

due to the constraints of the property. He requests the alternative would be to hook up to the sewer. Ms. Clark notes that that the sewer can potentially serve them, if they can install a private pump and work out an easement agreement to connect to the existing sewer stub near 262 Bradford. She mentions that Hillary recommends sewer connection because the property is located in the flood zone and the ground water is high. Dr. Cozzi questioned the applicant about the price of hooking up to the sewer compared to installing a new septic. Mr. Schnaible explained it would be of great savings to connect to sewer.

Kalliope Chute arrives at 4:10 p.m.

Motion: *Move that the property at 268 Bradford Street presents a public health priority and shall hereby be ordered to connect to the municipal sewer.*

Motion: Dr. Troyan

Seconded: Dr. Whelan

Vote: 5-0-0

c. 65 Howland, Request for ACO release - Stephanie Page and Jerry Cassesse, presenting.

Discussion: Ms. Page has been paying her Administrative Consent Order (ACO) since 2011 and asks what they need to do to hook up to the sewer. Mr. Katsurinis explains the criteria to hook up to the sewer. Ms. Page wonders if she can get her money back from her ACO after passing a septic inspection. Ms. Clark explains in order to get her money back and the interest, she will have to come with upgrade plans bringing the septic system to the current code, under conditions of the ACO.

The Board discussed two possible motions:

Uphold the Health Agents' determination that release from ACO shall be held to the conditions of the agreement, for upgrade of sewage disposal system.

Overturn the Health Agents' determination and release from ACO with unconditioned return of funds.

The applicant decided to withdraw and consider alternatives. No votes were taken.

d. 40 Nelson Ave., Local Upgrade Approval request - William N. Rogers, P.E., presenting.

Discussion: The Owner engaged Mr. Rogers to design an upgraded Title 5 system. The property currently has cesspools that are starting to fail. He wants to install infiltrative plastic tanks with two compartments and is making Local Upgrade Approval requests. Mr. Katsurinis asks him to describe the three variances presented.

Motion: *Move to grant the requested Local Upgrade Approval to 40 Nelson Avenue, with the condition that the system owner shall have a septage handler, licensed by the local board of health in accordance with G.L.c. 111 s. 31A and 310 CMR 15.502, service the Zabel filter regularly, at least once every year and pump the septic tank in accordance with 310 CMR 15.000. The system owner shall report in writing to the local Board of Health within 30 days of the date of servicing every time the septic tank is serviced.*

Motion: Dr. Cozzi

Seconded: Dr. Troyan

Vote: 5-0-0

e. 12 Somerset Road, Appeal of bedroom definition and number of bathrooms - Jerome Albright, presenting

Discussion: Mr. Albright explains he wants to expand into his basement with an exercise room, sauna, and a full bath. He would like to receive a variance to override the Health Agent's determination based on the regulation for number of bathrooms. He notes that his intent is not to rent the house and he is a full time resident. Mr. Katsurinis explains how the basement could be turned into a bedroom suite under a future owner with different intention. Ms. Clark discussed options of placing conditions on the property to prevent renting and noted the property already has a Deed Restriction limiting the number of bedrooms. Dr. Troyan notes that if this is approved, the exercise room would meet the definition of a bedroom and would put the number of bathrooms over the allowance.

Motion: *Uphold the Health Agents' determination that 12 Somerset Road is at the capacity of its disposal works system and shall not add more uses or rooms that meet the definition of a bedroom or more bathrooms to the property.*

Motion: Ms. Troyan

Seconded: Dr. Cozzi

Vote: 5-0-0

The Chair and the Board agreed to move Open Meeting Law Complaint Acknowledgment to the end of the Agenda.

g. ACOs:

i. 62 Mayflower, New ACO

Motion: *Move to approve the ACO for 62 Mayflower Avenue.*

Motion: Dr. Troyan

Seconded: Dr. Cozzi

Vote: 5-0-0

ii. 3 Conwell Street, New ACO

Motion: *Move to approve the ACO for 3 Conwell Street.*

Motion: Dr. Cozzi

Seconded: Dr. Troyan

Vote: 5-0-0

III. Old Business

a. 6 Duncan Lane, Request to Remove Deed Restriction – Ed Patton, Attorney, Jason Ellis, R.S., Tom Thompson and Stephanie Cave, presenting.

Discussion: Mr. Patten provided an overview of the October 17th meeting. He explained the request to have the Board remove a one-bedroom deed restriction on the property owned by Stephanie Cave. Ms. Cave plans to live here full time and needs three bedrooms for her family. Mr. Ellis explained the existing system has a leach field sized for two bedrooms but was approved with filing the deed restriction. He has designed a new septic system with a different type of leach field area for three bedrooms. He proposes the new system will include nitrogen reducing technology. Mr. Ellis notes the septic plans have received an Order of Conditions from Conservation under the Local Wetlands bylaw. Mr. Katsurinis proposes if they lift the deed he would like to see it replaced new deed restriction of 3 bedrooms and requiring year round habitation.

Motion: *Move to remove the deed restriction and replace it with a new deed restriction requiring year round habitation for 3 bedrooms thus allowing the property to be eligible for Growth Management based on plans to be considered under a Local Upgrade Approval application.*

Motion: Mr. Katsurinis

Seconded: Mr. Morgan

Mr. Ellis discussed regulations that the new system does not comply with and Ms. Clark read the Title 5 regulation for New Construction. She recommended the Board adjust the deed restriction when they have septic design plans filed properly before them to approve. Ms. Clark encourages the applicants to follow the process to get proposed plan approved, noting the importance of the legal abutter notifications.

Mr. Katsurinis noted that the approval of system plans are not in front of the Board today and reiterates the motion before them.

The Board and the Health Director discussed removing the current deed restriction once there is a plan properly before the Board with three bedrooms, to replace the original restriction with a new deed restriction of three bedrooms, including the year-round occupancy requirement. Ms. Clark noted the applicant's confusion in wanting to be on the Board's agenda without filing the set of Title 5 plans as Local Upgrade Approval request. Ms. Cave requested the Board to lift the original deed restriction to go forward with the growth management process but Ms. Clark indicated the application first needs a plan approved by the Board. Ms. Clark advised that that process could not move along prior to the Board approving new septic plans. Filing deadlines for upcoming Board of Health meetings were reviewed.

Motion: *Move to table the motion.*

Motion: Dr. Troyan

Seconded: Dr. Cozzi

Vote: 5-0-0

f. Open Meeting Law Complaint Acknowledgment: Open Meeting Law Complaint from Thomas White, dated November 14, 2019, concerning an alleged violation of the Open Meeting Law. Acknowledge receipt of complaint, consider possible responses thereto, and vote.

Discussion: Ms. Clark explained the complaint received by the Board, and Town Counsel's drafted response. Mr. Katsurinis stated the Board has not discussed this complaint outside the meetings and the complaint has no substance. He continues to say that they did not violate the Open Meeting Law. Mr. Katsurinis references the main point in Town Counsel's draft: complaint was made after 60 days rather than 30, and therefore untimely.

Motion: *Acknowledge receipt of complaint, consider possible responses thereto, and vote to resolve the same. Authorize Town Counsel to send the response on the Board's behalf.*

Motion: Mrs. Troyan

Seconded: Dr. Whelan

Vote: 5-0-0

IV. Any Other Business That Shall Properly Come Before the Board

No other business.

V. Approval of Minutes

Motion: *Move to approve the minutes of October 17, 2019.*

Motion: Mr. Morgan

Seconded: Dr. Cozzi

Vote: 5-0-0

VI. Health Department Report

- **2019 Massachusetts Health Officers Association (MHOA) Conference:** The Agent attended this annual conference last month. In a review of proposed Housing Code updates, DPH Community Sanitation described a new provision for “Alternative Housing” aka ‘Tiny Houses” under consideration. If adopted, this would allow single-family, owner-occupied dwellings, to request alternative standards to reduce energy use and/or environmental impacts (such as sanitary facilities, minimum square footage, etc.) if the LBOH approves, provided permits of other applicable departments (plumbing, electrical) and notice of “Alternative Housing” variance is deed recorded.
- **Other MHOA Conference Highlights:** Healthy People 2020 will soon be updating to Healthy People 2030 goals. The website hosts a wealth of social determinant for health data and other resources.
- **List of Tobacco licensees for Vaping discussion:** As requested at October meeting, the Agent attached a list of 2019 licensees along with handouts from MHOA Conference.
- **Governor Signs New Law Modernizing Tobacco Control:** Governor Charlie Baker recently announced the Baker-Polito Administration plans to keep the temporary ban on the sale of all vaping products in place until December 11th and signed legislation placing new restrictions on the sale of e-cigarette and nicotine vaping products and flavored tobacco products (press release attached). The legislation grants the Department of Public Health (DPH) new authority to regulate the sale of nicotine vaping products, and will consider regulations in accordance with the new law to:
 - Require the posting of signage in any location where vaping products are sold to warn customers of the dangers of severe lung disease associated with vaping products and more generally advising of the health risks of vaping.
 - Specify the authority of the Commissioner of DPH to prohibit the sale of a designated vaping product on a determination that the product causes vaping-related lung illness or poses a substantial risk to public health.
 - Strengthen state and local enforcement, including by specifying procedures by which DPH or local Boards of Health may inspect retail locations and the products they are selling for compliance with the law, and providing for penalties for violations.
 - Establish how retailers and manufacturers must comply with the law's requirement that vaping products with nicotine content of more than 35 mg/ml may only be sold in 21+ establishments.
 - Require vaping products to be placed behind the counter in all non-age restricted retailers (e.g., convenience stores).
- **Notice to Licensed Refuse Haulers:** Letters describing updated solid waste and recycling regulations regarding (Section 1000) and refuse containers (Article 8) were sent to all 2019 licensed refuse haulers, along with reminder adopted for the required provision of data adopted along with bundled pricing, due with license renewal applications. The Health Agent is contacting licensees who sent in renewal application without the data, as additional reminder.
- **Notice to Disposal or Roll-off Refuse Container Vendors:** Letters describing changes to solid waste, recycling and refuse containers and Integrated pest Management (IPM) contracts went out to regional vendors that lease bulk disposal containers. Additionally, these notices have been sent to property management companies.

- Update from the Cape & Island Water Protection Fund (WPF): Josee C. Young, as the Town's representative to the WPF Management Board, provided an update memo (dated 10/21/19) outlining the establishment of a Bylaws and Regulations Committee and providing FAQ bullet points.

Health Department Report: Morgan Clark

- Inspections: Lezli has done an incredible job with mandatory restaurant inspections, with the help of the Barnstable County summer sanitarians. Our rates of inspections for Health Department food service licensees is currently:
 - Full Service Restaurants:
 - First round inspections: 100%
 - Second round inspections: 93%
 - Limited Facilities:
 - First round inspections: 100%
 - Second round inspections: 100%
 - Residential Kitchens/Full Breakfast:
 - Inspections: 100%
 - Nonprofit Organizations:
 - Inspections: 100%
- Public Health: The Crop Swap: Provincetown's Produce Swap Shop gave away more than 4,000 pounds of fresh produce in its first 3 months of operation! The program is so successful that the partner agencies are currently looking for additional avenues to provide more fresh produce daily, as stocks generally deplete mid-day. In addition, we are in need of more volunteers.
- Public Health: Truro Central Schools has agreed to be a partner for Winter Wednesdays 2020, which allows the program to be free and available to residents of Provincetown, Truro, and Wellfleet, including free rides and childcare. This is truly a regional program and are excited to collaborate with Truro Central Schools and the Wellfleet Health and Conservation Departments, along with the Provincetown Schools, Library, Health and Housing/Economic Development Departments. Promotions for WW2020 will be available in early January; the classes will run from Wednesday February 5 – March 25, 2020.

VII. Board Members' Statements

EDP gallons: Ms.Clark mentions that it is closed currently, ultimately there will be more gallons.

Adjournment:

There being no further business, Mr. Katsurinis moved to adjourn the meeting at 5:55 p.m.

Respectfully submitted,

Amy White

Approved by _____ on _____, 2020