

Board of Health Meeting January 10, 2023. The meeting was called to order at 6:36pm.

Members Present:

George Smith

Dr. Brian Kelly

Dr. Peter Roman

Attendance was taken with a voice roll call.

Members Absent:

George Smith explained that the meeting was being held remotely under Chapter 20 of the Acts of 2022, which includes an extension of the remote meeting provisions until March 31, 2023. Mr. Smith read the details on logging into the meeting, including the dial in number, the meeting ID and passcode.

Mr. Smith advised that the meeting was being recorded.

APPROVAL OF MINUTES:

Approval of minutes from November 14, 2022

Dr. Peter Roman made a motion to approve the minutes of November 14, 2022.

Dr. Brian Kelly seconded the motion.

The minutes were approved.

NEW BUSINESS:

Variance Hearing 13 Franklin Street:

John Glossa, Gloss Engineering, appeared before the Board. Mr. Glossa appeared on behalf of his client, Beth Bryson. He gave an overview of the project. He was asked to design a septic upgrade plan for the pre-existing building on the site. He is asking for dimensional waivers, or variances, for the project. Patrick Sullivan, an attorney representing the project, shared the design plan for the Board to see. Mr. Glossa said that the first variance is to allow the microfast tank, to be less than ten feet, 6.2 feet from the foundation. The second one is to allow the pump chamber to be 2.2 feet from the foundation of the proposed addition. The third variance is to allow the grease trap tank to be 7.2 feet from the foundation. And finally, to allow the leaching trenches to be 6.1 feet from the property line. All of these setbacks are required to be 10 feet.

Mr. Glossa said that the applicant is proposing a 108 seat restaurant, which includes a 2500 gallon tank for a grease trap, there is also an 8000 gallon septic tank. Mr. Glossa described the reason that the septic system is going to be a FAST system and how that type of system works compared to a regular system. There is also a tank to remove the nitrogen from the waste. Mr. Glossa described the function of the pump chambers, as he has designed them.

Mr. Glossa said that this is an upgrade, not new construction. The building was built in the 1850's, which has had many uses over the years. Ms. Bryson asked all of the town departments for permits associated with this building, their was not much definitive information. Ms. Bryson was able to find a list of previous uses from the Massachusetts Historical Commission, the list includes, retail store, grocery store, restaurant, meeting hall, auditorium, function hall and other known commercial uses. It is a four story building, all four stories show some indication of a past use. Mr. Glossa spoke with the owner and tried to come up with what is reasonable for the building. Mr. Glossa spoke about residential projects and how discrepancies on the number of bedrooms are resolved when there is no information available. He said that no one really knows what the previous uses were, he is proposing what he considers a reasonable use for the building. He reviewed the required gallons per day for some of the past uses of the building.

Mr. Smith asked the Board of Health agent, Matt Tanis, to give the Board his remarks. Mr. Tanis said that he has no problem with the design of the plan as presented. He said there are some other concerns. He is concerned about the structural integrity of the foundation during the excavation for the septic tanks, he said that he and the Building Commissioner are recommending that as part of any Board approval that the applicant get a structural engineer to evaluate the foundation and how it might be effected by the installation of the tanks. Mr. Tanis indicated that a structural engineer has already been consulted by the applicant. He said that the Building Commissioner had also remarked that the building is currently a business group B and that the proposed business would be a Assembly Group A-2, which would constitute a change of use. This will have to be addressed with the Building Department.

Mr. Smith asked if that would involve the Zoning Board of Appeals (ZBA). Mr. Tanis said that would be addressed with the Building Department.

Mr. Tanis said that he had a discussion that he did have a discussion regarding drainage. He said that the areas where the septic tanks and system will be are already impervious surfaces, that the area is already paved. He said that whatever drainage is already in existence would work but that the Building Commissioner wants the applicant to check with the ZBA to ask if a special permit would be required.

Mr. Tanis' recommendations should the Board vote to approve the variances, that they do so with the following conditions:

1. A suitable document be recorded at the Registry of Deeds which signifies that no garbage grinder shall be installed or used in the dwelling on the subject property.
2. A suitable document be recorded at the Registry of Deeds which signifies that an innovative/alternative technology system has been installed on the subject property- MicroFAST and NitriFAST treatment system.
3. An O&M (Operation and Maintenance) contract is in place for continued proper function & operation of secondary treatment. Quarterly or more frequent as specified by the manufacturer and/or MassDEP.
4. Prior to issuing the septic permit, certification from a structural engineer will be required ensuring foundation/structure protection during the tank installation.
5. Prior to issuing the septic permit, the applicant satisfies any and all other requirements needed by the Building Commissioner and ZBA, including but not limited to, proper change of use, verifying proposed occupancy load and lot coverage.

Mr. Glossa said that he and Matt have had conversations already about these requirements. He said that he and his client have absolutely no problem with conditioning any approval. The applicant has already engaged a structural engineer, the building will be undergoing a significant rehab. He has spoken with this client about the means and methods that will be required for the installation of the tanks, and that a structural engineer will be required for that. He agrees that it is prudent for the Board to ask for these conditions.

Mr. Smith asked about two additions that are proposed for the building, one on the side and one on the back. Mr. Glossa explained that the one on the side will accommodate the elevator and that the one on the back is more like a porch or a terrace, a covered porch up above and a terrace down below.

Mr. Smith said that he thinks this is an overbuild for the septic system. He is also concerned about the drainage off of the roof, he asked where that will be going.

Mr. Glossa explained that it will go in the back, He said it remains to be seen whether that will be a paved area or not.

Mr. Smith said that the applicant does not have a complete plan right now. He said that there are safety issues with the installation of the tanks. He said that it is a dangerous situation.

Mr. Glossa said that as far as the details with the drainage and some of the other issues go, that he would work those out with the Building Commissioner, Planning or ZBA.

Mr. Smith said that drainage is under the Board of Health.

Mr. Glossa said that that due to the size of the lot they will not be able to comply with current regulations for stormwater but that there are other things that they can do and that they will work on those but for now the plan is to see if these waivers are approvable by the Board so that they can move on to other aspects of the design.

Mr. Smith asked about a plan for the kitchen. Mr. Glossa said that he does not have an interior plan. Mr. Smith asked if the drainage could go in the back of the building, perhaps under the proposed terrace. Mr. Glossa said that it could if it was 25 feet from the leach field. Mr. Smith said that he would like to know where that is going to go, along with the other issues, before taking action on this.

Mr. Glossa said that he feels that they have already indicated that they will comply with the items required by the Building Inspector and the other departments.

Mr. Smith said that thye job of the Board of Health is the health, safety, welfare and the environment. He said there are some environmental and safety issues and asked if the Fire Department had weighed in on it. Mr. Glossa did not know if they had, which Mr. Smith took as a no. Mr. Glossa said that one of the first things to do on a project is to ensure that you have a water source and a method for dealing with the sewage, because if you don't have those things then you don't have a lot. He advised his client to see if he can get these approvals and go from there.

Mr. Smith said that he would like to see the other items resolved, especially with regard to the drainage. He said you cannot let drainage flow onto someone else's property. He asked about the roof size. He likes the idea of the project but said that he thinks that it is overkill. He asked if there would be parking behind the building. Mr. Glossa said that decision would come at a later date. Mr. Glossa said the Board could make another condition regarding the drainage, if the Board wanted that. Mr. Smith said that he would like to see the plan before approving.

Dr. Roman said that upgrading the current cesspool is in the interest of theTown's health, that the building has bounced between uses because it is out of date on so many things. Mr. Tanis said that they system is adequate for the building. Dr. Roman said that with regard to this hearing that if the neighboring properties do not respond in a period of time to this meeting with a negative commentary or looking to enter the discussion, then that is adequate. The Town itself is an abutter to the property. Dr. Roman said that he thinks the roof is a separate issue and is not part of the septic design. He asked if there was anyone on the call that was an abutter with concerns. He said the lack of town sewage makes it difficult for projects downtown.

Dr. Kelly said that he agreed with many of the points that Dr. Roman made. He said that the issues with foundation and drainage are big issues but he felt that the conditions would be safeguards for these items. He said that it seems like a good plan.

Mr. Smith said there are some items that bother him still. He discussed some items that he considers issues for the ZBA. He said that the thinks that it is important to "do this by the numbers." He asked for permission from the other Board members to work with Mr. Tanis on a list of conditions that would have to be met to do this plan, and bring it back to the Board at the next meeting for approval.

Mr. Glossa said that they understand that there could be site plans requirements, drainage requirements etc.

Mr. Smith said that the size of the building determines occupancy and that there is no plan for that, he said that usually the Fire Department weighs in. Mr. Glossa said that all of those requirements are lengthy, arduous and costly. They need to know if they have an approved sewage plan in order to appear before the other Boards. Mr. Smith said that the ZBA takes precedence over the other Boards. Mr. Glossa said that he advised his client to get the BOH approval of the septic first. He advised is client that the approval would be conditioned with the items that Mr. Tanis outlined, the conditional approval allows the project to move forward with the other Boards.

Mr. Smith asked Mr. Glossa if he was familiar with the Stormwater Run Off Regulations. He would like Mr. Glossa to familiarize himself with them prior to making an approval. Mr. Smith thinks that there may be more conditions than the health agent put forward. Mr. Glossa said that they could add a condition regarding stomrwater.

Mr. Smith asked about the prior uses of the building and that he was not sure that the ZBA would approve this project. He wanted Mr. Glossa to investigate that. He said that said that he could not approve something without a plan.

Mr. Glossa introduced Patrick Sullivan, he is an attorney representing the project. Mr. Sullivan said that he understands the comments. He said that his client understands that she needs to get approval from many other Boards in town and that they will do whatever is required of them. He does not feel that the Board of Health should get into the purview of what might be required from the ZBA. Mr. Smith said that the occupancy is determined by ZBA. Mr. Smith said next you are going to have to go to the Board of Appeals to determine what you can use the building for. He said they may ask for a variance for the additions. Mr. Sullivan said that it is common practice for towns to require different permits and approvals from different departments and Boards. They understand that relief will be needed from other Boards, and that they will get whatever permits are required. She will submit whatever the ZBA is required.

Dr. Roman said that the conversation should be limited to septic. He said that he would not make a condition with regard to drainage. He said the Board should stop discussing potential building use and drainage, he feels that those discussions can be had further down the road, after determinations had been made by other Boards. He said that he could not think of any additional conditions with regard to the septic, other than those that had already been discussed.

Dr. Kelly said that he is in agreement with that.

Mr. Smith said that he agreed but that he wanted to see the conditions first, that he would like to see the ZBA opinion on this and that the Board of Health does have purview over stormwater. He said that there will have to be a hearing just for that as well.

Dr. Roman said that is a separate discussion.

Mr. Smith said he would like to continue to the next meeting so that he can know what all of the conditions are going to be, he would like to work with Mr. Tanis and the Building Commissioner. He discussed the criteria for getting a variance from ZBA.

Dr. Roman said he was unsure what would be necessary for the ZBA but that what the Board is doing today is discussing a septic system for a restaurant.

Mr. Smith said that you do not need a system this size for a restaurant. He said that he would probably be in favor of approving it but he cannot do it without a plan.

Dr. Roman said that the location of the kitchen and the toilets have nothing to do with a discussion of the septic system. He said that he is not arguing that additional approvals will not be needed but does not think that they should all be conditioned to the septic approval. He said that the Board is not granting approval for the entire project, it is just for the septic.

Mr. Smith said he would be willing to grant approval for the septic system but based on every condition needed.

Dr. Roman asked what those additional conditions would be.

Mr. Smith made a motion that the Board approve the septic system as it is subject to the all the requirements and permits that are necessary to renovate the existing building.

The motion was not seconded.

Dr. Roman made a motion to approve the project as outlined in Mr. Tanis' letter, namely the various setbacks, the document for the deed regarding the garbage grinder and FAST system, the O&M agreement, the use of a structural engineer.

Dr. Kelly said that he would add that the following two conditions be added, the certification from a structural engineer ensuring the foundation/structural protection and that the applicant satisfies any and all other requirements needed by the Building Commissioner and the ZBA, including but not limited to proper change of use, verifying proposed occupancy load, and lot coverage. He seconded the motion with those items added in.

Mr. Smith said that they could not write this up at this particular moment. He asked the other members if they would agree to continue this to the next meeting so that we could have all the paperwork and read it out properly.

Mr. Sullivan said that it seems like an agreement was here and that a motion could be made for approval.

Dr. Roman withdrew his previous motion. He made a motion to grant the following variances:

1. To allow the Micro Fast tank to be 6.2 feet from the building foundation where 10 feet is required.
2. To allow the pump chamber to be 2.2 feet from the building foundation where 10 feet is required.
3. To allow the grease trap to be 7.2 feet from the building foundation where 10 feet is required.
4. To allow the leaching trenches to be 6.1 feet from a property line where 10 feet is required.
5. Assuming that no letters are received from the abutters within 30 days of this meeting

The variances to be approved with the following conditions:

1. A suitable document be recorded at the Registry of Deeds which signifies that no garbage grinder shall be installed or used in the dwelling on the subject property.
2. A suitable document be recorded at the Registry of Deeds which signifies that an innovative/alternative technology system has been installed on the subject property- MicroFAST and NitrifAST treatment system.
3. An O&M (Operation and Maintenance) contract is in place for continued proper function & operation of secondary treatment. Quarterly or more frequent as specified by the manufacturer and/or MassDEP.
4. Prior to issuing the septic permit, certification from a structural engineer will be required ensuring foundation/structure protection during the tank installation.
5. Prior to issuing the septic permit, the applicant satisfies any and all other requirements needed by the Building Commissioner and ZBA, including but not limited to, proper change of use, verifying proposed occupancy load and lot coverage.

Patrick Sullivan asked about the condition about receiving the letters from abutters within 30 days. He wanted to be sure that this period was required, he did not want to expand on any appeal period.

Mr. Smith said that any variances are automatically given a 30 day appeal period.

Mr. Sullivan said that he wanted to be sure that the condition of approval should be based on receiving letters,

Mr. Smith said that it would all have to be written up and that they won't be signing it tonight.

Dr. Kelly seconded the motion.

The motion passed unanimously.

All members voted in the affirmative with a voice roll call.

Update on progress of Stormwater Review Sheldon Meadow and Sheldon West:

Mr. Smith said that no decision would be made this evening.

Mark Bartlett from Professional Services Corp (PSC) said that they have been reviewing the two projects together. He explained that they are two parcels that are conjoined, one with access off of Hancock Street and one off of West Street. He said that PSC reviewed the projects based on the Board of Health stormwater standards and based on the state standards. They did not do the Planning Board review, they did not look at their application nor their standards. They did not look at it for the Conservation Commission either. They did their review over a period of eight months.

Mr. Smith wanted to add that PSC reviewed this application based on the application that was on the Planning Board's desk. He said it never addressed the issue of the Aquifer Protection District. He said that the application was made out by an attorney for the applicant. He said that they left out the Aquifer Protection District when they were applying for special permits.

Katie Enright from Howard Stein Hudson representing the applicant. Ms. Enright said that it is in the local watershed protection district which is a potential source for future water. It is not in a Zone 1 or a Zone 2 aquifer protection district.

Mr. Smith said that does not make any difference. He read from a regulation that did say potential.

Ms. Enright said that it is potential not current. She said that they had information from the Pawtucket Watershed and there have been multiple conversations with them, and they have resolved their conflicts with conditions.

Mr. Smith repeated that it is in the aquifer protection district.

Ms. Enright repeated that is it in the local watershed protection district. She said that the watershed protection district goes back to the aquifer protection district regulations in our bylaws.

Mr. Smith said there must be a special permit for the aquifer protection district, he asked Ms. Enright why that was determined as to not be important.

Ms. Enright said that it was part of the submission to the Planning Board, since that special permit is under their review.

Mr. Smith said that all of the information that goes to the Planning Board must go to the Board of Health. He said that the Planning Board hearing has been closed and so they will be unable to submit anything now.

Ms. Enright clarified that all of the information related to that has been given to the Planning Board already.

Dr. Roman said that the discussion about the watershed protection district is not under the purview of the Board of Health, that it is under the Planning Board. In the interest of time, he felt that the Board should move on from the discussion of the aquifer protection district.

Mr. Smith said that the Board is reviewing stormwater and that is in the Board of Health purview.

Dr. Roman said that the Board of Health does not issue that permit and he would like to move on.

Mr. Smith read portions of the Regulations for Stormwater Run Off Management.

There was some back and forth regarding getting the discussion back onto stormwater and away from the special permit for the aquifer protection district.

Mr. Smith continued reading from the regulations, he said that there are seven additional pages to the regulations that have been ignored and that "down there is insult on the environment down there."

Ms. Enright interjected that was 100 percent not true. She said that they are required to go before the Board of Health and they are required to get a special permit from the Planning Board, and that everything had been submitted to them and complied with.

Mr. Smith said that the application was incorrect, and that the Planning Board was not aware of it.

Mr. Bartlett continued his presentation. He said that Mr. Smith had been reading from preamble to the Board of Health's rules and regs, and what they were describing were things that would trigger a BOH review, which they have done. He said that perhaps there was a glitch with the application, that they did check off watershed protection district but they did not check off aquifer protection district. He said that it is more of a housekeeping issue but that they should have done it. He said that is not our role here tonight. He said that they looked at the project as if it was in the aquifer protection district, but he said that it is up to the Planning Board to issue that permit.

Mr. Bartlett said that they have looked at these projects extensively over the last eight months, and that all PSC's concerns and comments have been addressed. There had been some significant concerns over compliance with local rules and regs and MASS DEP rules and regs, they have all been addressed. He recommends certain conditions of approval so that everything goes forward as planned. He said Howard Stein Hudson has been responsive to their comments. He said that they should correct their housekeeping error and check off the aquifer protection district box on their application but that even when they did that it would not change the outcome of the Board of Health review. PSC's review of the project is complete.

Mr. Smith asked if there were any questions from the meeting attendees.

Janet Sozio, 1171 West Street commented that the applicant has addressed the concerns of the Pawtucket Water Supply but that the solution was for the Town to follow through on certain items, like monitoring the fill. Ms. Sozio hired her own engineer and they concluded that the mounding analysis was missing the effects of a septic system on that data. She said that she is concerned by the lack of septic plans.

Mr. Bartlett said that they looked at the mounding analysis for the recharge facilities. The setbacks are substantially larger than what is required, PSC does not anticipate an interactive effect from the mound on a septic system, which is typically located in the center of a project, but it would be prudent upon the Board that the engineer should provide a mounding analysis for the septic, to look for interactions with the stormwater.

Ms. Enright said that she agreed with that and that the septic plans would be submitted within the next couple of months.

Mr. Smith said that the Board will chose a date for a hearing to look at the evidence on both sides and come up with a conclusion.

Tara Nash, 46 Hancock Street. She asked if the Board has been receiving the letters that she and her husband have sent.

Mr. Smith said that all letters have been received.

OLD BUSINESS

Public Hearing on Septic Regulations, date:

Mr. Smith said that Mr. Tanis does not have a problem with the regulations as they stand now. He said that he does not really have any desire to change the regulations. Mr. Tanis said that there are some things that could use an update, due to new technologies and changes to Title 5.

Mr. Smith asked Mr. Tanis to make notes of things that might need to be updated and then when he has a few of them, he could bring them to the Board.

Dr. Roman said that the would like to revisit the proposed changes, He thought the proposed regulations cleaned up some duplicitous language and made them current. He would like to review all the regulations on an ongoing basis.

Mr. Smith said that the preamble to the septic regulations is a good guide for future Board members.

Dr. Roman made a motion to adjourn

Dr. Kelly seconded the motion.

The meeting was adjourned at 8:00pm

