

July 12, 2018
Sterling Board of Health Meeting
Butterick Building, Room 205
1 Park Street, Sterling, MA 01564

Meeting Minutes

5:30 PM Chairman Donna Clark called the meeting to order.

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

Attendees: Rachel Ettlinger, Terry Heinold, Mike Rivers, Peter Morgan,
Tim Hanrahan, David Duarte

Chairman Clark asked if anyone would be recording the meeting. Both David Favreau and Gary Menin indicated they would be recording, as well as Rachel Ettlinger from The Landmark.

General Business Updates:

Approve Any Available Minutes:

A motion to approve minutes of the April 12, 2018 meeting with limited revisions was made by Gary Menin and seconded by Allen Hoffman. All in favor; motion carried.

Mr. Menin subsequently requested that his comments to the April 12, 2018 minutes be posted as an attachment.

After discussion, approval of the June 19, 2018 meeting minutes was tabled until the next meeting.

Allen Hoffman moved to accept minutes of the June 14, 2018 meeting as written, Gary Menin seconded the motion, with a qualification that his (Gary's) comments be included as an independent addendum to the minutes. With all in favor, the motion carried.

Public Session:

None

Correspondence:

None

Health Agent Report:

Attorney General Response to Gary Menin Open Meeting Law Complaint:

The Attorney General's comments regarding this complaint and subsequent appeal noted there was no violation to the open meeting law. During this meeting, Mr. Menin submitted additional information as his rationale for filing the complaint to BOH members in response to the results of the complaint and asked that this information be discussed at the next meeting. Chairman Clark stated there is no need to read the information. The original complaint and appeal both indicated there was no violation of the open meeting law and this complaint is now closed.

Title 5 Inspection Report 27 Gates Road Failed:

According to Health Agent Favreau, the property owners at 27 Gates Road have submitted a building permit application for an 1100 sq. ft. home with no change to the bedroom count. There will be a need for an upgrade to the septic system. All documents were reviewed by Board members. Alternate Inspector Bob Moore observed the T5 inspection. Mr. Favreau recommended that a letter be sent to the applicant regarding the failed system, with a deadline for completion of the upgrade within two years as indicated in Title 5 15.305(1).

Appointments and Agenda Items:

Peter Morgan: Discuss Letter Regarding 46 Main Street:

This property was recently sold to Tim Hanrahan, by Peter Morgan. The letter prepared by Mr. Morgan stated that included in the sale of the property was a T5 Inspection Report, completed by Terry Heinold of Ground Control Corp, which showed the cesspool on the property passed inspection with no known issues. This Report also noted the property originally had three bedrooms, before conversion to one bedroom plus retail space.

Mr. Hanrahan applied for and received a building permit to alter the property from a one-bedroom apartment with retail space, back to a residential-only property, with the addition of a second bedroom. During this process, the current homeowner was notified a second bedroom could not be added as it increased/change the sanitary flow.

It was then determined that the original T5 report had been altered to reflect it to be a one-bedroom property with retail space and noted there was no design record on file.

Mr. Heinold attended the meeting and explained that he had performed a T5 inspection in 2013 and another T5 inspection in March of 2018. The inspection performed in March indicated three bedrooms, though Mr. Heinold did not find a design basis for same in the records. As such, Mr. Heinold estimated – based on action he had taken on multiple occasions in the past for comparable cesspools – what the bedroom allowance would be and concluded adequacy for up to three bedrooms.

In reviewing the T5 paperwork submitted to the Board of Health, Health Agent Favreau found the discrepancy and called Mr. Heinold into the office to change his error from three bedrooms to one bedroom.

At this point, Mr. Hoffman commented that in 1995 and current, the State Code changed, and reads:

15.204 Increases in Design Flow to System

“No person shall increase the actual or design flow to any cesspool or to any other system above the existing approved capacity, or change the type of establishment of a facility served by a cesspool, unless the cesspool or system is upgraded first. Upgrades to accept increased design flow shall be performed in full compliance with the requirements applicable to new construction unless a variance is allowed pursuant to 310 CMR 15.414. For purposes of 310 CMR 15.204, the approved design flow shall be the flow listed in the most recent Disposal Works Construction Permit.”

After discussion, Gary Menin made a motion to allow the requested bedroom change, based on assessor records on file that indicated the subject address was designated as a four-bedroom residence in 1979 and his consideration that the judgement of Mr. Heinold (discussed previously) was quite sound. No vote was taken on this motion.

The Health Agent observed the BOH needs to comply within the state code and cannot be less stringent than the code as written.

Mr. Hanrahan noted the loan obtained for the purchase of the property was given based on the addition of one bedroom.

Mr. Menin suggested the Board write a letter to MassDEP with an explanation of this situation in order to get a ruling. Mr. Hoffman made a motion that the Health Agent prepare a letter to DEP for a determination and Mr. Menin seconded the motion. Unanimous vote.

Follow-up to Septic System Failure - 3 Fox Run Complaint:

The homeowner, Michael Rivers, attended the meeting and said a visual site inspection had been completed by a State Certified Title 5 evaluator (complete with submittal of a letter) and there was no evidence of a failure at that time. Mr. Rivers was to prepare a statement of remediation and have a report filed with the Board of Health prior to the July 12, 2018 meeting. As this paperwork was not submitted, there was no inspection performed by the Alternate Inspector, which had been required by the Board at the June 14, 2018 BOH meeting.

Mr. Hoffman, in reviewing the visual assessment letter provided by Mr. Rivers, indicated there may not be an urgent problem at this time because it has been extremely dry. There was an observed problem at the site in May 2018, as noted during a site visit by Health Agent Favreau and member Menin. If the drought continues, there should not be an issue, but the problem may arise in late Fall.

Mr. Rivers made his observation that the complaint is without merit and he feels the situation is resolved. Mr. Hoffman asked Mr. Rivers if someone on the Board could walk the property in the Fall. Mr. Rivers suggested that person call before walking the property, or obtain a search warrant.

Allen Hoffman: Discuss Animal Inspector:

Health Agent Favreau spoke on an email sent (by Gary Menin) to the Animal Inspector, asking for monthly summary reports regarding call subjects and hours spent, in order to provide justification for future salary actions. Mr. Hoffman observed that Mr. Menin should not be requesting this information as an individual; it would be up to the Board as a whole to ask for summary reports. After further discussion, it was decided this subject will be on the agenda for the next meeting.

Gary Menin: Discuss Discrepant Title 5 Reports and Consequence Thereof:

A discussion was held on this topic after an observed error occurred at 46 Main Street. Members agreed this error was unintentional. Mr. Hoffman noted there is corrective action available for discrepant Title 5 reports, if necessary.

39 Flanagan Hill Road ZBA Special Permit Request Review:

Mr. Favreau presented plans for a proposed 18-unit condo development at 39 Flanagan Hill Road, which is information only for the Board at this time. This site may be in an aquifer protection district. No septic design plans have been submitted to date. Members reviewed the submittal as presented.

Gary Menin: Discuss Lithium Battery Fires:

Mr. Menin spoke on two fires that recently occurred in Sterling, caused by overheated lithium batteries. After discussion, it was suggested Mr. Menin contact the Fire Department and ask if Fire Department personnel would be available to speak on this topic at a future BOH meeting or provide information suitable for a Town-wide alert/advice.

Gary Menin: Discuss Roadside Spraying of Herbicides:

According to Mr. Menin, the DPW is required by the Massachusetts Department of Agriculture to submit a plan for the spraying of herbicides. In this regard, Mr. Menin had previously supplied electronic records to the Board for road-side vegetation spraying plans from comparable Towns. After discussion, it was suggested by Allen Hoffman that Mr. Favreau provide those plans to the DPW Superintendent towards an understanding as to whether or not our DPW should have a similar plan.

Adjourn:

A motion to adjourn the meeting was made by Gary Menin and seconded by Allen Hoffman. With a unanimous vote, the meeting adjourned at 7:15 PM.