



# BOARD OF HEALTH

## Meeting

Town of Nantucket  
3 East Chestnut Street  
Nantucket, Massachusetts 02554

[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

**Commissioners:** Stephen Visco (chair), Malcolm MacNab, MD, PHD (Vice chair), James Cooper, Helene Weld, RN  
**Staff:** Roberto Santamaria, Artell Crowley, Kathy LaFavre, Anne Barrett, Hank Ross

~~ MINUTES ~~

**Thursday, April 18, 2018**

4 Fairgrounds Road, Community Room – 4:00 pm

Called to order at 4:00 p.m.

Staff in attendance: R. Santamaria, Health Director; A. Crowley, Assistant Health Director; K. LaFavre, Health Inspector

Attending Members: Stephen Visco; Malcolm MacNab, MD, PHD; James Cooper

Absent Members: Helene Weld, RN

Agenda adopted by unanimous consent

### I. ANNOUNCEMENTS

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

1. None

### V. DIRECTOR'S REPORT

1. Full fling for permitting April, all restaurants will be open for Daffodil Weekend; there's a push to open Easter Weekend
2. Hank Ross started Monday.
3. Will have 2 Interns this Summer.
4. Very high on building permit numbers; looks like it's stabilizing out and will be similar to the same time last Winter.
5. In preparation for measles outbreak; hospital is prepped for the eventuality. Expects to see at least one outbreak on the Island.

### III. APPROVAL OF MINUTES

March 21, 2019: **Motion to Approve.** (made by: MacNab) Carried unanimously

### IV. BOH APPLICATIONS REVIEW

1. Loan Request: 76 Arkansas Avenue – repair septic

Sitting Visco, MacNab, Cooper

Documentation Supporting documents and plans, staff recommendations.

Discussion **Santamaria** – system failed hydraulically; will be replaced with an IA system.

Action **Motion to Approve.** (made by: MacNab) (seconded by: Cooper)

Vote Carried unanimously

2. Variance Request: Cliffside Water Testing

Sitting Visco, MacNab, Cooper

Documentation Supporting documents and plans, staff recommendations.

Discussion **Crowley** – Four years ago the board granted a variance for monthly testing; that is up, and the Board has to grant another for the record. We've had no bad samples there.

Action **Motion to Approve.** (made by: MacNab) (seconded by: Cooper)

Vote Carried unanimously

3. Variance Request: 123 Wauwinet Road, 12-9 – tight tank request  
Sitting Visco, MacNab, Cooper  
Documentation Supporting documents and plans, staff recommendations.  
Discussion **Santamaria** – Asked to table this because a member must recuse and there will be no quorum.  
Action Tabled for the next meeting without opening.  
Vote N/A
4. Variance Request: 155 Wauwinet Road, 11-1, 52.02A – costal dune setback  
Sitting Visco, MacNab, Cooper  
Documentation Supporting documents and plans, staff recommendations.  
Discussion **Santamaria** – Putting in an I/A but need a setback variance. No objections  
Action **Motion to Approve.** (made by: MacNab) (seconded by: Cooper)  
Vote Carried unanimously
5. Variance Request: 55 Tennessee Avenue, 59.4-363 – Local Reg. 51 & 64, repair to maximum feasible compliance  
Sitting Visco, MacNab, Cooper  
Documentation Supporting documents and plans, staff recommendations.  
Discussion **Santamaria** – Repair of a system in failure; the setback is hard and looking for maximum feasible compliance. No objections.  
Action **Motion to Approve.** (made by: Cooper) (seconded by: MacNab)  
Vote Carried unanimously
6. Variance Request: 21 Bank Street, 7313-57 – Reg. 310 CMR 15.211(1) setback  
Sitting Visco, MacNab, Cooper  
Documentation Supporting documents and plans, staff recommendations.  
Discussion **Paul Santos**, Nantucket Surveyors, for the owner – For replacement of a cesspool, requesting a setback from the 10-foot requirement from the property line on Jefferson Street. Replacement system will have an I/A component with pressure dosing.  
**Crowley** – We permitted a compliant system on this lot in January; there’s no need for the variance since they can comply. Recommends a denial.  
**Visco** – Essentially, they are doing this to reduce the size of the leach field to create more groundcover. Looks like the tank could be compliant. We recently had a similar request on Cliff Road and we required the tanks comply. He agrees with Mr. Crowley’s assessment.  
**Cooper** – The rules say you must comply; feels they should comply.  
**Kevin Dale**, Vaughan, Dale, Hunter, and Beaudette P.C., for the contract purchaser – Although the property currently complies, it doesn’t meet marketability standards for title. Denying the variance renders the property unmarketable.  
**MacNab** – He thinks this is different than Cliff Road: an I/A system, no increase in bedrooms.  
Action Motion to Deny. (made by: Cooper) (seconded by: MacNab)  
Vote Carried 2-1//MacNab opposed
7. Variance Request: 17 Washington Avenue, 60.2.1-44 – Local Reg 51.02 (A, B, C) distances  
Sitting Visco, MacNab, Cooper  
Documentation Supporting documents and plans, staff recommendations.  
Discussion **Santamaria** – This meets full compliance and recommend approval.  
Action **Motion to Approve.** (made by: Cooper) (seconded by: MacNab)  
Vote Carried unanimously
8. Variance Request: 76 Arkansas Avenue, 59.4-42 – maximum feasible compliance for set backs  
Sitting Visco, MacNab, Cooper  
Documentation Supporting documents and plans, staff recommendations.  
Discussion **Santamaria** – This very narrow lot needs setback variance to make any system fit. Recommend approval.  
Action **Motion to Approve.** (made by: Cooper) (seconded by: MacNab)  
Vote Carried unanimously

**V. PUBLI HEARINGS**

## 1. Regulation 51: Madaket implementation date

Sitting Visco, MacNab, Cooper

Discussion Motion to open the public hearing at 4:22 p.m. (made by: MacNab) (seconded by: Cooper) Carried unanimously

**Santamaria** – The initial implementation date was July 1, 2019 in anticipation of the completion of the Landfill study; we don't have that report. The discussion is to keep the date or move it back.

**Bill Grieder**, 10 F Street – He's concerned about inconsistencies in Town process and enforcement. We have requested that the regulations have local and current data; the Town agreed and that has started. The update isn't ready and there is no confidence it will be completed in a timely manner. The implied course ahead is homeowners tow the mark and the Town waits on data. It's frustrating for homeowners to get caught in the middle of intradepartmental minutia.

**Victoria Gurvin**, Madaket Residents Association (MRA) President – The MRA supports moving the implementation date to July 1, 2020.

**Lesley Barns**, Madaket – The residents have installed a lot of I/A systems since 2009. We are working hard to protect Madaket water and the TMDL has been going down. We need to know the landfill contribution. It's unfair to burden the residents when the contractor can't meet his deadline.

**Jeff Carlson, Natural Resources Director** – We were waiting on the last round of samples; that sample was pulled and processed in February and in the hands of the Department Public Works Director. They won't make the April 29 contractual date but should have the final technical report with updated models by mid-May. What comes out of that report will be important in discussion on the water quality.

**Cooper** – We need to have a date on when the information can be made available to the public.

**Carlson** – He'll send that information to Mr. Santamaria. Should have that date by the end of this week.

**Cooper** – Asked if the July 1, 2019 date was when the study would be complete.

**Santamaria** – Yes. We were supposed to have known by now. Suggested continuing the hearing date to the June meeting.

**Visco** – That would allow some of the summer residents to attend and for everyone to digest the information.

**MacNab** – He agrees about not making this decision today; however, he thinks one mistake we are starting to make is combining the septic load and the landfill load. The minimum nitrogen load is a low and arbitrary number; what's going in from septic is a substantial amount and wants to see sewer.

Motion to close the public comment portion at 4:36 p.m. (made by: MacNab) (seconded by: Cooper) Carried unanimously

**Santamaria** – For a legal continuance, we need an exact date; the meeting date June 20, 2019. Also, we can push the implementation date to August 1<sup>st</sup> and set a hearing date for the July 18 meeting.

**MacNab** – His concern with the June date is not having enough time to digest the data.

Action **Motion to Continue the hearing to June 20, 2019.** (made by: MacNab) (seconded by: Visco)

Vote Carried unanimously

## 2. Regulation 75: Fertilizer regulation changes

Sitting Visco, MacNab, Cooper

Discussion Motion to open the public hearing. (made by: MacNab) (seconded by: Cooper) Carried unanimously

**Santamaria** – This has been in place since 2012 following best management practices (BMP) set by Article 68 Workgroup. The Massachusetts Department of Agricultural Resources (MDAR) has

set a new regulation voted into law for setting their own rules for fertilizer. Part of that is the local BOH can't vote on regulations until the local regional planning authority has voted on any local fertilizer regulations; for Nantucket that would be the NPEDC. We can discuss changes but not vote on them.

**Marty McGowan, 'Sconset Gardener** – Wants to understand any thoughts, concerns, or advisements on the reason for rule changes.

**Santamaria** – We can't inspect fertilizer application on private property and therefore not enforce. The change would mirror the state regulation which allows us to audit the written reports, which would not be made public, to ensure compliance.

**McGowan** – The report doesn't ask for how many square feet is being applied.

**Santamaria** – That's another aspect; if it's all fast relief, that is not compliant.

**McGowan** – Licensed applicators are required to fill out the form non-licensed applicators are not; asked how compliance would be monitored.

**Santamaria** – The company would be made to submit the report and off-island companies would face automatic fines. We can also access off-island reports through the Massachusetts Natural Resources.

**McGowan** – Asked why they want this extra management responsibility.

**Santamaria** – We want to know what the real run-off numbers are; we don't have a quantifiable number unless we collect the data.

**McGowan** – In the run off approach to the harbor, if the correlation is the same regardless of where fertilizing is being done.

**Santamaria** – It's not the same because it breaks down, but it is going into the groundwater and eventually into the aquifer.

**McGowan** – The BOH should consider collecting soil sample data provided all people using BMP so you know who is following that. If no phosphates show in soil samples, then the run off is non-existent. Information will only come from people who keep records. Another approach is to educate the purveyors. Asked how the flow from septic is measured.

**Santamaria** – We can only quantify the nutrients going into the groundwater through an I/A system.

**Mike Misurelli**, Chair Fertilizer Advisory Committee – Requesting monthly report will be burdensome of everyone. Should work out how those reports are going be submitted. It was requested all material be in one facility, which could be detrimental to the environment; different fertilizers must be stored differently.

**McGowan** – The proposed paperwork is daunting; suggested asking for finalized reports.

**Santamaria** – There is a reporting form with MDAR we would try to use.

**Trish Dammin** – The trucks from off-island with rolled up lawn, asked if those are tested for pre-treatment.

**Santamaria** – That is a good question; it would have fallen under the agricultural exemption. We'll ask.

**Dammin** – Asked if there is a way to request of property owners their lots be tested.

**Santamaria** – Yes, some have volunteered.

**Dammin** – Asked if all companies that sell fertilizer are in compliance.

**Santamaria** – No; explained how the State regulate that and locally can't stop it.

**Emily Molden**, Nantucket Land Council (NLC) – NLC supports the changes; we also support the provisions that Island vendors to display product analysis.

**Lee Saperstein** – If all these regulations change, there will be modest levels of errors in the BMP; urged the board to create a working group to bring those up to date.

**McGowan** – Suggested landscapers could earn a "harbor-friendly sticker" to wear on his uniform that tells everyone he uses BMP and is a visual connection for the homeowner to do the right thing.

**Rita Higgins**, Select Board – Likes Mr. McGowan’s idea, it would help get the gardening community involved.

**MacNab** – There was also talk about a notice a homeowner could have that says their lawn is MDAR compliant. That would help with education.

Motion to close the public hearing at 5:08 p.m. (made by: MacNab) (seconded by: Cooper) Carried unanimously

**Santamaria** – We are looking for board endorsement to move forward.

**MacNab** – Asked how the “bad guys” would be tracked. He likes the sticker idea.

**Santamaria** – It would be hard to find “pirate” landscapers, but we are finding them. This would allow us to go through the State regulations. We require landscapers to carry their licenses with them. If we can see work going on from a public way, we can address the workers.

Motion to Continue with the recommendation. (made by: Cooper) (seconded by: MacNab)

Action

Vote

Carried unanimously b

## VI. ADJOURN

Adjourned by unanimous consent at 5:10 p.m.

Submitted by:

Terry L. Norton