

November 8, 2018  
Sterling Board of Health Meeting  
Butterick Building, Lower Level Conference Room  
1 Park Street, Sterling, MA 01564

Meeting Minutes

5:30 PM                      In Chairman Clark's absence, Vice-Chair Gary Menin called the meeting to order.

Mr. Menin asked if anyone would be recording the meeting. Both Gary Menin and David Favreau indicated they would be recording.

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

**Attendees:**                      Liz Dupre, Hannah Meyer, Carol Houde, Marie Laporte, Tom Kokernak,  
Barry Lein, Ed Davidson, Newton Saarinen, Dan Wolfe, Brian Milisci,  
Jim Chacharone, Mel Chacharone, Mark McKiernan

**Approve Any Available Minutes:**

A motion to approve minutes of the September 20, 2018 meeting was made by Gary Menin and seconded by Allen Hoffman. Unanimous vote.

October 11, 2018 meeting minutes postponed until BoH member Donna Clark could attend.

**Correspondence:**

None

**Health Agent Report:**

Campground Road and 3 Smith Ave Complaint:

According to Health Agent Favreau, a Complaint was received about scrap metal being stored on the property and a foul odor emanating from the property. He noted that an abutter runs a scrap metal business from his home and the Building Department is working with the owner on this issue as used appliances are being dropped off and left in undesirable locations.

Regarding the scrap metal business, it was understood that this issue was referred to the town's Zoning Enforcement Officer.

As for the odor issue, the Health Agent has walked the property (and abutting properties) a number of times; he did not detect any odor during his visits. Neighbor Carol Houde noted she can smell a foul odor much of the time. According to Allen Hoffman, the Board must have first-hand experience with the site in order to take to housing court. After further discussion, it was agreed that David, Gary and Allen will walk the property on Tuesday, November 13, 2018, at 2:00 PM. Mr. Favreau will notify Chairman Clark that there will be a site visit.

**Public Session:**

None

**Health Agent Report (continued):****Plan Review Approved (2) Lots - 38 Clinton Road:**

The applicant has rescinded his 4-lot request. He is now requesting 2 duplex lots. The lots meet code compliance for a septic system.

**209 Worcester Road Title 5 Inspection:**

The property had recently been transferred to a new owner on July 18, 2018. No Title 5 inspection was done.

Comments from the seller stated that the buyer agreed to have an inspection done as directed in the purchase and sales agreement. Mr. Favreau commented that the BOH does not deal with purchase and sales agreement. As outlined in the state sanitary code, CMR 15.300(4), it is the seller's responsibility to have a Title 5 inspection within six months, or be in violation of the statute.

Board members had conflicting interpretations of the MA code and Allen Hoffman suggested contacting Town Counsel for a ruling. Mr. Favreau thought it would be appropriate to send a letter to the seller regarding the 6-month timeframe referencing a citation of the sanitary code 310 CMR 15.301.

(1): Inspection at Time of Transfer. Except as provided in 310 CMR 15.301(2), 15.301(3), and 15.301(4), a system shall be inspected at or within two years prior to the time of transfer of title to the facility served by the system. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time. If weather conditions preclude inspection at the time of transfer, the inspection may be completed as soon as weather permits, but in no event later than six months after the transfer, provided that the seller notifies the buyer in writing of the requirements of 310 CMR 15.300 through 15.305. A copy of the complete inspection report shall be submitted to the buyer or other person acquiring title to the facility served by the system.

Mr. Favreau also cited the preceding citation 310 CMR 15.300(4) Any person owning or operating a facility on which an on-site subsurface sewage treatment and disposal system is installed shall be responsible for the inspection and maintenance of, and any necessary upgrades to, the system. Indicating each citation calls out responsibility of Inspection to the previous owner.

Mr. Menin considered that the only net requirement was that a T5 Inspection Report be available at the time of "closing", and, as such, if none was made available, our only recourse would be to take action against the (new) owner.

Upon reconsideration later in the meeting, and further review of the MA state code, Allen Hoffman moved that the Board send a letter to the seller, with a copy to the buyer, that he has 6 months to obtain a Title 5 inspection, or enforcement action will be taken. Notwithstanding his earlier (above) consideration, Gary Menin seconded the motion. Unanimous vote. Allen Hoffman will prepare the letter.

**Appointments and Agenda Items:**

**184 Newell Hill Road Variance Request:** To reduce the minimum separation distance from high groundwater and the SAS as required in 310 CMR 15.405(1)(h) from 4 feet to 3 feet and as required in Sterling Subsurface Sewage disposal Regulations IV(f).

Liz Dupre of Clear Water Environmental, representing the homeowner, appeared before the Board. She commented that Patrick Burke did the soil evaluation and she took over after that. The site did perc. Allen

Hoffman moved to approve the variance request and Gary Menin seconded the motion. All in favor; motion carried.

Upon questioning from abutter Ed Davidson, Ms. Dupre noted the location of the septic system is approximately the same as the old.

17 James Road Variance Request: 310 CMR 15.405 (1)(i) A sieve analysis may be performed if a percolation test could not be performed due to high ground water.

Dan Wolfe from David Ross Associates represented the homeowner. The septic plans were reviewed by Board members. Gary Menin made a motion to approve the variance. It was seconded by Allen Hoffman. Unanimous vote.

6 Tara Lane Variance Request: Sterling Board regulations Reg. IV.a. 1000SF leach field with 12” stone required: providing 864 SF using Presby design with no stone. 310 CMR 15.405 (1)(i) A sieve analysis may be performed if a percolation test could not be performed due to high groundwater.

This variance request was presented by Dan Wolfe. After review, Allen Hoffman made a motion to accept the variance and Gary Menin seconded the motion. Unanimous vote.

1 Magnolia Way Variance Request: Sterling Board of Health regulations Reg. IV.a. Leach bes to have 12” of stone below the pipes a Drip Dispersal System has been designed with no stone. 310 CMR 15.405 (1)(a) a Reduction of system location setback off property line from 10 ft. to 9 ft. 15.405 (1)(b) Reduction of septic tank and pump chamber location setback off cellar wall from 10 ft. to 3 ft. 15.405 (1)(i) A sieve analysis may be performed if a percolation test could not be performed due to high groundwater. The design is to include a poly-barrier towards mitigation of any potential future leakage towards the resident’s basement.

Member Allen Hoffman made a motion to accept this variance request, as presented by Dan Wolfe. Gary Menin seconded the motion. Unanimous vote.

96-102 Leominster Road, Sterling - Nitrogen Reduction Whitman and Bingham:

Property owners for this building under construction appeared before the Board with an informational update on its progress. They are negotiating to purchase extra property due to the fact they are in a nitrogen sensitive area and that they currently exceed the amount of septic effluent distributed into the soil per acre. Mr. Hoffman advised them they needed to put this information in writing and submit it to the Board.

Mr. Hoffman made a motion that the owners submit a plan that complies with the sanitary code in order to obtain an occupancy permit. A deed restriction may also be required to ensure compliance.

Mr. Menin seconded the motion. Motion carried.

Gary Menin: Discuss Lithium Battery Fires:

Tom Kokernak, a Lieutenant with the Sterling Fire Department, spoke on storage of these popular, but dangerous batteries, and presented a handout on Lithium Battery Storage.

Examples of items that use lithium batteries are hover boards, cell phones and e-cigarettes and most hand tools that use batteries. Fires that occur with lithium batteries are difficult to extinguish. These batteries should not be charged near combustibles. Mr. Menin suggested having a condensed version of the handout published in the Sterling Meetinghouse News. He will compose an article with credit given to

Mr. Kokernak and the town Fire Department and reference the website where Mr. Kokernak obtained the information.

Discuss Storage of EDS Equipment and Supplies:

Health Agent Favreau advised Board members that the EDS equipment that was being stored in the boiler room was recently compromised on two separate occasions, during which the building was evacuated. Barry Lein, the Emergency Preparedness Coordinator, stated the equipment is valued at \$45,590.10. A storage area, which was just approved by the Board of Selectmen, is scheduled to be built. Gary Menin requested this subject be put on the December agenda and the Board will pursue if there has been no further action on the storage area.

Gary Menin: Discuss Roadside Spraying of Herbicides:

Mr. Menin commented that the DPW needs a management plan for the spraying of herbicides, as required by the state. According to Mr. Hoffman, the DPW is not interested in a plan and this is not Board of Health jurisdiction. The Board believes it has done its due diligence in speaking with DPW and notifying them of the management plan requirement. Mr. Menin said he will follow up with the DPW as an individual and remove the Board of Health letterhead from his previously-submitted draft letter.

Discuss New Performance Evaluation Form:

Town Administrator Perry handed out the new evaluation forms, which are due back to him by the end of December. After discussion, the Board members agreed to perform Mr. Favreau's evaluation at 5:00 to 5:30 PM on the next meeting date, December 13, 2018.

**Health Agent Report (Continued):**

32 Bean Road Complaint:

David noted there has been a pool issue at this location and the Building Department is working on getting the complaint resolved. The Building Inspector sent violation notices to the property owner in September and November.

Alternate Food/Septic Inspector FY19 Budget:

The Health Agent said the FY19 included \$6,450.00 for this position. At this time, \$2,690.00 is still available; however, Mr. Favreau commented that while he was out of the office the demand for this position had been required extensively. Mr. Favreau will evaluate how much more is needed to fund this position for the remainder of FY19 and present it to the board for the December meeting.

**Adjourn:**

Allen Hoffman made a motion to adjourn the meeting and it was seconded by Gary Menin. The vote was unanimous and the meeting adjourned at 7:43 PM.