

May 28, 2019
Sterling Board of Health Meeting
Butterick Building, Lower Level Conference Room
1 Park Street, Sterling, MA 01564

Meeting Minutes

9:03 AM The meeting was called to order by Chairman Donna Clark.

Roll Call: Donna Clark, Chair – present
Gary Menin, Vice-Chair – absent
Allen Hoffman, Member – present
David Favreau, Health Agent – present
Elaine Heller, Admin. Asst. – absent

Attendees: David Duarte, Dick Maki, Joan Icker and Michael Rivers

The meeting was recorded by Sterling-Lancaster Cable Television, David Duarte, and Michael Rivers.

Appointments and Agenda Items:

Board of Health Discussion of response (BOH received May 22, 2019) from Michael Rivers regarding BOH access to property located at 3 Fox Run Road:

Health Agent Favreau noted this meeting was called to discuss the response received on May 22, 2019 from Mr. Rivers regarding an application to perform soil testing on his property located at 3 Fox Run Road.

Mr. Favreau commented that the Board of Health voted, at their meeting on May 16, 2019, to delay implementation of an administrative search warrant to investigate complaints of septic system failure and sewage overflowing to the surface of the front yard of property at 3 Fox Run Road, pending a Title 5 inspection at the Rivers' property by May 21, 2019.

The Board received a soil testing application from Mr. Rivers, which was incomplete, as it was missing an engineer's name and contact information. Mr. Rivers stated he was attempting to schedule a soil test by May 31. According to Health Agent Favreau, the engineer performs the soil testing and the testing is witnessed by a Board of Health representative. This procedure is done in every case.

Mr. Favreau asked how the Board would like to proceed.

Allen Hoffman then made a motion that the Board of Health move to:

1. Rescind the action seeking the administrative search warrant, and
2. Follow the advice of Town Counsel and have them file a complaint in Superior Court that will seek to resolve the issue of the failing septic system at 3 Fox Run Road.

The motion was seconded by Donna Clark, unanimous vote.

Mr. Hoffman observed that Mr. Rivers can still resolve this issue before it gets marked up in Superior Court.

Mr. Favreau commented that Friday is May 31, and Mr. Rivers indicated he would attempt to have soil testing done on or before that day. Mr. Favreau asked if the Board wanted to wait until May 31 before proceeding. Both Ms. Clark and Mr. Hoffman noted they are not in favor of waiting any longer as this situation has been going on a long while.

According to Mr. Hoffman, he, himself, has had one prior experience regarding septic systems in Superior Court, and said their judgements are not reviewable. Therefore, he does not know how long this process will take, but there would be more delays if this situation was taken to housing court.

Adjourn:

A motion to adjourn the meeting was made by Donna Clark and seconded by Allen Hoffman. The motion carried and the meeting adjourned at 9:17 AM.