNary, Inc. dated January 5, 2022 with the above staff recommendations and conditions to be forwarded to the Planning Board. Dr. Deborah Greene seconded it. All VOTED in favor. (Roll Call: Block, Greene, Haddad, Healey – yes; motion carried 4-0).

4. DISCUSSION – COVID-19

Covid-19 Case Numbers and Mask Mandate

The Board discussed at length the newest recommendations announced by the Massachusetts Department of Public Health and the Governor that all mask mandates would be lifted on February 28th including schools K-12 but that individual towns/cities, business, etc., could continue to apply or enforce individual mandates. Masks will still be strongly recommended in areas where social distances cannot be achieved, public transportation and some buildings.

PHN Tricia McGean reviewed Covid-19 case numbers in Concord from February 1-7, 2022 (17 confirmed PCR cases). She reminded the Board that home antigen tests were not reported which likely meant that the actual cases were 2-3 times higher than what she was reporting however based upon the numbers she was cautiously optimistic that we were moving in the right direction. Relating to the mask mandate in schools PHN McGean stated that Concord, Lincoln, and Sudbury were all likely to keep the mandate in place until 3/7/22 allowing a week to pass after February school vacation ends.

At this point, Chair Jill Block asked Board members how they felt about lifting the mask mandate that was implemented on December 28, 2021 now that the MDPH and State were changing guidelines as well as noting that the numbers of cases of Covid-19 were 80% lower today than they were in January 2022.

Board Member Alma Healey felt the mask mandate could be lifted before February 28, 2022 stating “the sooner the better” allowing individuals who were uncomfortable to make their own decisions to mask or not. In her opinion, at this point in time with the cases declining and vaccination rates rising the emotional tolls on children needed to be taken into consideration. The teasing and other social effects on young people was too high to continue with the mandate; kids need to socialize and see smiles, expressions, etc., and do not need to be masked at all times – it is no healthy if the facts (statistics/cases) do not warrant it.

Todd Benjamin said he was excited that the Board was contemplating lifting the mask mandate reiterating Ms. Healey’s comments stating that the mental and social health of students was being severely impacted by continuous mask mandates in schools. He believes stress levels will begin to decline when individuals can move towards making their own choices relating to masks.

Nick Miller, Concord Players noted that he was in attendance to encourage the Board to consider rescinding the mask mandate and/or grant a waiver for the groups that perform at 51 Walden – he was happy to hear the Board was considering it.

Concord resident Joanne Taranto urged the Board to lift the mask mandate sooner rather than later as well and that the March 7th date seems arbitrary to her because outside of school the same children are meeting one another, playing, participating in sports – all without masking.

Chair Jill Block agreed that all of the flip flopping of dates does make everyone nuts and that considering how the case numbers were declining she felt that moving back towards “strongly recommending masks” in places where social distancing cannot be achieved and allowing businesses to do whatever they feel is best for them was the direction she was leaning.

Following additional discussion, Dr. Greene felt that the Board could rescind the mask mandate effective immediately regardless of when the state and/or school chose to do so and did not think it would be a significant issue or bump in the road. Mark Haddad agreed. He also stated that if the numbers (Covid-19 cases) were to start to increase the Board always reserved the right to reinstate and review all public health data to do that if warranted.

Jill Block stated that the School Committee was meeting at the same time as the CBOH and was anxiously awaiting to hear the Board's decision on the mask mandate for the town and recommendation on the mask mandate for the schools; noting there were several folks on the Zoom meeting who would be reporting back to them once it made a decision.

Dr. Deborah Greene moved to rescind the Indoor Mask Mandate in Concord effective immediately. Mark Haddad seconded it noting the Board of Health reserves the right to revisit the issue if case numbers warrant it. All VOTED in favor. (Roll Call: Block, Greene, Haddad, Healey; motion carried 4-0).

The Board then discussed what recommendation it would provide the School Committee with respect to masks in schools. The Board was evenly divided on whether to recommend the school mask mandate be eliminated immediately or on March 7th.

Several members of the audience and representatives from the Concord Public Schools commended the Board of Health and Health Division staff for the tremendous support given to the Town of Concord (schools, businesses, residents) throughout this entire pandemic.

In closing, Chair Jill Block mentioned that the Health Division staff had developed an application and process for Mask Waivers if the need arises down the road. At that time, the application will be uploaded to the Town website with any other information from the Board.

5. DISCUSSION – BOH Letter to MDPH

In October 2021, the Board of Health heard a variance request from Debra Stark and Debra's Next Door to allow "Refilling Returnable(s)" for bulk dry foods. At that time, Ms. Stark had also drafted a letter for the Board of Health to consider and send it to the Massachusetts Department of Public Health Food Safety urging it to change the food code to better reflect the changing environment of many municipalities and communities moving towards reducing single-use plastics and more sustainable options.

Board members Jill Block and Ray Considine used that letter as a template for a rough draft and asked Administrative Staff to revise it to provide for review by the Board at this meeting. If the Board decides to move forward with sending it, Ms. Byrne stated that a formal vote would be required.¹

The Board reviewed the letter provided by staff. Dr. Greene moved to APPROVE the letter to the Department of Public Health drafted by Administrative Staff urging MDPH to consider changing the Food Code relative to "Refilling Returnables" (Massachusetts Food Code 105 CMR 590, Section 3.304.17). Mark Haddad seconded it. All VOTED in favor. (Roll Call: Block, Greene, Haddad, Healey; motion carried 4-0).

6. BOARD MEMBER REPORTS

Chair Jill Block announced that Alma Healey would be stepping down from her position on the Board of Health after the March meeting and expressed how much the Board would miss her vast expertise and calm, steady presence. She also noted that Board member Ray Considine's term ends in May 2022 which would also leave another vacancy. Ms. Block has reached out to Town Leadership and at the Chair's Breakfast about the need for

¹ Letter dated 2/16/22 to Massachusetts Department of Public Health – Proposed Food Code Change
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additional members of the Board of Health. She invited her fellow members to reach out to their contacts with nursing and health social service/policy experience and urge them to sign up on the volunteer cards.

7. BOARD CALENDAR & MINUTES

The Board reviewed the calendar for the next few months. The March meeting has been changed to Wednesday, March 16th to accommodate Board members for a quorum.

The minutes of the December and January meetings will be deferred until the next meeting.

8. STAFF UPDATES

Director of Planning and Land Management Marcia Rasmussen provided the Board with an update on the Public Health Director position. She advised that there were (4) applicants moving forward with the second interview and would be scheduled shortly. The interview team would be comprised of herself, Public Works Director Alan Cathcart and Deputy Town Manager Kate Hodges.

There were no other staff reports.

The meeting adjourned at approximately 8:30 p.m.

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Respectfully submitted by,

Karen M. Byrne, Senior Administrative Assistant
Concord Board of Health

Jill Block, Chair, MPH

Dr. Deborah Greene

Alma Healey, RN

Mark Haddad, Esq.