BOARD OF HEALTH MEETING VOTED MINUTES
January 4, 2021 at 5:00 p.m.
Town Hall lower level meeting room
59 Town Hall Square, Falmouth, MA 02540
Times indicated for the agenda topics are approximate
In accordance with the Governor’s Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the January 4, 2021 public meeting of the Falmouth Board of Health shall be physically closed to the public to avoid group congregation.
Alternative public access to this meeting shall be provided in the following manner:
1. Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.

Zoom Login instructions:
i. Instructions and the meeting link for this specific meeting can be found at the following web address: http://www.falmouthma.us/BOH

ii. Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.
2. Additionally public comments may be sent in advance of the meeting to health@falmouthma.gov at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.
3. Applicants, their representatives and individuals with enforcement matters before the Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Health Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the Health Agent at health@falmouthma.gov so they may be displayed for remote public access viewing.

Present: Diana Molloy, Stephen Rafferty, George Heufelder, Benjamin Van Mooy, Kevin Kroeger
Scott McGann, Sheri Bedau

5:00 - Opening remarks and public comment:
At 5:00 Diana Molloy called the meeting to order and read regulations regarding open meeting law and remote meetings.

George Heufelder read the mission statement:
The mission of the Falmouth Board of Health is to protect and promote the health, safety and well-being of residents and visitors of the Town of Falmouth. The primary functions of the
Board of Health to achieve our mission are to: prevent and control disease, enforce state and local regulations, promulgate local health regulations, identify and protect from environmental hazards, and advocate for a healthy community.

Board of Health members used roll call to introduce themselves to Cathy Gwynne, Public Health Nurse.
Kevin Kroeger-present
George Heufelder-present
Stephen Rafferty-present
Benjamin Van Mooy-present
Diana Molloy-present
The Board of Health offered to help with vaccine clinics. A suggestion was made for a photo opportunity: The Board of Health receiving vaccinations against Covid-19.
Scott McGann reported that Ms. Gwynne has been trained in vaccine distribution.

SEPTIC
5:09–14Pennsylvania–Local Upgrade Approval/ variance request
4 bedroom house
Seeking reduction in setbacks required in 310 CMR 15.211
• Soil absorption system setback to a property line from the required 10’ down to 5.0’
• Soil absorption system setback to a property line(street) from the required 10’ down to 5.0’
• Soil absorption system setback to a pool from therequired20’ down to 13’
Documents: cover letter outlining proposal and plans by Cape and Islands Engineering dated December 20, 2020

The applicant requested a continuance.
George Heufelder moved to continue. Stephen Rafferty seconded.
A roll call vote was taken.
George Heufelder-aye
Stephen Rafferty-aye
Kevin Kroeger-aye
Benjamin Van Mooy-aye
Diana Molloy-aye
Motion passed.
Guidance issued included concern with the proposed 16’ trench.

HOUSING
5:12 -1174 East Falmouth Highway–continued from December 21, 2020 failure to comply with previous Health Department orders and Board decision from December 16, 2019
Documents: December 16, 2019 BoH agenda, minutes and materials from that hearing, Health Department letter to property owner dated November 24, 2020
Attorney Chris Leberherz appeared and said that he was representing homeowner Julio Fernandes who was in the office with him. Mr. Leberherz added that Mr. Fernandes’ daughter Jackie Fernandes was the trustee. He said that he had taken on the case in the past week. He said that Mr. Fernandes had allowed an individual to leave belongings at his property and the individual has been served and a court process has begun. The case was filed in Falmouth District court and will be processed on January 11. A court date is expected a couple of weeks after that. The tenant has some legal rights but Mr. Fernandes wants to comply with the Board of Health order.

A discussion included the following:

- Scott McGann reported that Frank Duffy thought that the original notification in November of 2019 was proper.
- Mr. Leberherz said that the tenant, Steve Antone, is not living there.
- Mr. Fernandez said that there were 2 dogs there.
- Mr. Leberherz said that there had been a lease agreement since Mr. Antone had given Mr. Fernandes money and this will have to be dissolved by a court process. An eviction notice has been filed and they are doing everything they can to expedite.
- If Mr. Antone is not actually living there does he need to be evicted?
- Mr. Leberherz thought this was an interesting question. He noted that Mr. Antone had acquired legal rights because he paid for them.
- Ms. Fernandes said that Mr. Antone was complicated. He was hard to reach and was MIA sometimes. They have looked at other places to store his things but Mr. Antone did not like them. The Fernandes have not taken money from Mr. Antone since November 3.
- Sheri Bedau reported that she had visited the property today and the fencing around the camper had been reinforced and the camper was plugged in.
- Mr. Fernandes reported that there was no power coming from the garage. He also said that the dogs had gotten out on the 23rd and the 25th. Neighbors had been giving the dogs food and water.
- It was observed from pictures presented that there was a very large propane tank on the property near the camper. It appears that the camper has heat and electricity. If it walks like a duck and talks like a duck...
- The Board of Health has an order that was properly served. No compliance can be expected until after January 11.
- The order was issued over a year ago and there is no evidence of any attempt to comply or resolve in court until a couple of weeks ago. There are violations at the property. The fines are accumulating daily.
- When assessing fines, the Board of Health has considered the schedule of coming into compliance and the level of compliance.
- Mr. Leberherz said that the Board of Health could not ask Mr. Fernandes to do what he was not able to do. The eviction process is being pursued.
- Perhaps the Board of Health is putting pressure on the wrong person. The tenant is now the recalcitrant party. Can the tenant be fined?
- Yes, probably. Scott McGann could consult Frank Duffy.
• Mr. Lebherz said he could provide contact information for Steve Antone, tenant.
• Has Animal Control been contacted?
• There were sewage disposal issues a year ago. What is the status now?
• Mr. Fernandes said that Steve Antone had a pan under the camper which he emptied off the property. He added that neighbors complained of the dogs barking all night and they could not sleep. The neighbors have fed the dogs two days in a row.
• The Board of Health directed Jackie Fernandes to ask Natural Resources about the status of the dogs.

George Heufelder moved to hold fines in abeyance and not to accumulate but to maintain those accumulated so far and continue the hearing to January 19th. Kevin Kroeger seconded.

A roll call vote was taken
Stephen Rafferty-aye
George Heufelder-aye
Benjamin Van Mooy-aye
Kevin Kroeger-aye
Diana Molloy-aye
Motion passed.

COVID-19
5:52-General COVID-19 Discussion
Health Agent and the Board of Health will discuss current state of the pandemic

A discussion included the following:
• There have been 140 cases in the last 2 weeks.
• Fewer are from long term care facilities and more are from community spread, mostly from small gatherings.
• Schools moved to remote learning for a week due to the large number of cases.
• The CTC has hired more help which facilitates contact tracing.
• The positivity rate is 4.2%
• A positive antigen test triggers contact tracing but Scott McGann will check to see whether the state counts antigen test when calculating rates.

Regarding the vaccine:
• It is thought that local Boards of Health will not be a depot for vaccines but will be expected to vaccinate local first responders. Falmouth first responders are being vaccinated under an agreement with other upper cape towns.
• Not all the information needed to plan is available.
• A state software scheduling program is not operational yet.
• Discussion is underway about a site to distribute the vaccine. A decision is expected soon.
• It may be necessary to promote or advocate for the vaccine during Phase 3. The goal should be for Falmouth to be a safe community because of a high rate of vaccination of the public.
TOBACCO
New state tobacco regulations went into effect June 1, 2020. The Board will be reviewing both the current local and new state regulations. The Board will be further discussing revising Falmouth’s local regulations to mesh with the new state regulations.
Documents: Existing and proposed local and current state tobacco regulations

Scott McGann reported that Bob Collett would be unavailable for the meeting but he could send a representative. The Board of Health agreed to finalize the sales document (Benjamin Van Mooy and Dianna Molloy) for the meeting on the 11th as well as refine the permitting document.

Benjamin Van Mooy moved to continue to the next meeting. George Heufelder seconded. A roll call vote was taken
Stephen Rafferty-aye
George Heufelder-aye
Benjamin Van Mooy-aye
Kevin Kroeger-aye
Diana Molloy-aye
Motion passed.

GENERAL BUSINESS
6:57-Board of Health Goals discussion and update Board of Health goals discussion document: Solid Waste has been added.

6:59—Approval of Meeting Minutes Approval of Minutes from December 21, 2020
Stephen Rafferty moved to approve as corrected. George Heufelder seconded. A roll call vote was taken
Stephen Rafferty-aye
George Heufelder-aye
Benjamin Van Mooy-aye
Kevin Kroeger-aye
Diana Molloy-aye
Motion passed.

At 7:03 George Heufelder moved to adjourn. Kevin Kroeger seconded. A roll call vote was taken
Stephen Rafferty-aye
George Heufelder-aye
Benjamin Van Mooy-aye
Kevin Kroeger-aye
Diana Molloy-aye
Motion passed.

Relevant Documents

December 16, 2019 BoH agenda, minutes and materials from that hearing, Health Department letter to property owner dated November 24, 2020 for 1174 East Falmouth Highway
Existing and proposed local and current state tobacco regulations
Board of Health goals discussion document
Minutes from December 21, 2020