

FINAL
Wellfleet Board of Health
Hybrid Meeting: Zoom/ 715 Old Kings Highway
Wednesday, November 8, 2023, at 5:30 pm

Members Present: Nick Picariello (chair), Janet Drohan, Deborah Freeman, Katy Cushman

Others Present: Assistant Health Agent Gary Locke, Health Agent Heith Martinez, Beth Wade, Bob Reedy, Jason Ellis (Zoom)

Regrets: Ken Granlund

Chair Picariello called the meeting to order at 5:28 pm. A quorum was present.

Meeting Minutes:

Approval of minutes for October 11, 2023

Freeman then made a motion to accept the minutes of October 11, 2023. Drohan-seconded, a roll call vote was taken, and the motion was approved 3-0-1. Katy Cushman abstained as she was not a member of the Board at that time.

Old Business:

New Business:

Introduction of New Health Agent

Chair Nick Picariello introduced and welcomed the new Wellfleet Health Agent, Heith Martinez.

Subdivision FYI

The subdivision plans that were sent as an FYI were distributed and then collected for the file.

Continuing Education Materials

Health Agent Heith Martinez reported that some of the Board had discussed the possibility of continuing education for Board Members, and that funding exists in the budget. Opportunities and materials will be explored.

Hearings:

Clemons & Nowack, 30 Kincaid Street, Map 30, Parcel 23: Subdivision

A site visit was made by the Board. There was confusion among the Board about the appropriateness of approving a subdivision without reviewing any kind of plan. Gary Locke, Assistant Health Agent, explained that it is within the purview of Board to receive undetailed plans for a proposed subdivision property, to visit the site and determine whether the site might be suitable for subdivision in the future. It was further clarified that the Board is not approving any specific plans, but only acknowledging that there is no visible health issue present that would immediately preclude the property from being divided. This is a necessary step in the process of creating a subdivision. After the Board makes its approval, the plan is taken to the Planning Board for review. After many more steps, and if the subdivision is approved with

the Planning Board, a proper site plan with septic details will then be submitted to the Board of Health for approval. Martinez read from the "The Legal Handbook for Massachusetts Boards of Health (2011)", "The standard to be applied by the Board of Health in deciding whether to approve or disapprove a plan in whole or in part (or to require the imposition of conditions) is found in Section 81U, namely, whether 'the lots shown on such a plan [can] be used for building sites without injury to the public health.' Fairbairn, 5 Mass. App. Ct. at 182-183."

Freeman made a motion that, at this stage, it appears that the lot meets the appropriate criteria, and with that caveat the Board approves the subdivision. Drohan seconded the motion. A roll call vote was taken, and the motion was approved 4-0

Habitat for Humanity, 2254 Old King's Highway, Map 16, Parcel 110: Nitrogen Aggregation Application

A site visit by the Board occurred this morning. Bob Reedy of J.M. O'Reilly and Associates spoke on behalf of the project. This project has the approval of the Zoning Board of Appeals. Of the five lots present on this location, four will be developed for single family homes, and the fifth will be reserved and recorded as an undeveloped lot in perpetuity to provide nitrogen credits as mitigation to allow for the diminished area of the proposed Title 5 septic systems. There is one change on page one of the original permit; each septic system on the project now has space set aside in the system area to allow for future Innovative and Alternative technology to be installed. Only a portion of the aggregation lot will be used for this project, which will allow for more aggregation if more development were to be made in that area in the future. Chair Picariello asked what the process would be for aggregation if that lot became so damaged that it could not serve in this capacity. Reedy responded that in this location it is unlikely that such damage could occur without the houses on the subdivision also experiencing similar catastrophic damage.

Picariello made a motion to approve the nitrogen aggregation application. Freeman seconded the motion. A roll call vote was taken, and the motion was approved 4-0.

Johnston, 256 Browns Neck Road, Map 13, Parcel 168: Septic Variance Request

A site visit was made by the Board. Jason Ellis (via Zoom) presented on this project. This property is in the process of being sold, and includes one lot with a dwelling and Title 5 septic which has failed, and an additional undeveloped lot. The proposed project is an upgrade and relocation of the septic system which will require variances due to proximity to wetland, flood zone, coastal bank, and its location on a slope. The system will need to be placed closer to the house, and there is no space for a reserve area. The two chambers are precast and provide drainage from the top. Ellis cited an identical system that has been installed recently and may have been inspected by Locke. The Board asked what the approximate cost of this system was. Ellis informed the Board that the cost would be between \$40-50 thousand. No concerns were expressed by the Board.

Locke made a motion to approve the J.C. Ellis Design Plan dated 9/14/2023, and grant the three variances requested in the letter of 11/1/2023, for the upgrade of a septic system to serve a four bedroom structure for I/A technology using Advantex AX-20 denitrification technology under the remedial, provisional or general use approval category with a 50% reduction, with the following conditions: design flow to be limited to 228.6 GPD, to serve four bedrooms, no increase of habitable area without Board of Health review, no conversion of use without Board of Health approval, well water testing, deed recording for four bedrooms, I/A monitoring with a copy of operating and maintenance contract required, annual inspection of pumps, alarms, and other equipment. Freeman seconded the motion. A roll call vote was taken, and the motion was approved 4-0.

The Board discussed the expense of Enhanced, Innovative and Alternative (EIA) septic systems in general. System prices seem to range from \$30-40 thousand and up to \$70 thousand plus depending on difficulties that the landscape may pose, the fact that EIA systems are not widely used as they are still considered provisional by the State, and the lack of local installers and engineers who are familiar with the technology. The State has approved regulations requiring the updating of homeowner septic technology with no provision for funding this mandate. The Board noted that Wellfleet has a somewhat economically unique population; wealthy, to blue-collar, to working poor, and that will require additional consideration in setting reasonable regulations that provide systems Wellfleet's homeowners can afford. Locke stated that he is confident that an equitable solution can be found for funding. Wellfleet does still have funding that had been approved at Town Meeting to provide \$12,500 grants to help defray the cost of installing an EIA system. It was acknowledged that multiple sources will be likely be necessary to provide the proper funding for individual families and homeowners to become compliant in the future. Once the 208 Plan (Targeted Watershed Plan) is approved by the State, Wellfleet will be eligible for County loans. Martinez will look into the status of the Plan's approval by the State. Nitrogen sensitive areas should be addressed first, and the Board's new regulations will have to adhere to the State law unless the Board's regulations are more restrictive.

Drohan made a motion to adjourn the meeting. Freeman seconded the motion. A roll call vote was taken, and the motion was approved 4-0. The meeting adjourned at 6:01 pm.

Minutes respectfully submitted by



Jennifer Elsensohn, Committee Secretary

Documents:

Meeting meetings: October 11, 2023

Clemons & Nowack site plan and supporting materials

Habitat for Humanity plan and supporting materials

Johnston variance request and supporting materials