



BOARD OF HEALTH Meeting

Town of Nantucket
131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Commissioners: Stephen Visco (chair), James Cooper, Meredith Lepore, Kerry McKenna, Brooke Mohr

Staff: Roberto Santamaria, Kathy LaFavre, John Hedden, Cathy Flynn, Jake Visco, Anne Barrett

~~ MINUTES ~~

Thursday, November 17, 2022

4 Fairground Road, Community Room

This meeting was held via remote participation using ZOOM and YouTube.

Called to order at 4:00 p.m.

Staff in attendance: R. Santamaria, Health Director; J. Hedden, Chief Environmental Health Officer; J. Visco, Health Inspector; T. Norton, Town Minutes Taker
Attending Members: Stephen Visco; James Cooper; Meredith Lepore; Brooke Mohr, Select Board; Kerry McKenna
Remote Participant: McKenna
Early Departure: Mohr, 5:06 pm

I. ANNOUNCEMENTS

II. PUBLIC COMMENTS – ANY MEMBER OF THE PUBLIC MAY ADDRESS COMMISSIONERS AT THIS TIME

1. Williams Grieder, Madaket Conservation Association – The Town revamped the website; he was looking for something concerning septic and couldn't find the regulations. He's asking for clarification on how to find the Madaket septic regulations. There needs to be some way for people to find the criteria for upgrading to an I/A system.
Santamaria – Showed how to get to the BOH regulations and Chapter 303 Madaket Watershed. Under the codification process, Regulation 51 was renamed 303.

III. APPROVAL OF MINUTES

1. October 20, 2022

Action **Motion to Approve as drafted.** (made by: Mohr) (seconded)
Roll-call vote Carried 5-0//Cooper, Lepore, Mohr, McKenna, and Visco-aye

V. BOH APPLICATIONS REVIEW

1. Variance request, 26 Naushon Way, 80-190, nitrogen loading

Sitting Visco, Cooper, Lepore, McKenna, Mohr

Documentation Supporting documents and plans, staff recommendations.

Discussion **Bracken** – We put together this request for either relief procedure or a variance; by our interpretation, since the lot was created prior to July 24 1990, we only have to meet maximum feasible compliance. The lot was created in 1979. The owner wants to construct a new 1-bedroom secondary structure; the existing has 3 bedrooms. We met the nitrogen loading and property setback for Title 5.

Hedden – He feels this is new construction so all regulations must be met and requires a variance. This is for well regulations, not a leach facility; you must respect all regulations with new construction. Maximum feasible compliance doesn't apply to new construction; the intent of maximum feasible compliance is for repairs. His recommendation is not to approve it based on its being new construction.

Mohr – About maximum feasible compliance being for necessary repair, asked if that is a proper interpretation.

Hedden – Yes; maximum feasible compliance is not for new construction; the intent of the regulations is to protect vacant lots.

Mohr – When we grant an exception and a property gets built out, asked what the repercussions down the road might be.

Hedden – Mr. Bracken has done his best to move things as far away as possible; however, it's still going from 3 bedrooms to 4 bedrooms.

Mohr – Asked if the reserve area needs relief.

Visco – There's plenty of room for reserves.

Bracken – Title 5 allows for upgrades and repairs; under this regulation it shouldn't be looked at the same way as under Title 5. It doesn't say anything about vacant lots or built-up lots. Feels there is precedent regarding maximum feasible compliance in this type of situation.

Lepore – Asked why the septic is being moved.

Bracken – The actual location doesn't interfere with the pool or proposed cottage; however, in this case, we are abandoning the existing to put the new system as far from the neighbor's well as possible.

Visco – By right, if the lot was vacant, Mr. Bracken could design and install a 4-bedroom system. It's grandfathered under the time the lot was created. If this were a newly created lot, that would be different.

Cooper – Asked how granting the variance would affect everybody else.

Visco – The Board would have to decide if everyone comes to us for an exception or if exceptions can be granted in the office.

McKenna – We're looking at this from a Health point of view; adding a bedroom here increases the potential use capacity by 50%. There would be 12 people using a septic when there's a well 172' away; he doesn't think this is in the best interest of the neighbor or community from a health perspective.

Bracken – This complies with Title 5 and your regulations. If the Board would like to continue the matter to get more familiar with the regulations, we're willing to come back at the next meeting.

Visco – You're distinguishing a bedroom with what's going on in Town. These people could do this by right, and we could be creating a potential lawsuit. We also prefer IA over conventional.

McKenna – We're increasing by 1 bedroom and an outdoor shower. He's concerned about contaminants. Mr. Bracken's suggestion to continue might be a good idea to allow time to understand grandfathering and to understand what the benefits might or might not be.

Mohr – She too would like clarification on the question of new construction. She can see the net benefit to the neighbor, but she's also concerned about precedent.

Motion to Continue to the next Month. (made by: Mohr) (seconded)

Carried 5-0//Cooper, Lepore, Mohr, McKenna, and Visco-aye

Action

Roll-call vote

VI. PUBLIC HEARING

Ratification of Condemnation, 121 Orange Street

Sitting Visco, Cooper, Lepore, McKenna, Mohr

Documentation Emergency Condemnation notification, photos

Speakers Ara Charder, owner

Discussion **Santamaria** – The inspection is in the packet. We need ratification for the Emergency Condemnation.

Charder – She had the roof started but the roofer walked off the job. She reviewed medical issues precluding her ability to get repair work done on the structure. She removed debris from the premises and hired 5 dump trucks to take the debris away. Subdivision of the structure into 3 units is underway. There are 2 broken windows that weren't secured; she has put plywood over the windows. She has someone lined up to put in new windows and doors. Her intent is to do work

on the front then the other sides. She thinks it's counterproductive to remove her from the premises when there is running water and utilities and the structure is now secured from weather. Asked for them to reconsider and give her 30 days to get work done.

Hedden – We originally inspected this back in August 2019; He and Ms. Lafavre have inspected this numerous times since then. Reviewed the debris in the yard and damage to the house. This has been in District Court since January 2020 in an effort to get Ms. Charder to make the necessary corrections; this has also been in Housing Court; they ruled it is to go into receivership with 121 Orange Street, LLC to make necessary improvements to address violations and make it habitable again. Read the Building Commissioner's report, which resulted from a joint inspection, in the packet leading to the condemnation. Fire and Health and Building have grave concerns, and no one should be living in this house.

Cooper – Asked what happens if nothing gets done.

Hedden – Housing Court already ruled for a new owner to take over and get repairs done. No one should be living in that building.

Mohr – If the property is condemned and the conditions are remedied and it is shown to be habitable, asked what will happen then.

Santamaria – The condemnation order will be lifted.

McKenna – Asked who owns the house at this time.

Santamaria – Receivership allows temporary ownership to bring it up to state of habitability with a lien put on the property for repayment of work.

Charder – At the time the Housing Court made its ruling, there was no 121 Orange Street, LLC; doesn't believe it could be ruled to go to an entity that didn't exist at the time. There were things, not trash, stored in the vehicles that were on the property. Regarding the crumbling foundation, this house was built in 1850 and jumps when semis go by; the back entranceway is concrete over porous brick and the concrete has separated. We're going for a jury trial in January in Nantucket Court to fight the receivership.

Santamaria – We can't discuss anything about happens in court without Town Counsel present.

Mohr – Our purview is health and safety; she feels for Ms. Charder's situation, but the fact is the house isn't habitable or safe. Our job is to make that judgement call.

Santamaria – Regardless of court decisions, we have a history with this house. The orders and conditions for unfit for habitability are present now; they were in place for some time. We tried to work with the owner but that didn't go well. Condemnation is a last resort because this exceeded the standards for safe.

Charder – Asked what makes this house uninhabitable; she's addressed every issue.

Santamaria – As of the time we posted the hearing, this house was and is condemnable. We can schedule another inspection. We cannot in good conscience delay this any longer. A receiver has been chosen, no work has been done, and there is no reason to believe the house is habitable.

Visco – Feels Ms. Charder has no new information that will change the Board's opinion.

Motion to Ratify the Condemnation. (made by: Mohr) (seconded)

Action

Roll-call vote

Carried 5-0//Lepore, Cooper, Mohr, McKenna, and Visco-aye

IV. DIRECTOR'S REPORT

1. Santamaria – We can start going through the Strategic plan. Reviewed behavioral health objectives. We have been able to start increasing telemedical access. Since 2017, we added a public health nurse and 2 per diem public health nurses. Reduced recurrence of substance abuse, we decreased stigma; the taskforce is pushing forward increased solutions and education about substance abuse. We prevented a fourth suicide contagion by creating a Post-Traumatic Stress Management Group; that objective can be removed from the next Strategic Plan. At each BOH meeting, he will provide an update with quantifiable numbers.

Lepore – Asked if we're getting people who can do pediatric behavioral health.

Santamaria – Yes, we have Kezia Duarte, one of our per diem nurses; also, Fairwinds has contracted professionals through Telemedical.

2. Santamaria – We are in the largest Lyme Disease outbreak in 10 years; we can attribute that to a hot, dry, and extended season. The ticks are still active and won't drop until we hit 40 degrees. The Lyme Disease vaccine trial is still available. This public health outbreak is directly attributable to climate change.

VI. BOH BUSINESS

1. None

VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes October 20, 2022

VIII. ADJOURN

Action	Motion to Adjourn at 5:16 pm. (made by: Lepore) (seconded)
Roll-call vote	Carried 4-0//McKenna, Lepore, Cooper, and Visco-aye

Submitted by:
Terry L. Norton