

BOARD OF HEALTH MINUTES  
MARCH 29, 2011

The meeting was called to order at 7:30 p.m. Present were Arnold Soslow, M.D., Chair, Anna Ludwig, Michael Bean, M. D., and Mark Neuman M. D. Also present were Steven Calichman, Director and Patti White, Department Assistant.

7:30 p.m. **Public comments:** Peggy Patton, Dianna Warren and Stanley Robinson have come to speak to the Board of Health regarding the use of Microwave/WiFi technology for electronic voting at Town Meeting next month.

Peggy is asking the BOH:

- 1) To request that the Wi-Fi in the Middle School be turned off during Town Meeting.
- 2) To request that all persons at Town Meeting turn off their cell phones, laptops and any other devices using wireless technology during Town Meeting.
- 3) To place notification on Wayland Cable to alert residents with pacemakers or other implanted devices to check with their doctors regarding their attending Town Meeting with the Wi-Fi, personal electronic devices and the electronic voting equipment.

Dr. Soslow is requesting that residents with concerns contact their physicians to get their professional opinion regarding their attendance and or participation at Town Meeting. Dr. Bean believes that there may be valid requests, but he cannot address it as public comment items. Dr. Neuman: the timing is past public comments the Board needs to continue with the items scheduled on the agenda, the residents are welcome to speak briefly after.

7:45 p.m. **205 Rice Road Animal Keeping Permit-** *Lisa Hanna-Valone* owner, new application for a second animal keeping permit for 12 horses and/or ponies.

Ms. Hanna-Valone has presented to the board her information contained in her permit application. **If her revised application is approved by the Board of Health and all other permits and approvals are granted for this revised project and there are no appeals on this revised project, she will cancel her first permit.** Ms. Hanna-Valone is requesting both a grandfathering finding and a variance from fencing setbacks for 3 areas of fencing. The first is on the driveway that is within 150 feet of the Marram-Carpenter residence. The second section borders on Covered Bridge Road, and the third area is on Rice Road. These two sections are less than 25 feet from the roadway.

8:10 p.m. Michael Wegerbauer has arrived at the meeting.

Brian Levey, Attorney for Ms. Hanna-Valone: The fencing was built before the changes were made in the Animal Keeping Permit Regulations. Mr. Levey was referring to the

fencing shown as existing wooden fencing and identified as such in the legend on that site plan. He believes that the fencing is grandfathered. The fencing on Rice Road and the road to Covered Bridge were built before the Animal Keeping Regulations included the 25-foot and 150-foot setbacks. The fencing along the driveway was built before the Marram-Carpenter house was built. On Ms. Hanna-Valone's behalf he is asking for the fencing to be grandfathered and the variances be granted for the permit.

Fencing setback requirements were added to the Animal Keeping Regulations in 1988.

Dr. Soslow is asking why we have received the history information regarding the property. Dr. Soslow has asked that Ms. Hanna-Valone explain why she feels that she needs a permit for 12 animals.

8:20 p.m. Ed Woll, Attorney for Maura Shaughnessy, the second plans presented are clearly much better and the efforts to make changes are appreciated. The Shaughnessy's purchased their home in 2002; Ms. Shaughnessy is comfortable with the present fencing and has no objection to the current setbacks of the fencing. Mr. Woll wanted to confirm, however, that the fencing for keeping the horses that was requested to be approved by the Board of Health was that shown in green on the plan exhibited to the Board of Health by Ms. Valone and that conformed to the location of the fence shown on and identified as the existing wood fence in the legend on the filed site plan and that was affirmed.

Atty. Woll, for Ms. Shaughnessy is requesting that the manure container be moved to the side of the Barn/Riding Ring that is away from the Shaughnessy property line. He is also requesting that the Barn be moved from the top of the new location for the Riding Ring to the bottom of the new location of the Riding Ring. Atty. Woll is presenting documents to the Board regarding demolition of the previous barn on 205 Rice Road and an affidavit from Maura Shaughnessy. With language that Ms. Hanna-Valone stated to the Building Inspector in a December 29, 2010 letter that "at this time" the barn and riding ring will be for personal use. Mr. Woll asserted that there were historical inaccuracies and incomplete parts of the memorandum submitted on Ms. Valone's behalf and submitted documents from the building department files. Mr. Woll stated that the documents show that the previous barn structure was within the small lot on Rice Road and was demolished in 1995 and that was well before the Shaughnessy's bought their house. Mr. Woll asserted that the memorandum submitted on behalf of Ms. Valone leaves the impression that the animals kept by Mr. Pfannenstiehl on the property were left to roam freely when, according to Mr. Woll, they were fenced between the driveway and Rice Road by the preexisting fence, were on the land after the barn structure had been demolished and that without the barn structure, the animals were kept in the fenced pasture area. He also asserted that the regulations required that the

animals must be kept 25 feet away from any lot line and 150 feet away from any dwelling.

Mr. Woll has had an engineer draw up plans with the change of Barn location and a different location for the manure container and presented those plans to the Board of Health.

Mr. Woll also said that he thought grandfathering did not apply to an annually renewable permit.

Dr. Neuman: Are the Carpenters concerned with the fence issue? Ms. Carpenter: No they are not, but they will have to address other concerns.

Maura Shaughnessy stated that every abuttor and direct neighbor (overlooks project physically) opposed the project from the beginning once they knew the details of the Valone project. The abuttors include Ed Marram and Karen Carpenter, Maura Shaughnessy and Bernie Regenauer, and Dev Hamlin. The neighbors include Sheila McElwee and Bob Hillman and Drs. Vic and Nita Desai.

Karen Carpenter 199 Rice Rd, Ms. Carpenter has no problem with or objection to the fencing location (within 150 feet of her home) but she stated that the first time she spoke with Ms. Hanna-Valone regarding the construction of the Barn, Ms. Hanna-Valone told Ms. Carpenter that she was going to be keeping horses for other people. Ms. Carpenter is concerned about traffic (manure removal, hay delivery, etc.), dust, flies and rodents. She is very upset as she sees this as the beginning of a Commercial Enterprise, twelve is too many horses. Ms. Carpenter discussed that although she and Ed had built their dream house at 199 Rice Road 13 years ago, they were being forced to look for new property due to their health and noise concerns surrounding the Valone riding ring and horse stable project. The Carpenters are very concerned that this project will eventually become a commercial project.

Sheila McElwee, 5 Apache Trail, she feels that several issues have been addressed by moving the buildings out of the 150 foot boundaries. She has walked the property with Ms. Hanna-Valone, and she feels satisfied that the fencing will keep the animals contained and reasonably safe. She believes that the dust will become an issue.

Dev Hamlen, 252 Rice Road, is asking what will happen to the area that has now been cleared (previous location of the Riding Ring). Ms. Hanna-Valone says she will be constructing fencing. The cleared area will be used as a turn-around area for the manure truck and her horse trailer.

Anna L: There is a question of dust, can you expand. Ms. Hanna-Valone: Dust would be created in outdoor ring and the sand paddocks that are to be used on Rainy days to

prevent the damage to the grazing land. There are ways to reduce the dust in the outdoor ring using sprinklers. Inside the ring, there is a type of dust free footing and or indoor sprinklers.

In response to questions about the health of Bernard Regenaur, the husband of Maura Shaughnessy, Ms. Shaughnessy explained that her husband had been diagnosed on 11/17/10 with Churg Strauss Syndrome which has caused him to have severe asthma and sinusitis at this time. Ms. Shaughnessy explained that there is no known cure for Churg's Strauss and that the only viable treatment was Prednisone, which causes a suppression of the patient's adrenal gland and makes them very susceptible to infection. She stated to the Board of Health that the Valone's 12 horse stable, riding ring and gravel driveway, in her opinion, pose severe health risks to Bernie in his weakened state (open manure storage/bugs/rodents/dust from gravel driveway and horses). Maura Shaughnessy offered to provide written statements to Ms. Ludwig from Bernie's doctors.

AS and MW are not comfortable grandfathering the fencing issue. Town Counsel, Mark Lanza opined that where the fencing was erected before the Board of Health adopted its regulations or before it adopted regulations with the setback requirements relative to this location of such, the fencing is "grandfathered".

Mark Neuman is concerned about there being 2 approved permits for animal keeping. Town Counsel, Mark Lanza stated that there is no restriction on the number of permits that can be held.

A person residing in the area with small children recounted his experience of finding horses loose in the area when walking with his children and expressed his concern about making sure the animals do not escape.

AS: are there any issues regarding the manure? Ms. Hanna-Valone: The manure will be picked up every 2-8 weeks, depending on the number of horses and the present weather conditions.

AS: Is the board able to modify the number of animals. The original application is still approved. This is a completely new application that can be modified.

AL: to Bruce Sweeney question regarding the location of manure, for 12 horses, is there a question regarding health issues? BS: With more horses, there will have to be more manure removals.

Beth Clark, on behalf of Ms. Hanna-Valone, attorney specializing in Equine Law, she works with all sizes of farms. The container being used for manure is a state of the art container; it is a 5-sided metal container that is open on the top for venting. In regard to

the neighbors' concerns regarding flies in the manure area, she says that there are fly mitigation processes by using certain species of wasps that will keep the flies down. In regard to "vermin", the manure container will not allow them access. The food for the animals will be kept in animal proof containers. The dust is the most important matter of concern. Keeping grass cover keeps down dust and the sand paddocks are to keep the quality of the grass cover. 12 horses on 12 acres is not considered to be capacity in the "horse world". Ms. Clark when asked about the smell acknowledged that there would be odors since the container is open on the top for venting.

Michael Wegerbauer questioned whether the horse stable could be initially permitted for 6 horses instead of 12 but this proposal was not considered.

There was continued discussion regarding the location of the manure container and the driveway accessing behind the ring. There was discussion regarding the possibility of paving or using another type of impervious pavement material for the driveway to the manure. There may be an issue regarding paving the road behind the riding ring where the truck would to drive. There were some drainage issues that the neighbors had and Ms. Hanna-Valone had gone to the Conservation Commission to address those issues and moving the barn or the manure would be an issue that would need to be explored further.

AS: Motion to approve the present request for 205 Rice Road with the recommendation that the gravel and truck area be surfaced with a non dust, non gravel surface. AS: that we do not discuss grandfathering the fences. There was no second.

**AL: Move to approve the application and plan dated 3/15/2011 submitted to the Board of Health on 3/29/11 for up to 12 horses and/or ponies. MB second. Vote 3-2 three in favor: AL, MB and MN. Two Opposed: AS and MW.**

9:20 p.m. Brief recess

9:30 p.m. **134 Boston Post Rd. Bongiorno Family Trust- owners** Proposed upgrade of Lee's Farm Stand and the construction of a Long Term Care Facility.

The property owners are requesting a variance for a shared septic system and a reduction in the construction of the leaching trenches from 10' sidewall to sidewall to 9' sidewall to sidewall.

Mr. Bongiorno presented the Board with the history of the property and a brief description of the development plans and the reasoning behind the process. The blue area on the map (attached) is going to be an Assisted Living Facility with 30% of the beds for an Alzheimer's unit. The front piece of the property (shown in green) will be used by the Bongiorno Family for agricultural purposes; they want to keep the farm stand, possibly add a green house and grow produce in the area near the farm stand.

Two approvals are being requested. The first; that they be allowed to have a shared septic system. The property will be subdivided and the blue portion will be sold and developed for the Assisted Living Facility.

The second is a variance to ask for a trench leaching area, with the trench sidewalls to be reduced to 9' sidewall to sidewall. Wayland BOH regulations require 10' distance from sidewall to sidewall to allow area between for future reserve area. The proposed leaching area will have the reserve trenches built out when the primary area is being built.

John Stevenson, civil engineer working with the family. To maximize the farm stand parcel, the shared septic system and the reduction in the area between the trenches will allow for an area to build the green house and more space for agricultural area.

The gallonage usage for the farm stand is minimal. The parcel will be split to allow 4.7 acres for the Assisted Living Facility and the Bongiorno family would retain 4.8 acres for agricultural use.

SC: A shared septic is allowed under Title 5 Regulations, which will require approval from D.E.P. and the BOH.

AS: asking for SC comments on the project. SC: Staff has met with the presenters and shared systems are not uncommon. The Board should be attentive to the fact that the reserve area will be built at the same time as the primary.

MW: concerns on paving over the leaching SC: title 5 says that if there is not a choice, that a septic system can be built under a paved area.

The location of the septic has some constraints regarding the 21E contamination on the front lot and the 200' River Front setback from the brook. The total daily flow for 64 beds is 150 gpd per bed. Potentially enlarging the Farm Stand Building (4000 sq ft of Retail) would require up to 99 gpd.

The shared system will require legal and financial reviews by D.E.P. and Town Counsel.

**AS: Motion to grant the requested variance for the reduction in sidewall to sidewall leaching system from 10.0' to 9.0' conditional on the reserve system being installed with the primary system. Approval is also given for the variance request for the Shared Septic System. Second MN Vote 5-0 All in favor.**

10:00 p.m. Dr. Soslow has left the meeting.

10:05 p.m. Peggy Patton has presented a document to the Board she is requesting the Board to approve the notice to be sent to Waycam regarding the use of Electronic Voting Devices at Town Meeting.

MN: feels there is not presently a known risk to patients with IMD. He feels that "some citizens have raised concerns regarding Wi-Fi and IMD"

10:08 p.m. **Other Business:** Extend appointment for the Board of Health representative to the Youth Advisory Committee to June 30, 2011.

**MW: Motion to extend the date of the appointment of Deborah Seidman to the Youth Advisory Committee to June 30, 2011. AL second Vote 4-0 All in favor.**

10:10 p.m. **Motion to adjourn**

Respectfully submitted  
Patti White  
Department Assistant  
032911minutes

Approved 091212