

BOARD OF HEALTH MEETING CORRECTED MINUTES

March 11, 2019

6:30 p.m.

THIS MEETING WILL BE HELD IN THE TOWN HALL LOWER LEVEL MEETING ROOM

TIMES INDICATED FOR THE AGENDA TOPICS ARE APPROXIMATE

Present: Diana Molloy, Benjamin Van Mooy, Stephen Rafferty, George Heufelder, Kevin Kroeger
Scott McGann, Mallory Langler

6:30 - Opening Remarks and public comment: At 6:30 Diana Molloy called the meeting to order.

George Heufelder read the mission statement:

The mission of the Falmouth Board of Health is to protect and promote the health, safety and well-being of residents and visitors of the Town of Falmouth. The primary functions of the Board of Health to achieve our mission are to: prevent and control disease, enforce state and local regulations, promulgate local health regulations, identify and protect from environmental hazards, and advocate for a healthy community.

Stephen Rafferty moved to take the following item out of order. George Heufelder seconded. All in favor; motion passed.

6:33 – Lot 5 Duckie’s Way – Innovative/Alternative septic system approval request

Request to install a Microfast model 0.5 system to serve a proposed 3 bedroom dwelling. Cover letter from John Doyle, P.L.S. outlining the proposal and a Site and Sewage plan by John Doyle/ Carmen Shay dated February 26, 2019.

Representative John Doyle noted that this is the last lot in this development. I/A systems are required by the Planning Board.

Stephen Rafferty moved to approve the installation of an I/A system sized for a 4 bedroom structure, as shown on a plan dated February 26, 2019 by J. Doyle Associates for Kentri LLC for a 0.5 MicroFAST system that has DEP general use approval, finding that the Planning Board has required the use of a denitrifying septic system for this property and given that the Board of Health has certain requirements for the approval of all innovative/alternative septic systems in the Town, provided that prior to issuance of a Disposal Works Permit, the applicant shall provide evidence of registration with the deed regarding the existence of an I/A system on the property and the need for a maintenance contract for the unit in perpetuity. Maintenance shall, as a minimum, be provided in accordance with the technology general use approval of the I/A system as issued by the DEP on December 29, 2010 and revised on March 20, 2015 and Falmouth Board of Health standard conditions, whichever is more strict, and subject to owner acknowledgement that the system requires quarterly monitoring and sampling for total nitrogen and that the system shall be operated to achieve a system discharge concentration that does not exceed 19 mg/l that a remediation plan will be prepared, submitted and implemented and that further if 8 consecutive samples demonstrate that the discharge does not exceed 19 mg/l, the owner may request in writing a reduction of the frequency sampling from the Board of

Health and that the system is registered with and the results of monitoring and maintenance are reported to the Barnstable County Department of Health and Environment and that the system conforms to all of the standard conditions of the Falmouth Board of Health and the DEP general use approval relative thereto. George Heufelder seconded. All in favor; motion passed.

6:39 –Presentation by Laura Kelley from Protect Our Cape Cod Aquifer (POCCA) for the Falmouth to cease using Glyphosate (a.k.a. Round-up) and other chemicals on Town owned land.

The POCCA is asking the Board of Health the following:

- Support not using Glyphosate on town owned land.
- Request for strong fact-based comment opposing Eversource’s right-of-way clearing program (Vegetation Management Plan) which is part of their Yearly Operational Plan (YOP) to the Massachusetts Dept. of Agricultural Resources (MDAR) by the April 5, 2019 deadline
- Potentially adopt this issue into a new regulation.

POCCA provided the following:

POCCA Email correspondences to the Town. Email with active links were provided to the Board of Health prior to the meeting (numerous studies, articles, Eversource’s Yearly Operational Plan, MDAR, information on what other towns are doing)

A presentation and questions following included:

- Studies have proven glyphosate harmful to humans and other mammals.
- POCCA is asking the Board of Health to request that the town not use glyphosate on town property or school grounds; it also requested a regulation limiting glyphosate use be written as glyphosate exposure is a public health risk.
- France bans glyphosate and COSTCO has removed it from its shelves.
- Provincetown has just hired Pure Solutions which is OMRI CERTIFIED.
- Action to reduce or eliminate glyphosate could prevent litigation.
- The Eversource comment period is nearing an end. A letter from the Board of Health could make a difference.
- Jerimiah Pearson reported that the town does use glyphosate in small amounts, mostly on invasives such as phragmites and knotweed. The Conservation Commission uses some as well. He would like to keep glyphosate available for limited use. Licensed applicators are used exclusively.
- Are the recommended alternatives USDA approved?
- Yes.
- Putting in writing that the town is moving to alternatives to protect kids is a good step forward.
- All pesticides, including organic ones, may be considered guilty until proven innocent. Since testing methods are not especially effective, how is it known that glyphosate is the worst pesticide out there? Should the Board of Health be speaking more broadly about pesticides? And what can be concluded about the ‘inactive ingredients’ that are not required to be disclosed? The meaning of the term ‘organic’ is unclear. This is a complicated issue.

- Eversource’s proposal, roughly calculated, would place 163 gallons of pesticide in Falmouth. If the Board of Health took action objecting to this, it would give higher ground from which to operate.
- Glyphosate is a pesticide with evidence of harm but are the alternatives less harmful?
- Mechanical removal (cutting), black plastic to smother and formulations using vinegar, salts and soap are some alternatives that are much less harmful.
- The town of Marblehead has been using less toxic methods for 14 years and the parks and recreation is very happy with the results. Glyphosate is a tier 3 pesticide, though, and not affected.
- The Board of Health must be on solid ground before action to ban is taken. The Board of Health can work to make recommendations to other boards.
- After review of the evidence, it seems that this is an opportunity for the Board of Health, for not too much inconvenience, to send a message that it is not a good idea to be using glyphosate in this way. Encouraging using alternatives first and keeping glyphosate for use as a last resort is a good role for a board of health and good for the town and may move the industry to produce safer alternatives. This is part of the education and outreach role for the Board of Health by sending a message that this is not something we want to spread around.
- The board needs to use a process to make changes.
- The Board of Health took the issue under advisement.

SEPTIC SYSTEM RELATED TOPICS

7:37 – 102 Nashawena Street – Variance/Local Upgrade Approval request

Request to reduce the required 12” of separation between high groundwater and pipe inlets or outlets to 7” - **310 CMR 15.405(1)(j)**

Cover letter from Peter McEntee P.E. of Engineering Works outlining the proposal and a Site and Sewage plan by Peter McEntee dated February 13, 2019.

Representative Peter McEntee appeared and reported that the cesspool was in failure.

George Heufelder moved to approve the request, provided results of a tightness test are provided to the health agent. Benjamin Van Mooy seconded. All in favor; motion passed.

7:42 – 22 Nashawena Street – Request to decrease Innovative/ Alternative septic system testing frequency

Applicant provided two years of testing results and is seeking a reduction in quarterly testing.

Stephen Rafferty moved to reduce the sampling frequency from 4 times per year to 2 times per year. George Heufelder seconded.

Stephen Rafferty amended that should the house be occupied year round the applicant shall return to the Board of Health for review. Benjamin Van Mooy seconded.

A vote was taken on the amendment. All in favor; amendment passed.

A vote was taken on the motion. All in favor; motion passed.

7:51 – Gerry Potamis – seeking to discuss proposed regulation changes to FHR 15.0 Falmouth’s supplement to 310 CMR 590.00 (Title 5)

Working document of proposed changes to FHR 15.0.

Gerry Potamis appeared seeking clarification of language for an article proposed for town meeting.

Discussion of proposed regulation changes to FHR 15.0 Falmouth's supplement to 310 CMR 590.00 (Title 5)

Working document of proposed changes to FHR 15.0.

George Heufelder moved to table. Kevin Kroeger seconded. All in favor; motion passed.

HOUSING

8:38 – 373 Palmer Ave unit 6 - Variance request from 105 CMR 410.250 (Natural Lighting) and 105 CMR 410.450 (Means of Egress) – continued from February 25, 2019

Original housing inspection performed on July 18, 2017 determined insufficient natural lighting and egress in unit 6 among other violations. Agreement at District Court between the Health Department and the property owner not to rent dwelling (unit 6) occurred at that time. Owner requesting a variance from one or more of the violations listed in the enforcement letter. Copies of the variance request, enforcement letters, correspondence, Assessor's information, relevant sections of the 105 CMR 410.000 provided.

A discussion revealed that the owner could correct the egress issue by removing a wall.

George Heufelder moved to deny the request for a variance for relief for egress. Benjamin Van Mooy seconded. All in favor; motion passed.

George Heufelder moved to approve the request for relief from natural light. Kevin Kroeger seconded. All in favor; motion passed.

8:45 - 35 Greengate Road Unit 33E – Failure to comply with an order from the Health Department

Housing inspection performed at the above rental unit on December 17, 2018 determined that violations to the State Housing Code 105 CMR 410.000 were present. A re inspection on February 22, 2019 determined that not all violations have been adequately corrected. Copies of the housing inspections, certified letters/ orders for correction, return receipt "green card" provided.

Mallory Langler explained that the agents had had contact with an agent for the owner and were not able to contact the owner, listed as Greengate Apartments, Inc. Hot water, locks and other issues remain inadequately addressed.

George Heufelder found that the owner has failed to obey an order of the Board of Health and that conditions that endanger the tenants continue and moved to immediately file a complaint with the court for failure to obey and order of the Board of Health. Kevin Kroeger seconded.

A tenant reported that she is legally disabled. She has notified the police that the manager verbally attacked her when she reported conditions in the apartment she rents.

George Heufelder withdrew his motion.

George Heufelder moved to petition the court for a fine of \$200.00 per day, beginning 21 days after the first issue of the order, for failure to obey an order of the Board of Health and immediately notify to the owner of the rental unit. Kevin Kroeger seconded. All in favor except Benjamin Van Mooy abstained; motion passed.

GENERAL BUSINESS AND CORRESPONDENCE

9:15- Board of Health Goals discussion and update

Board of Health goals discussion document

Kevin Kroeger moved to table this and the next agenda item. George Heufelder seconded. All in favor; motion passed.

9:15 - Health Department review: A question about wells will be placed on the next agenda.

9:20 –Approval of meeting minutes

Review of meeting minutes from

February 25, 2019: **George Heufelder moved to approve. Stephen Rafferty seconded. All in favor; motion passed.**

January 7, 2019: **Kevin Kroeger moved to approve with corrections. George Heufelder seconded. All in favor; motion passed.**

At 9:27 Benjamin Van Mooy moved to adjourn. George Heufelder seconded.

Relevant Documents

- Cover letter from John Doyle, P.L.S. outlining the proposal and a Site and Sewage plan by John Doyle/ Carmen Shay dated February 26, 2019.
- POCCA Email correspondences to the Town. Email with active links were provided to the Board of Health prior to the meeting (numerous studies, articles, Eversource’s Yearly Operational Plan, MDAR, information on what other towns are doing)
- Cover letter from Peter McEntee P.E. of Engineering Works outlining the proposal and a Site and Sewage plan by Peter McEntee dated February 13, 2019
- Working document of proposed changes to FHR 15.0
- Copies of variance request for 373 Palmer Ave, enforcement letters, correspondence, Assessor’s information, relevant sections of the 105 CMR 410.000
- Copies of the housing inspections for 35 Greengate Road, certified letters/ orders for correction, return receipt “green card”