



BOARD OF HEALTH

Meeting

Town of Nantucket
3 East Chestnut Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Commissioners: Stephen Visco (chair), Malcolm MacNab, MD, PHD (Vice chair), James Cooper, Meredith Lepore, Melissa Murphy
Staff: Roberto Santamaria, Artell Crowley, Kathy LaFavre, John Hedden, Anne Barrett

~~ MINUTES ~~

Thursday, April 15, 2021

*This meeting was held via remote participation using ZOOM and YouTube,
Pursuant to Governor Baker's March 12, 2020 Order Regarding Open Meeting Law*

Called to order at 3:00 p.m.

- Staff in attendance: R. Santamaria, Health Director; A. Crowley, Assistant Health Director; K. LaFavre, Health Inspector; J. Hedden, Inspector; T. Norton, Town Minutes Taker
- Attending Members: Stephen Visco; Malcolm MacNab, MD, PHD; James Cooper; Meredith Lepore; Melissa Murphy, Select Board
- Other Speakers: Michael Hugo, Massachusetts Association of Boards of Health; Terrance Noyes, Bar Yoshi; Peter Meerbergen, owner 20 Rugged Road; Don Bracken, Bracken Engineering for Mr. Meerbergen; Sarah Alger, Sarah F. Alger P.C. for Mr. Meerbergen; Bill Grieder, Madaket Conservation Association; Gerald Buzanoski, for 25 Tennessee Avenue; Gary Shaw, Manager NCH; Victoria Ewing, Victoria Ewing, LINK for The Green Market

I. ANNOUNCEMENTS

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

1. None

III. APPROVAL OF MINUTES

1. March 18, 2021
 - Action **Motion to Approve.** (made by: MacNab) (seconded)
 - Roll-call vote Carried unanimously//MacNab, Lepore, Murphy, Cooper, and Visco-aye

IV. DIRECTOR'S REPORT

1. MAHB Grant Application Discussion
 - Santamaria** – Introduced Michael Hugo.
 - Hugo** – This is the second MAHB grant he's gotten for the Islands; it is for the hiring of two positions on Nantucket. One position is for a wildlife biologist/epidemiologist to work between Nantucket and Martha's Vineyard; after the second year, that position should start looking for grants to bring in revenue. The next position is a community health worker who would work in addiction, substance abuse, and mental health - hording and distressed housing. The grant didn't exist until March 1st and all bids were due April 1st. On May 1st, money will be sent to the municipalities to start the hiring process to be filled on July 1st. Each grant program is 3 years and can be renewed 3 times.
 - Visco** – If the grant isn't renewed, does the position go away.
 - Hugo** – We know the position will be there for 9 years; that's the beauty of the repeatable 3-year program.
 - Lepore** – This sounds amazing. Confirmed the community health worker would work with housing and addiction. She works with addiction and housing on the Island; COVID brought home how many families are living together under a single roof. With the wildlife biologist, asked if that person would be looking for PFAS in deer since people are ingesting deer meat.
 - Discussion about the source of Island PFAS.
 - Murphy** – Looking forward to how we can use the funds and the positive results.

V. BOH APPLICATIONS REVIEW

1. Loan for Gault, 17 Ridge Lane, 38-78, repair septic
 - Sitting Visco, MacNab, Cooper, Lepore, Murphy
 - Documentation Supporting documents and plans, staff recommendations.
 - Discussion **Santamaria** – This is for septic repair. No objections.
Murphy disclosure she hired Mr. Gault for an unrelated project.
 - Action **Motion to Approve.** (made by: Cooper) (seconded)
 - Roll-call vote Carried unanimously//Macnab, Lepore, Cooper, Murphy, and Visco-aye
2. Release loan for Maltby, 20 Equator Drive, 66-225, per tax collector’s request (allow chair to sign)
 - Sitting Visco, MacNab, Cooper, Lepore, Murphy
 - Documentation Supporting documents and plans, staff recommendations.
 - Discussion **Santamaria** – The loan has been paid off. Asked for a motion to allow the chair to sign these in perpetuity.
 - Action **Motion to Allow the chair to sign in perpetuity.** (made by: Murphy) (seconded)
 - Roll-call vote Carried unanimously//MacNab, Lepore, Cooper, Murphy, and Visco-aye;
 - Action **Motion to Release the loan.** (made by: Murphy) (seconded)
 - Roll-call vote Carried unanimously//MacNab, Cooper, Lepore, Murphy, and Visco-aye;
3. Release loan for Mailloux, 13 Hawthorne Ln, 56-264, never used any of the funds
 - Sitting Visco, MacNab, Cooper, Lepore, Murphy
 - Documentation Supporting documents and plans, staff recommendations.
 - Discussion **Santamaria** – This is to allow the money to come back into the fund.
 - Action **Motion to Approve.** (made by: Murphy) (seconded)
 - Roll-call vote Carried unanimously//MacNab, Cooper, Lepore, Murphy, and Visco-ay
4. Release of ACO for 324 Madaket Rd, Grennan, 60.2.4-82, active compliant septic permit issued
 - Sitting Visco, MacNab, Cooper, Lepore, Murphy
 - Documentation Supporting documents and plans, staff recommendations.
 - Discussion **Santamaria** – We aren’t issuing ACOs any longer.
 - Action **Motion to Release the ACO.** (made by: MacNab) (seconded)
 - Roll-call vote Carried unanimously//MacNab, Lepore, Cooper, Murphy, and Visco-ay
5. Extension of Sampling Variance for a Massachusetts Tier 3 Beach – Sconset
 - Sitting Visco, MacNab, Cooper, Lepore, Murphy
 - Documentation Supporting documents and plans, staff recommendations.
 - Discussion **Santamaria** – This is one of the beaches that doesn’t fail testing; asking to lower the frequency of testing.
 - Action **Motion to extend the sampling.** (made by: Cooper) (seconded)
 - Roll-call vote Carried unanimously//Macnab, Lepore, Cooper, Murphy, and Visco-aye
6. Variance from 105 CMR 590 Section 3-502 Rice Preparation SOP
 - Sitting Visco, MacNab, Cooper, Lepore, Murphy
 - Documentation Supporting documents and plans, staff recommendations.
 - Discussion **Hedden** – This is to allow adding vinegar to drop PH of rice to work at room temperatures in making sushi; this is for the sushi bar at the Stop & Shop. Sees no concerns.
 - Action **Motion to Approve.** (made by: Murphy) (seconded)
 - Roll-call vote Carried unanimously//MacNab, Lepore, Cooper, Murphy, and Visco-aye
7. Variance from 105 CMR 590 Section 6-101.11 (3) flooring
 - Sitting Visco, MacNab, Cooper, Lepore, Murphy
 - Documentation Supporting documents and plans, staff recommendations.
 - Discussion **Santamaria** – This is for The Green to allow them to have a non-absorbent flooring.
Hedden – He’s reviewed the plans. They installed flooring in what will be the retail section where there will be refrigerators for packaged food. He’s denied them the installation of a hardwood floor. They’ve done the work and will have to replace it. You need the proper floor to wash it and prevent mold.
Cooper – Asked if any of this is covered by the Building Permit.

Hedden – Not that he knows; they might have a building permit for it. The floor was installed about a year ago.

Crowley – We checked code compliance; during the plan review, we noted the hardwood floor. It is just a section of the floor and can be covered.

Hedden – Everywhere else in this locale has the proper flooring from the prior use. The floor is completely installed.

Murphy – Asked if there is a covering they can use so they don't have to rip it up.

LaFavre – They can cover it with a composite vinyl tile or sheet. The initial work was done without approval or us getting the plan review.

Motion to Deny the variance. (made by: MacNab) (seconded)

Action

Roll-call vote Carried unanimously/MacNab, Lepore, Murphy, Cooper, and Visco-aye

8. Variance for Bar Yoshi – bathroom requirements for seating Local Reg 14

Sitting Visco, MacNab, Cooper, Lepore, Murphy

Documentation Supporting documents and plans, staff recommendations.

Discussion **Noyes** – We've expanded from 400sf to 800sf with 49 interior seats. Asking for a variance for the outside 3 tall-top tables, which can seat up to 12 people. At the end of the wharf are public bathrooms; for 2 years, we've depended on those for customer use with the interior bathroom for employee use only. With the upgrade, we installed a unisex, accessible bathroom.

Hedden – When the plan review came in, he saw the floor plan showed a total of 58 seats; if you have 51 seats or more, the regulations require 2 bathrooms.

Murphy – She takes comfort from the public bathroom access; asked if it is an issue for the number of tables. When she goes to Slip 14, she uses public bathrooms; asked if they have 1 or 2 bathrooms.

Hedden – Slip 14 has only one bathroom and about 90 seats.

Visco – The bottom line is can this fly without adding the bathroom.

Hedden – He goes by the regulations. If those public bathrooms are closed for any reason, they aren't available for Mr. Noyes customers.

Cooper – Asked if there is room for another bathroom and still have the seating.

Noyes – We would lose about 12 seats; if we put another bathroom in, we would be under 50 seats. If the public bathrooms are closed, we have one still available; that was part of our agreement with NIR. For the last 2 years, we didn't have a public bathroom at all and had a variance for it.

Crowley – Regulation 14 requires approximately 25 feet for a bathroom; Sushi by Yoshi doesn't control any of the public bathrooms. If you want more than 51 seats, you need another bathroom. Either reduce occupancy to 50 or add another bathroom.

Noyes – Asked if he can have 25 outdoor seats and 24 indoor seats and one bathroom.

Lepore – She has a concern about a lot of restaurants using the dock public bathrooms and that they might not be following the rules. Since NIR owns the bathrooms and restaurants, questions if NIR should be responsible.

Cooper – The restaurants have no control over the public bathrooms; they could be shut down at any time. As far as he's concerned Bar Yoshi needs another bathroom.

Visco – You are asking for a variance, so you can have more seats; when your business model reaches that point, you need a larger location.

Noyes – He's trying to be legitimate and honest when there are other restaurants with 2 bathrooms and over 100 seats. If I put in another bathroom, I can't generate the necessary sales for those 8 weeks. This goes back to Steve Butler working with old buildings being turned into restaurants without sufficient bathrooms. Asked for options.

Cooper – You must have known you'd need another bathroom; you built out for maximum seats without including a second bathroom.

Noyes – Reiterated that before the renovation, he had depended on the public bathrooms; that is what he was considering as a go-to. His variance is for 10 seats.

Crowley – Asked Mr. Noyes to call him and let him know what the other facilities lacking bathrooms are.

Santamaria – Those two bathrooms Ms. Murphy referred to are part of the Slip 14 lease and for their exclusive use.

MacNab – If he goes a few years back, it was a major issue on the Island and then slipped into the background. Someone needs to look at this as an Island-wide issue. It will come up again.

Action Motion to Deny the request. (made by: Murphy) (seconded)
Roll-call vote Carried 3-2//Murphy, Cooper, and Visco-ay; MacNab and Lepore-nay

9. Variance for 20 Rugged Rd, 67-165, mandatory connection to municipal sewer

Sitting Visco, MacNab, Cooper, Lepore, Murphy

Documentation Supporting documents and plans, staff recommendations.

Discussion **Bracken** – A sewer line was recently put in with a connection for this property. Mr. Meerbergen was told he has to connect by Aug. 1, 2021. He feels the present septic presents no threat to harbors or the watershed: only three bedrooms with one occupant, existing septic isn't within a harbor protection zone, 100 feet from wetlands, and groundwater at about elevation 16 about 15 feet below the leaching pit. Requiring the connection would create a financial hardship. Would offer conditions that if Mr. Meerbergen applies for an expansion or sells the property, he will connect to sewer.

Visco – 3 years ago, this similar situation came up and we granted this variance for 2 properties on Old South Road.

MacNab – He would grant it with the proposed conditions.

Crowley – This is a large lot; any subdivision, new construction, failure, or sale would trigger the sewer connection.

Cooper – Asked if there are any others in a similar situation on Rugged Road.

Bracken – There are four properties in the same situation. One person has hooked up to sewer.

Meerbergen – At this point in his life, this would be devastating to him financially; he has no way to pay back a loan. His property and septic have been well maintained; it's very naturally kept with no use of fertilizer or pesticides.

Alger – This would be personally devastating for Mr. Meerbergen if he has to spend \$125,000 to connect. The conditions would be recorded with the Registry of Deed.

Grieder – As sewer expands, people like Mr. Meerbergen are coming in. Suggested the Board have some boiler-plate language for granting the relief the stated conditions.

Cooper – The restrictions should be in place forever.

Visco – The restrictions would be registered with the Registry of Deeds; he would have to hook to service if the property changes.

Action **Motion to Approve the variance with the outline four conditions as listed by Mr. Crowley.** (made by: MacNab) (seconded)

Roll-call vote Carried unanimously//MacNab, Lepore, Murphy, Cooper, and Visco-aye

10. Variance request for 53 Tennessee Av, 59.4-362, Local Reg 51.02B & 51.02C

Sitting Visco, MacNab, Cooper, Lepore, Murphy

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – This is a variance for the setback for the soil absorption system from the property line.

Buzanoski – This lot has been vacant since 1971, when it was created. The lot is too small to satisfy the 50-foot property line setback and distance between the primary and secondary reserve. There is an irrigation well on one side and water well on the other; those eliminate about 80% of the property for installation of this system.

Crowley – The Board has traditionally granted the variance in Madaket but for pre-existing houses with failed systems. This lot was created prior to the regulations; it is upon which the Board can use to grant the variance. Recommend granting the variance.

Lepore – Asked how this is different from sites where structures were built in the wrong spot.

Crowley – They meet the minimum standard of Title 5; they don't meet local regulations. We haven't granted the variance for other vacant lots because they were created after the regulations.

Action **Motion to Grant the variance.** (made by: MacNab) (seconded)

Roll-call vote Carried unanimously//MacNab, Lepore, Murphy, Cooper, and Visco-aye

11. Variance request for 4 Fisher's Landing Rd, 38-157, Local Reg 51.0 A & 51.02B setbacks

Sitting Visco, MacNab, Cooper, Lepore, Murphy

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – Similar here. Asking for 4.4' of cover. This is for an upgrade for a failed system.

Crowley – This is pretty straight forward; it's a repair on a developed property with maximum feasible compliance.

Action **Motion to Approve the variance.** (made by: Murphy) (seconded)

Roll-call vote Carried unanimously//MacNab, Murphy, Lepore, Cooper, and Visco-aye

VI. BOH BUSINESS

1. Tick Borne Disease Numbers for 2020 & new info re: research:

Santamaria – From last year, we've doubled probable, suspect, and confirmed cases. Lyme has tripled from 2018 to 2020. Babesiosis was 13 cases in 2018 and 31 in 2020. We were on a nice downward trajectory and COVID distracted from keeping on top of tick diseases and aided into the explosion of tick-related illnesses.

Lepore – The Lone Star tick is here; she's seen it. The increase might have to do with a lot more people staying here through the winter; we are probably getting diagnoses from people who normally would have gone home and been diagnosed. This is a big concern because we are still in COVID and spending time outside. As a school nurse, she reminds parents to check their children for ticks.

Santamaria – We could start adding the dangers of the Lone Star tick in our educational information.

MacNab – It's not just focusing on COVID; the weather was conducive for ticks and people were outside, plus we are catching numbers we wouldn't have previously.

2. COVID-19 Update:

Santamaria – Asked for a consensus vote so the Health Department can extend fertilizer permits; we don't people breaking COVID restrictions for the training.

Motion to Extend fertilizer licensing 1 year due to COVID 19. (made by: Murphy) (seconded)

Carried unanimously//MacNab, Cooper, Murphy, Lepore, and Visco-aye

Santamaria – We are still seeing a surge, though the 7-day average is going down. We might see COVID becoming endemic to the US, which means we will see a seasonal vaccine like the flu shot; we were expecting this.

MacNab – Asked about the hesitancy rate on Nantucket.

Santamaria – We are reaching out through Jerico Mele at Human Services to minority communities in an effort to remove the hesitancy. We're only seeing about 10% to 15% non-vaccination on principal.

Shaw – Update on the You Smell It Test research. If you have knowledge, skill, ability, resources, compliance, and logistic capability, research can be good. He pushed hard to get the study approved with a co-sponsor. The cost is north of \$300,000. It isn't so much about getting approval, it's the actual testing: compliance, storage, record keeping, etc. We decided we weren't going to move forward because of the money and lack of the available skill set. We are moving forward with Mass General on a sniff test because they provide the sniff cards and instruction cards to give to people coming through our test sites. The person can opt to take part or not; but they would contact the primary researcher. Pfizer came forward for Lyme research but that required we hire people and provide refrigeration. Our mission is to provide good public health care; we don't have funds to cover research. He and Dr. MacNab have interviewed the primary researcher of the COVID sniff test and requested a written plan, which they didn't get. We aren't going to engage in that research at this time.

MacNab – We've been told to think out of the box to find a way to use the test. It is approved for testing olfactory problem but not as a screen for COVID. Not all people who fail the test have COVID, so it will create false positives. The Town shouldn't recommend the use of an unapproved test. There is nothing to stop an individual from taking the test and following up on the results. The hospital doesn't have the capacity to do research, but we won't stop someone who does have the capability to do research.

Murphy – We have a hard stop at 5 and we need to have another substantive discussion around COVID. Asked for another meeting before the next meeting. She's confused about what the direct ask is to the Town and BOH or if there was one.

Santamaria – Conservation Commission is not meeting so we can keep going.

Shaw – At the Select Board meeting, the You Smell It research presented all the information; what made it un clear was he then set the hospital's position.

Murphy – There was an email from Catherine Flattery to get it on the Select Board agenda as an emergency item.

Shaw – The only way to correlate to COVID is through a research program. Outside of that, You Smell It a simple commercial product indicating whether or not you can smell.

MacNab – It's not licensed for COVID testing; therefore, the Town can't sanction the test.

Lepore – She wants to move on from the You Smell It; she doesn't feel it is useful and the Town won't back it. We need to focus on the PTR testing. April vacation starts April 16th; suggested extended testing hours and communicating about when we have to quarantine a large group of people like a sports time. With Summer coming and increase travel, she would like to see the hospital being more flexible about the testing time.

Shaw – Our testing is the most flexible in the State. We aren't going to take people out of primary care for the testing site.

Lepore – Town departments should have someone communicate with the hospital to warn about a large group that will need testing.

Murphy – At the Select Board meeting, there were questions about falling behind our ability to vaccinate. There are concerns about providing resources or recommendations on screening tools and best practices. The virus is here, there is community spread, and we're going to be welcoming 1000s of people over the next few weeks. Asked if there is a plan in place if we see a surge spreading faster than we can vaccinate with the arrival of the variants. Our businesses can't sustain another season of shut down and our families can't sustain a continued economic loss. Asked about screening tools at points of entry.

Lepore – Now that we have a Public Health Nurse, asked if the Town can engage in testing to take pressure off the hospital.

Santamaria – We could do that. Her primary duties have been helping at the vaccination clinic. Doesn't think doing outreach at the boats would be the best use for her skills. We are hiring seasonal COVID person we can post at the points of entry. Screening doesn't help prevent COVID if they don't present symptoms. He can use her expertise to provide guidelines to businesses and the public. As for additional lock-down policies, we'd be hard pressed to get compliance; it would put people out of business if we do another lock down. One of the pharmacies is doing testing and interested in providing vaccines. Family Resource Center has offered to give vaccines as well once they become available for everyone.

Murphy – She found some graphics on Google; suggested a letter to the boats and airlines to have them provide best practices for arriving and Nantucket. We as a community need to communicate strongly how we want people to arrive in our community. We can encourage businesses to have their seasonal employees get vaccinated. She can help with that.

Santamaria – The more outreach, the better. Any help would be useful. Waiting to get confirmation if there are any new variants on the Island. Biobot is testing sewage for the B117 variant.

Shaw – Dr. Beninger from Mass General indicated that they were willing to allocate 200 more Moderna. We're still getting 1170 Pfizer vaccines. We've got a good rate of vaccine out here. It would help if the State understood the true year-round population of the Island. We're being held at lower numbers. We should focus on only those things that matter. One thing he suggested is that employers should quarantine their incoming employees for 3 or 4 days unless they can prove they were vaccinated. One question is how to reach out to people who don't have internet access and/or don't know how to register for the vaccine.

Murphy – Suggested a cadre of volunteers to reach out to help people register for vaccination. She'd love to see mobile vaccination trucks.

Santamaria – New Hampshire announced they are ending their mask mandate on April 16th; that will put pressure on Nantucket to follow suit.

Lepore – She read an article that stated that Massachusetts has the highest percentage of the variance.

Santamaria – We're the highest because we're looking for it. Many States aren't looking for it. The CDC is deploying its own people to look for the variants.

3. **Visco** – Asked why Victory Ewing is still on ZOOM.

Ewing – She thought the meeting started at 4 p.m. and was here to represent Green Market; asked how that went.

Santamaria – The flooring has to be non-absorbent; the request was denied.

VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes March 18, 2021
2. Tickborne Disease report 2018 to 2020.

VIII. ADJOURN

Action **Motion to Adjourn at 5:24 p.m.** (made by: Cooper) (seconded)
Roll-call vote Carried unanimously//MacNab, Cooper, Lepore, Murphy, and Visco-aye

Submitted by:
Terry L. Norton