

BOARD OF HEALTH

Meeting

Town of Nantucket

131 Pleasant Street

Nantucket, Massachusetts 02554

www.nantucket-ma.gov



Commissioners: Stephen Visco (chair), Malcolm MacNab, MD, PHD (Vice chair), James Cooper, Meredith Lepore, Melissa Murphy

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

~~ MINUTES ~~

Thursday, February 17, 2022

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; Malcolm MacNab, MD, PHD; James Cooper; Meredith Lepore; Melissa Murphy, Select Board

Late Arrival: Murphy, 4:12 pm

I. ANNOUNCEMENTS

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

1. **MacNab** – On Saturday, April 2nd the genetic mice group from MIT will be on Island to provide an update. It will be a public meeting.

III. APPROVAL OF MINUTES

1. January 20, 2022

MacNab Page 3 top: “if there is a positive antigen test...” it seems a word is missing such as “confirmed will not...”

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

Roll-call vote Carried 4-0//Cooper, MacNab, Lepore, and Visco-aye

IV. DIRECTOR'S REPORT

1. Health Agents from Martha's Vineyard will join us at the next meeting to discuss the State grant we both received.
2. State Access for Public Health Excellence Grant, which we received last May, is now in full swing. Using it, we were able to hire Patrick Rodan-Reynolds from the Nevada Department of Agriculture to do tick and biology vector-borne illness for both Nantucket and the Vineyard; he'll be at the next meeting. We hired Alexa Babaian, Health epidemiologist, to do research and data for Human Services as well as the Health Department for behavioral and mental health. We also hired Celina Guimaraes to be our food auditor to ensure food inspections are done to standards.

V. BOH APPLICATIONS REVIEW

1. ACO Release for Bartholomae, 52 Tennessee Avenue, 59.4-95, permitted for fully compliant septic system

Sitting Visco, MacNab, Cooper, Lepore

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – This and the next are connected. They've installed the compliant system

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

Roll-call vote Carried 4-0//Cooper, MacNab, Lepore, and Visco-aye

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2. Loan Request for Bartholomae, 52 Tennessee Avenue, 59.4-95, MHWS Zone A

Sitting Visco, MacNab, Cooper, Lepore
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – No objections.
Action **Motion to Approve the request.** (made by: MacNab) (seconded)
Roll-call vote Carried 4-0//Cooper, MacNab, Lepore, and Visco-aye

3. Loan Release for Norris, 9 Bayberry Lane, 67-62 per tax collector

Sitting Visco, MacNab, Cooper, Lepore
Documentation Supporting documents and plans, staff recommendations.
Discussion **Santamaria** – Paid off rest of loan.
Action Motion to Approve the release. (made by: Cooper) (seconded)
Roll-call vote Carried 4-0//Cooper, MacNab, Lepore, and Visco-aye

4. Variance Request for Linton, 2 Creek Lane, 38-93, 51.02 B and 51.06 C separation and flow

Sitting Visco, MacNab, Cooper, Lepore, Murphy
Documentation Supporting documents and plans, staff recommendations.
Discussion **Jeff Blackwell**, Blackwell & Associates – The proposal is for an addition requiring an upgraded system. We're requesting a waiver from 50' separation and limit on nitrogen loading. This site is a candidate for the 4-bedroom flow with I/A treatment.
LaFavre – Gives this a positive recommendation; the separation from the property line to septic can meet 10' separation and will provide a net benefit. Before we sign the C&C, the usual as-built O&M and the recorded deed notice on the property will be required. She'd also like to inspect the system and house prior to final signoff.
Visco – The prior approval was issued when Fisher's Landing had more empty lots; they were granted more bedrooms per lot than would normally be allowed
Action **Motion to Approve the variance request.** (made by: Cooper) (seconded)
Roll-call vote Carried 5-0//Cooper, MacNab, Lepore, Murphy, and Visco-aye

5. Variance Request for Vienneau, 3 Correia Lane, 80-63, shared septic system

Sitting Visco, MacNab, Cooper, Lepore, Murphy
Documentation Supporting documents and plans, staff recommendations.
Discussion **Jeff Blackwell**, Blackwell & Associates – Currently, the lot allows 7 bedrooms with an I/A system; they want to subdivide to create a second lot; the configuration of wells and septic allows the installation of a fully-compliant system to serve both properties. It meets all separation requirements and will comply with Title 5 shared-system requirements.
Cooper – Asked who is responsible for maintenance of the system.
Blackwell – That's memorialized by the Covenant and Easement document, which has been drafted to the extent it can be without the daughter taking possession of the covenant lot. All costs would be shared by both owners.
LaFavre – She did a preliminary look at the plan and doesn't anticipate any issues. Each lot will have its own well. There is a 3-year inspection requirement by the Department of Environmental Protection (DEP); also, they will have to record the I/A notice, shared system notice, and maintenance notice. Would like to see the main dwelling limited to 4 bedrooms and the covenant lot to 3 bedrooms.
Murphy – Asked if the maintenance agreement would be transferrable with the property.
Blackwell – Yes, all agreements are transferrable to a new property owner.
Cooper – What happens if one of the structures wants to add a bedroom.
Blackwell – The designation of number of bedrooms per structure would be on record at the Health Department; a new owner would not be able to add a bedroom beyond that.
Action **Motion to Grant the variance.** (made by: Cooper) (seconded)
Roll-call vote Carried 5-0//Cooper, MacNab, Lepore, Murphy, and Visco-aye

6. Variance Request for Watkins, 6 Huntington, 71.3.2-322, waive I/A requirement

Sitting Visco, MacNab, Cooper, Lepore, Murphy

Documentation Supporting documents and plans, staff recommendations.

Discussion **Hedden** – This was a building application for garage with a 2nd-floor bedroom on an 8,000sf lot with 3 bedrooms already; adding a bedroom would make the lot non-compliant. They are required to have a 1500-gallon tank and upgrade to an I/A system. They are asking not to have to put in the I/A system. Until we have a building application to review, we can't provide full input on the proposal.

Visco – Reviewed the background on the property and what has been allowed in a zone that isn't nitrogen sensitive. This is new construction and requires Maximum Feasible Allowance.

Cooper – There are a lot of tiny lots out there; we've never agreed to something like this before. If we grant this variance, it will set a precedent for adding a bedroom. He wants to keep the rules the way they are.

Action **Motion to Deny the variance request.** (made by: Cooper) (seconded)

Roll-call vote Carried 5-0//Cooper, MacNab, Murphy, Lepore, and Visco-aye

7. Variance Request for Colon-Osorio, 189 Eel Point Road, 33-20, waive I/A requirement

Sitting MacNab (acting chair), Cooper, Lepore, Murphy

Documentation Supporting documents and plans, staff recommendations.

Discussion **Paul Santos**, Nantucket Surveyors – This 4.6-acre lot was purchased by Nantucket Island Land Bank. Mr. Colon-Osorio has right of use of the property for 5 years. At that time the structures and 3-bedroom system will be removed. The regulations require that upon transfer of property, the system is required to convert to I/A; the current system is fully functioning though has a technical failure to local regulations. The site is in a nitro-sensitive Zone A; that limits 1 bedroom per 10,000sf; using that, this property would be allowed 20 bedrooms. If this were a private transfer, the current owner would put in an I/A system. Asking the system to continue to be used and that at the end of 5 years when it's removed, the site goes back to natural state. Mr. Colon-Osorio is willing have the system inspect and the technical failure be allowed.

MacNab – In 5 years if Land Bank sells the property or decides to keep the house, asked what happens.

Jesse Bell, Land Bank – It's very difficult for the Land Bank to sell property. This is definitely a property we would not dispose of. It's 100% conservation and we are willing to commit that we won't use that property for housing.

Cooper – He doesn't care who bought it; a new system should have been put in before the sale. Doesn't understand why Mr. Colon-Osorio is being allowed to continue living in the house for 5 years with an unsafe system.

Bell – There is a \$40,000 escrow for septic upgrade in place pending on the outcome of this meeting.

Santos – The system will not be there in 5 years. The system is not unsafe and meets the State code. This has to do with local regulations and it meets the requirement of 1 bedroom per 10,000sf

Murphy – If the only reason for the upgrade is because of transfer of ownership and there's a commitment to have the system tested, keep money in escrow, and upgrade should the system fail, she doesn't see a need to upgrade the system at this time. The intended use is the same for 5 years before it becomes open space.

Santamaria – He doesn't feel this is an unreasonable request. Mr. Hedden and Ms. Lafavre have researched this.

LaFavre – We've had this situation before. In her opinion, 5 years is too long to allow someone to use the property without the upgrade. We've had other instances in the past where there was long-time use of the property after it was sold to the Land Bank.

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Hedden – It’s the regulation, the property changed hands and the purpose of the regulation is to improve the environment. They would be out of compliance for a number of years.

MacNab – His understanding is that if the system fails, it will be replaced.

Murphy – She’s not sure she heard the existence of precedent. In this instance she’s curious if these types of land transfers were considered. If this property hadn’t changed ownership, the system wouldn’t have to be upgraded.

Visco – This property was supposed to be inspected in 2007; it’s in Zone A; it’s right on the marsh. There is an environmental benefit by putting in the I/A.

MacNab – Asked why it wasn’t upgraded before the transfer.

Visco – He wasn’t required to upgrade prior to the transfer unless the parties had agreed the system would be upgrade before the new owner takes possession.

Lepore – On the GIS, it says the house has 4 bedrooms.

Santamaria – The way we count bedrooms is not the same as the Assessors.

Lepore – Asked about the environmental impact from the disruption of the upgrade versus the short time it would be in place.

Santos – It would be a replacement of the tank only; that would happen outside the 100’ setback to the marsh. Everything else becomes compliant with the installation of the I/A system.

Colon-Osorio – He has kept the property in good shape and the system works. He will be there at most 5 years, at which time it will be abandoned. There is plenty of land to support the system, which is in technical failure to local regulations. He feels a denial would be punishing him for doing the right thing of keeping the land for conservation.

Lepore – It does matter that it’s going to the Land Bank; it should have been fixed years ago, but we know how long it will be used before the system is removed and the land opened up. She’s willing to let it remain for 5 years as long as we specify that it is going to the Land Bank.

MacNab – We can require that the house and the system will be pulled out in 5 years.

LaFavre – We’ve had this issue come up before; we can’t have 2 sets of regulations. We have loan programs available to defray the cost of an upgrade of a system. What happened in the other cases is the owner remained longer than stated, we had to ticket the owner and take them to court. The court system for doing that gets dragged out. She feels allowing this would be a gamble.

Colon-Osorio – His contract with the Land Bank requires that he leave the property and remove the house in 5 years; he can’t stay after 5 years. He is willing to sign away any rights to try and stay beyond the 5 years.

Santos – When we talk about precedent, the Land Bank is different. You have a commitment as to what’s happening in 5 years.

Cooper – When people come to us, 99% of the time, they’ve done everything within their power to be compliant. This is different in that before the property was transferred, it needed to have a new system in place. Both sides are able to do what is required and it should have been done.

Action

Motion to Approve the variance with the stipulation that the property will be abandoned in 5 years. (made by: Murphy) (seconded)

Roll-call vote

Carried 3-1//Lepore, Murphy, and MacNab-aye; Cooper-nay

Visco recused

Action

Motion to Inspect the system yearly; if it fails, it must be upgraded. (made by: Murphy)

Roll-call vote

Carried 3-1//Lepore, Murphy, and MacNab-aye; Cooper-nay;

VI. BOH BUSINESS

1. COVID-19 Update

Sitting

Visco, MacNab, Cooper, Lepore, Murphy

Discussion

Santamaria – We are doing very well. Bio-concentration is close to baseline. The spike from Omicron was because we don't have a large population to sustain an extended burn. As we move into Spring, we'll probably see a post-school-vacation spike; then move back down to the baseline. The vaccination program will become seasonal vaccine.

Murphy – Asked how the “5-12” vaccination program is going.

Santamaria – The same State program that was running the school vaccination clinic will come down and set up an area where just the kids will be vaccinated.

Murphy – When vaccines are approved for younger kids, asked if it will follow the model.

Santamaria – Yes. Explained the State program.

2. PFAS Update

Sitting

Visco, MacNab, Cooper, Lepore, Murphy

Discussion

Santamaria – Last week he was a panelist at the School Committee meeting to discuss the risk assessment and toxicology done for turf fields. He had a couple of take-aways. There's no research on all PFAS products; they are able to do risk assessment on some PFAS chemicals but can't quantify them because there are over 6,000 PFAS molecules. There is strong advocacy against PFAS specifically; if we want to make standards or propose bans, we need to make it with PFAS, not the product. In the conversation about joint meetings, there might be interest from the Select Board with BOH and/or the School Board.

Murphy – The workshop was very informative. Asked how a ban on PFAS might look because it's in so many things.

Santamaria – It would be like a performance standard; water quality would require .01 parts per trillion making it essentially a ban. Doing that makes it easier for industries to find an alternative.

Murphy – Asked what other parts of our community a ban might impact.

Santamaria – That's where a bylaw regarding purchasing would come into play.

Lepore – That sounds like not taking a stance on the turf; the science was pretty damning for the turf industry.

Santamaria – He's suggesting that for specific products we set a standard that becomes a ban by targeting PFAS itself.

Lepore – She's concerned that the \$16m the school is asking for the campus-wide work will be approved before we set the PFAS Standards.

MacNab – Asked where the peer-reviewed literature on PFAS is. There has to be rigorous science behind our decision.

Santamaria – He mentioned that as well; there is almost no published literature on PFAS. One scientist at the meeting had published a single article.

Murphy – She took away that the science on PFAS and turf is too new. In deference to the hard work by the Campus-wide Committee group, the plan is a really good one if you remove “turf” from the equation. She wants us to be patient about coming up with a way to plan for what to use on these 2 fields. Putting a pause on installing turf is a good idea.

MacNab – He doesn't think anyone really understands the term science. If you understand science, it is debate and controversy; the beauty of science is it corrects itself and that takes time.

Visco – We'll know when the joint meeting takes place. He, like Dr. MacNab, wants to read more about PFAS.

VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes December 17, 2020
2. COVID Bio-concentration graph

VIII. ADJOURN

Action **Motion to Adjourn at 5:46.** (made by: Murphy) (seconded)
Roll-call vote Carried 5-0//Cooper, MacNab, Murphy, Lepore, and Visco-aye
Submitted by:
Terry L. Norton

PROPOSED