



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, Helene Weld, RN, Rita Higgins
Staff: Roberto Santamaria, Artell Crowley, Kathy LaFavre, John Hedden, Anne Barrett, Hank Ross

~~ MINUTES ~~

Thursday, May 21, 2020

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 4:00 p.m. by Mr. Visco

Staff in attendance: R. Santamaria, Health Director; A. Crowley, Assistant Health Director; Leslie Snell, Deputy Director Planning;
Attending Members: Stephen Visco; Malcolm MacNab, MD, PHD; James Cooper; Helene Weld, RN; Rita Higgins, Select Board
Early Departure: Higgins, 4:30 p.m.
Speakers: Gary Shaw, NCH Manager; Chris Glowacki
Town Counsel: Gregg Corbo, K&P Law, P.C.

I. ANNOUNCEMENTS

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

1.

III. DIRECTOR'S REPORT

1. Referred to the written report. Grace McNeil, who is a PHD candidate, put together the COVID-19 update.
2. Cleaning guidance is being developed in the Health Department: check-list for short term rentals. This is allowed starting Monday, May 25th.
3. **Shaw** – Explained the serology testing program. Also explained PCR testing, which is outside the medical bracket; PCR is for identifying asymptomatic carriers. Mr. Glowacki will lead these efforts working with Mr. Santamaria. The Finance Commission approved funding to start this testing.
Glowacki – Said he will follow up immediately after this meeting with Mr. Santamaria.
Shaw – We believe the serology testing can start Tomorrow, Friday. The study could start next week; all the material is on hand. We will receive 150 PCR test kits this week; we can start that testing when we get those.
MacNab – As we move forward, asked what's the trigger to start closing down again.
Santamaria – The Governor released a tiered-level of closure and reopening; he hopes to recreate that measure here on Nantucket. If any of the criteria fall into the red zone, the BOH will hold an emergency meeting to address it.
Higgins – Sounds like Mr. Santamaria will establish numbers within the Nantucket context. Thinks it would be good to have a BOH taskforce to look at the numbers and triggers and to look at economic issues connected with the shutdown.
Santamaria – Reviewed the Economic Task Force recovery plan.
Weld – She heard insurance companies are choosing not to cover summer camps in the face of the inflammatory disease.

IV. APPROVAL OF MINUTES

1. April 16, April 17, April 19, May 6, and May 7, 2020

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

Roll-call Vote Carried 4-0//MacNab-aye; Cooper-aye; Weld-aye; Visco-aye (No response from Ms. Higgins)

2. December 8, 2011 and June 21, 2012

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

Roll-call Vote Carried 5-0//MacNab-aye; Cooper-aye; Weld-aye; Higgins-aye; Visco-aye

V. BOH APPLICATIONS REVIEW

1. Variance request: 113 Hummock Pond Road (56-59), setbacks 50.02A, 502.05B, 64.03B

Sitting Visco, MacNab, Cooper, Weld, Higgins

Documentation Supporting documents and plans, staff recommendations.

Discussion **Don Bracken**, Bracken Engineering – This is for a failed septic, separation from groundwater; we found a perched water table atop impervious soil. Proposing Septi-tech mounded system to get 3-foot separation from groundwater, which will require a 2-foot tall retaining wall. Also asking for 2-feet of relief regarding the dwelling's foundation.

Crowley – This system falls within the Hummock Pond Watershed Zone B; it is a 32,000 square foot lot. Recommend granting the relief from the 100-foot setback to wetlands. Recommend denying groundwater separation request and requiring the 5-foot separation.

MacNab – In the past we've not approved that separation from groundwater variance; we should be consistent.

Bracken – He understands about the precedent but feels from a technical groundwater issue there is little benefit from requiring the 5-foot separation.

Action **Motion to Grant the variance for 100-foot separation from the wetland but deny the variance for groundwater separation.** (made by: MacNab) (seconded)

Roll-call Vote Carried unanimously//Cooper-aye; Weld-aye; Macnab-aye; Visco-aye

2. Variance request: 287 Hummock Pond Road (83-39), setbacks 52.02A & 64.04 C.2

Sitting Visco, MacNab, Cooper, Weld, Higgins

Documentation Supporting documents and plans, staff recommendations.

Discussion **Don Bracken**, Bracken Engineering – Explained the reason for the variance request. The new septic system will include a micro-tech system. Requesting setback variance from the coastal bank, 63' on the ocean side and 58' on the side setback; we meet the setback for the wetlands. There will be a net improvement.

Crowley – This is not in Hummock Pond Watershed and is served by Town water; it requires an IA system due to being 300 feet from the pond. Groundwater flows toward the ocean. Groundwater and wetlands would be protected. Recommend granting the variance to the coastal bank; however, it will continue to be an issue due to erosion

Action **Motion to Grant the variance as requested.** (made by: Cooper) (seconded)

Roll-call Vote Carried unanimously//MacNab-aye; Cooper-aye; Weld-aye; Visco-aye

3. Variance request: 65 Squam Road (13-15), setbacks 52.02A

Sitting Visco, MacNab, Cooper, Weld, Higgins

Documentation Supporting documents and plans, staff recommendations.

Discussion **Art Gasbarro**, Nantucket Engineering & Survey – This is for a septic upgrade for a 4-bedroom failed system; we propose a new tank, septi-tech processor, and new leech field within the 100-foot buffer to a wetland. We have the Order of Conditions from the Conservation Commission.

Crowley – This is maximum feasible compliance; it is an upgrade and provides a net benefit. Recommend approval.

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

Roll-call Vote Carried unanimously//MacNab-aye; Cooper-aye; Weld-aye; Visco-aye

4. Variance request: Madequecham Valley Road (88-25), bedroom allowance 310CMR 15.214(2)

Sitting Visco, MacNab, Cooper, Weld, Higgins

Documentation Supporting documents and plans, staff recommendations.

Discussion **Dan Malloy**, Site Design Engineering – This lot was approved for a 4-bedroom septic in 1990 but the structure was never built. The owners now want to build a house and install a new system, which requires variance due to the lot size - under 6,900 square feet. Proposing an I/A component for 3-bedroom system. It meets all dimensional setbacks.

Crowley – This is not in a watershed or well-head. The system was installed without BOH approval in 1990; it wasn't compliant then and it isn't compliant today. Installing a septic system doesn't give you the right to that many bedrooms if the structure isn't built within 6 months. The Department of Environmental Protection said that since it was issued the Certificate of Compliance, we have to provide something. The proposal is for a new 330-gallon system; nitrogen calculation only allows 114 gallons. Recommend meeting in the middle with 220 gallons and 2 bedrooms.

Visco – We've had a few of these over the years; most recently we gave them 4 bedrooms with an I/A system. Thinks the 3 bedrooms is a good compromise.

Cooper – Asked why they have Certificate of Compliance.

Crowley – He doesn't know the answer to that; today's calculations would allow only 1 bedroom at 214 gallons and the property wouldn't be buildable.

Action **Motion to Approve with a 3-bedroom system.** (made by: Cooper) (seconded)

Roll-call Vote Carried unanimously//MacNab-aye; Cooper-aye; Weld-aye; Visco-aye

VI. BOH BUSINESS

1. Emergency Orders Numbers 6, 8, & 9

Santamaria – These are still in place; we're in Phase II of the phased construction re-opening plan; there has only been one waiver granted for construction.

Carlson – We've had 170 landscape companies register.

Santamaria – The governor has relaxed some rules; the question is do we want to modify the Emergency Orders.

Cooper – Cited a situation where 6 construction workers and 6 landscape workers ended up on the site at the same time and 3 from each team had to be sent home. Asked why there are two different applications issued from different locations. When this happens, asked who should decide who stays and who goes.

Santamaria – Construction and landscape are covered by two separate Emergency Orders; to put them under the same roof becomes difficult and hard.

Snell – All jobs are required to have a COVID Compliance Officer on site to manage this sort of thing. We recommend this not continue and to follow the Governor's order to alleviate the confusion.

Carlson – We encourage any landscapers to coordinate on active sites themselves. We haven't received a significant number of complaints from the landscapers.

Corbo – He went through the Governor's reopening plan and lined it up with Nantucket's various orders. Two significant differences remain: First is the number of workers per site, the 10-person limit set by the Governor's plan doesn't apply to construction sites while Nantucket has a specific limit of workers on a site at a time; second is the type of allowable constructions, Nantucket still limits work to sites permitted prior to the State of Emergency while the Governor's order allows any construction as long as they meet the State guidelines. There is substantial overlap now and we could dispense with some. You need to tackle the two substantive issues.

Cooper – Asked if we could go with the Governor's order except limit the number of people on the job.

Corbo – The Town has the ability to impose restrictions above and beyond the Governor's order.

MacNab – The key is opening up slowly; other industries are limited to the number of people they can have. He would prefer to continue limiting the number of people on a jobsite.

Snell – They would have to meet the 6-foot separation and Personal Protection Equipment; in the Governor's order, it states the purpose is to establish a uniform set of health and safety rules and specifically asks municipalities not place further restrictions.

Corbo – His position is that the Governor doesn't have the authority to restrict municipalities from implementing local rules that are in their best interest. Nantucket is a unique environment and should exercise its constitutional authority in this regard.

Weld – We've heard that going slowly is the way to go; we are not the mainland. She agrees with Dr. MacNab. She'd be willing to talk about increasing from 6 to 10 per jobsite.

Crowley – Suggested opening to allow work on jobs with permits received since March 12th but keeping the number at 6; it can be increased as needed.

MacNab – If we limit the number, we can meet again in two weeks to review where we are. He supports limiting the number and opening to new construction.

Snell – The order didn't specify if the COVID officer is included in the six; we decided to include the officer in that six. As of today, about half the variances were approved due to extenuating circumstances.

Cooper – He could allow all construction and 6 plus 1 people on the jobsite with the Building Commissioner having the ability to increase that number under certain circumstances. We can revisit this in two weeks.

MacNab – The goal is to open as slow as possible and track as we go along. We need to meet in two weeks to assess our progress.

Visco – He feels the new permits should be allowed to work.

Santamaria – Sarah Boyce has several questions. If voted in, asked if this would include all single workers - yes. The Governor's order requires 1 person per vehicle and we've been allowing 2; we have to go back down to one worker per car since we can't be more lenient than the State. Asked if we are still requesting the 14-day quarantine for people coming in from out of state and if we can enforce this.

Corbo – The 14-day quarantine is for people coming in from out of state; it doesn't apply to people coming on Island who have Massachusetts residency. Suggested that BOH proceed in two steps. Order Nr. 8, regarding construction, will go away except for the 6-person limit; rescind Order Nr. 8 and amend the State Construction Guidelines to add a provision for the number of people to be allowed on site.

Carlson – We've had a lot of crossover in the past weeks for limited landscaping; for ease of enforcement, we should open to all landscape work but keep the numbers the same. If the BOH rescinds the order, the rules would be the same as for construction.

Corbo – Recommends rescinding Orders 8 & 9 and amend the Governor's rules by adding landscaping and the worker limit to 6 plus 1 per site with the ability to ask for more, to be approved by the Building Commissioner.

The YouTube video sound cut out between about 5:27 and about 5:30.

Action **Motion to Rescind Emergency Order 8 Construction Back-to-Work Phase II & Emergency Order. 9 Landscape Back-to-Work Phase II effective immediately.** (made by: MacNab) (seconded)

Roll-call Vote Carried unanimously//MacNab-aye; Cooper-aye; Weld-aye; Visco-aye

Action **Motion to Allow the Chair to sign the documents.** (made by: MacNab) (seconded)

Roll-call Vote Carried unanimously//MacNab-aye; Cooper-aye; Weld-aye; Visco-aye

Action **Motion to make actions retroactive to May 21st.** (made by: Cooper) (seconded)

Roll-call Vote Carried unanimously//MacNab-aye; Cooper-aye; Weld-aye; Visco-aye

Action **Motion to Amend prior motion to include Emergency Orders 1, 5 & 6.** (made by: Weld) (seconded)

Roll-call Vote Carried unanimously//Cooper-aye; MacNab-aye; Weld-aye; Visco-aye

2. Emergency Order 2, personal care.

Santamaria – This is covered by the Governor in its entirety.

Corbo – Reviewed what Order 2 included; under the Governor's plan Hairdressers and barbershops can open on May 26. Massage parlors and body art in Phase II; fitness in Phase 3. Houses of worship can open now.

Action **Motion to rescind Emergency Order 2.** (made by: Cooper) (seconded)

Roll-call Vote Carried unanimously//Cooper-aye; MacNab-aye; Weld-aye; Visco-aye

3. Emergency Order 3, stay at home

Corbo – Emergency Order 3 expired April 6th.

Santamaria – The single section to continue being enforced is the curbside delivery for restaurants. The Governor’s order allows up to 3 people in some places but only for takeout.

Crowley – He checked out about 30 places and noted how efficiently it worked; from a public health matter this keeps people apart and minimizes the need to sanitize the interior. If a restaurant opens and is traced to a COVID case, it will face a stigma associated with that.

MacNab – That sounds reasonable to me; 2 or 3 people in a restaurant won’t make a big difference. We’ll revisit in two weeks.

Action **Motion to keep Emergency Order 3 in place.** (made by: Weld) (seconded)

Roll-call Vote Carried unanimously// Cooper-aye; MacNab-aye; Weld-aye; Visco-aye

Corbo – The Board should clarify exactly what is remaining in effect.

Santamaria – The curbside delivery.

Corbo – Asked for an amendment that only Paragraph 7, section XIV shall remain in effect. Reviewed what businesses the governor’s order allows to resume.

Action **Motion to amend the motion that only those portions pertaining to restaurants of Emergency Order 3 shall remain in place.** (made by: MacNab) (seconded)

Roll-call Vote Carried unanimously//Cooper-aye; Weld-aye; MacNab-aye; Visco-aye

4. Emergency Order 4, shell fish & Emergency Order 7, masks

Action **Motion to keep Emergency Order 4 in place.** (made by: Weld) (seconded)

Roll-call Vote Carried unanimously//Weld-aye; MacNab-aye; Cooper-aye; Visco-aye

Action **Motion to Rescind Emergency Order 7.** (made by: MacNab) (seconded)

Roll-call Vote Carried unanimously//Cooper-aye; MacNab-aye; Weld-aye; Visco-aye

5. **Weld** – Tick season is upon us; asked if information will be put out - yes.

6. **Weld** – Asked if Stop & Shop has a plan to deal with increased seasonal traffic.

Santamaria – They are working on that; they will continue to keep two doors closed to monitor the number of people in the store.

7. **Santamaria** – He will check on June 4th for the next meeting.

VII. ADDITIONAL DOCUMENTS USED

1. Draft BOH Minutes December 8, 2011, June 12, 2012, April 16, April 17, April 19, May 6, and May 7, 2020
2. COVID-19 Massachusetts & Nantucket Update
3. Massachusetts Governor’s COVID Dashboard
4. Economic Recover Task Force PowerPoint presentation.

VIII. ADJOURN

Motion to Adjourn at 6:00 p.m. (made by: Cooper)

Carried unanimously//MacNab-aye; Weld-aye; Cooper-aye; Visco-aye

Submitted by:

Terry L. Norton