

Board of Health Meeting May 30, 2023.

Members Present:

Dr. Peter Roman

Dr. Brian Kelly

Dr. Randall Ferrell

Members Absent:

CALL TO ORDER at 6:32pm.

APPROVAL OF MINUTES:

Dr. Brian Kelly made a motion to approve the minutes from April 10, 2023 and April 24, 2024.

The motion was seconded by Dr. Randall Ferrell.

The minutes were unanimously approved.

NEW BUSINESS:

Review of Installer Complaint: Nicole Onishuck, current homeowner, explained that in late July of 2019 she purchased 4 Shears Street, contingent with the mortgage, there were funds set aside for a new septic system to be installed. She said that in September of 2019, they began to have some issues with the system and that in December of 2019, they had their first overflow. In April of 2023, she had the system pumped by BIG Septic, she told them she had been having trouble with her system, they had her flush the toilet a few times and soon sediment was coming back into the toilets. BIG advised her to get someone with a camera to come to come in and run a snake, that is when they found the original orangburg pipe. She said that she pulled the original plans and that they called for 42 feet of pvc pipe, she said that was not done, the pvc pipe stopped at the grass line and she was left with 20 feet of orangburg pipe that ended up “like swiss cheese”. She said then found out that a different installer, Paul Parker, signed off on the septic installation from the person who did the work, and was paid for the work, that person was Ken Furtado. She contacted both people and was very unhappy with their responses.

Dr. Roman asked if the contract, which was entered into with Ken Furtado by the previous homeowner, mentioned anything about subcontracting. Ms. Onishuck said not to her knowledge and that Emily Gebhardt, the previous owner, said that she did not hire Paul Parker. Dr. Roman confirmed with Matt Tanis that orangburg pipe is no longer up to code. Mr. Tanis said that the orangburg pipe has since been replaced by BIG Septic.

Dr. Roman asked Ms. Onishuck if she has initiated any legal proceedings, she replied that would be her next step.

Mr. Tanis said that he allowed BIG to do an emergency repair of the pipe. He said that the file shows everything was signed off on by Paul Parker, nothing referencing Ken Furtado. He said that Ken Furtado has not held a license in Wrentham since 2008. He said that periodically an installer might subcontract out the work, typically on larger commercial jobs, but that the person who signs off on the system is the person responsible for the job, in this case Paul Parker. Mr. Tanis said that he was not the inspector at the time, so he does not know if there was any discussion in the field at the time regarding Mr. Furtado’s involvement. He said that the plan shows 42 feet of pvc pipe from the foundation to the tank, the plans were approved by Wade Saucier, he was the health agent at the time. He said that the as built does not reference anything about that line, it shows the line it but doesn’t show what material it is made out of or if it had been replaced.

Mr. Furtado said that the job was done in 2019, he said that he and Mr. Parker do a lot of work together and that Mr. Parker was on the job, he ran the machine and that he oversaw everything. He said that the existing pipe went out of house and ran 20 or 30 feet into an existing cesspool. He said that when they did the job there must have been a repair done at some point, he said there was 3 or 4 feet of pvc pipe where they picked it up. He said that Mr. Saucier inspected it and he would not have passed it if they had tied into an old orangburg pipe, he said they must have tied into the repair. He said they would not have dug up a whole patio to make sure that the pvc ran the whole way to the house.

Dr. Roman asked Mr. Tanis if there is any way to validate that when they line was dug up that there was pvc pipe there. Mr. Tanis said that he read through the file, he said while that certainly could happen, there is nothing in the file to prove it. He said that he had spoken to the engineer about the situation as well, but did not get any information from him.

Mr. Furtado said that they have to be licensed in every town that they work in, he said he was working under Mr. Parker's license. He reiterated that they would not and Wade would not have allowed them to tie into an old piece of orangburg. He characterized it as a "lousy situation."

Dr. Randall asked about the tying onto a pvc pipe without knowing if there was another type of piping further down the line. Mr. Furtado said that it is not uncommon at all to tie into the pipe that is there, when it is pvc, without following it to the end. He said that there is no need to disrupt another 30 to 40 feet of property, in this case a patio.

Dr. Roman asked if Mr. Saucier would have been out there when Mr. Furtado had the whole thing opened, Mr. Furtado said yes.

Ms. Onishuk said that her issue is that the plans called for 42 feet of pipe and it was never dug up. She said it is pea stone, not a patio. She said that Mr. Furtado's quote said that he would be doing everything per the plan, and he did not do that.

Mr. Furtado said that no contractor would have dug that up, they would have tied onto the end of it, because it was pvc. He said that if he had seen orangburg pipe he would have dug it up and followed it to the end.

Ms. Onishuk said Mr. Furtado had a "Mass code violation" for not following a site plan.

Dr. Roman said that Mr. Furtado showed up at the meeting but that Mr. Parker has signed everything and he wasn't here this evening. Mr. Furtado said that the meeting conflicted with Mr. Parker's son's birthday so he could not make it.

Mr. Tanis said that a permit should have been pulled if any repair work had been done on the system previously, he said that a pipe replacement is a common repair job. He conceded that someone could have done the work unpermitted, but there is no way to know. He said that one previous Title 5 report references a "proper tee" in place, that would indicate it there was pvc there, a tee could not be tied into orangburg. He said that he does not know for sure.

Dr. Roman said that the Board has some follow up to do with Mr. Parker regarding the complaint and what he would consider "sub par" work.

Mr. Furtado reiterated that it is not an uncommon practice to tie into existing pvc, he said that they would only chase it to the house if new plumbing was being done inside the house.

Dr. Randall said that it was contracted to go all the way through and they could have perhaps sent a camera up to see what was under the patio. He said that the damage has been done and he suggested that for the integrity of the business, Mr. Parker should look at a monetary response to this situation.

Dr. Kelly said that the plans called for the pvc pipe and yet it was not installed, he feels that is something that should not have happened. He asked if it should have been inspected to ensure that the pipe had been fully replaced. Mr. Tanis said that we don't know if there was any conversation about it with Wade, he said if he had seen pvc given the age of the house, that he would have had a conversation with the installer in the field, but he cannot speak to what Wade might have done.

Dr. Roman echoed Dr. Ferrell comment, this is an obvious failure of the work done four years ago and that the installer should step up and clear his name.

Mr. Furtado said that the plan merely references the pipe as 42 feet, it does not say that it has to be new pipe or old or anything. He said that had Ms. Onishuk called him before the repair work was done he would have come over there and dug it up.

The conversation went on to include discussion of the phone call between Ms. Onishuk and Mr. Furtado.

Mr. Tanis said that it is possible that the engineer thought that the 42 feet of pipe was already pvc, that it doesn't explicitly say on the plan to change it out, clearly there was some pvc pipe there.

Dr. Roman said that the Board of Health's primary job is to issue permit. He asked Matt what he would recommend as a response by the Board of Health. Mr. Tanis said that normally you would have a licensing hearing, since Mr. Parker was the

license holder he, or a representative, should be present. The Board could suspend his license for the remainder of the year, for the 30 days, whatever they decide. Mr. Tanis said that it could be suspended or revoked under Mass General Law CMR 315.019, which states that the certified installer must follow the proposed plan as it is shown. He said there have been no previous complaints regarding Mr. Parker or Mr. Furtado. He said that it would have to be a posted hearing.

All the Board members agreed that holding a licensing hearing is the appropriate course of action.

Mr. Furtado said that George Collins, the design engineer, also inspected the system. He said that Mr. Collins is a certified professional. He reviewed his record and number of years installing septic systems, he said that he has never been in this situation.

Dr. Roman made a motion to state that the intention of the Board is to hold a hearing with Mr. Parker at a future meeting to be worked out between the Board and Mr. Parker.

Dr. Kelly seconded the motion.

The motion passed unanimously.

Ms. Onishuk said that she wants the town to come out and reinspect her system, because she does not trust anything that was done. Mr. Tanis said that the septic field cannot be dug up without causing damage to the field. He said that a Title 5 inspector would go out and do the inspection, they could request that a representative from the town come out and witness the inspection but that the town itself would not do an inspection like that.

Dr. Roman said that ripping out the entire system is not something that would be recommended. He asked if BIG Septic did an inspection while they were there. Ms. Onishuk replied that he did not check the rest of the system. Mr. Tanis said that the inspector from BIG did not convey to him that there were any additional problems with the system, beyond the pipe.

Dr. Roman said that he is not sure what more the town would be expected to do at this point. Dan Onishuk, Ms. Onishuk's father, began to speak. He said that he has spoken with the Department of Environmental Protection (DEP), he said that he has read CMR 310. He says that it is "reprehensible" that the Mr. Furtado can say that he installed the system according to plan. He said that multiple codes were violated, and that the certificate of compliance, between the inspector and installer is "fraudulent, falsified", because it has to be an open trench to inspected from the foundation to the tank. He said that the town is accountable because the state told him that they can charge the town \$25,000 per day for infractions, and the inspector can be fined \$1,000 per day. He said that Mr. Furtado should have pulled his own permit, and that there are at least nine code violations. He said that the state said that they see this in small towns where "things just don't get done to code." He said someone needs to determine if there is a systemic problem in the Board of Health when it comes to infractions and issuing permits to people who are unlicensed. He said that he does not trust the people in the system because this was a massive failure. He said that it was done "shoddy" and incomplete. He said that he and his daughter will be conferring with the DEP and have them and the Board of Registration, at the State House, to see if the Board of Health in Wrentham is worthy of being allowed to issue permits. He said that if this became public, he said there will be other homeowners who will come forward to say that they had a back up or a "busted" pipe.

Mr. Furtado said that Wrentham is one of the strictest towns that you can work in as far as getting inspections.

Dr. Roman said that they take the Onishuk's concerns seriously and that they do not want to issue licenses to people who to subpar work. He said that ultimately the town is not the person who does the work at the home. He said that the whole point of this is to catch mistakes and catch people cutting corners. He said that Mr. Saucier was very efficient at reviewing plans and making sure that it was the best design for the homeowner. He said that we are not dealing with a sub-standard inspector, from his point of view. He reiterated that he hears their concerns but at this point he is unsure what they are asking to be done, he said that asking the town to rip out the system is not a reasonable request at this point. He said that if perhaps they should seek financial restitution from the installer but that the Board is not a court and at the end of the day all the Board can do is make sure that we are not handing out permits to people who are not doing the work properly.

Mr. Onishuk said that there is a risk to the town is when the DEP does its investigation and they find out that the town and Mr. Parker signed off on a certificate of compliance and it was "falsified and fraudulent", "the town is risking a \$25,000 per day fine." Dr. Roman stopped Mr. Onishuk at that point, he said there is no evidence that the town inspector falsified a document, he welcomed Mr. Onishuk and Ms. Onishuk to attend the licensing hearing.

King Philip Estates Stormwater Review: Rick Goodreau from United Consultants represented the project. He said that they have been before the Board once before. He said that they have received an approval from the Wrentham Planning Board. He said that there were a few remaining issues with regard to the review by Professional Services Corporation (PSC) for the Board of Health. He went through in detail the project's responses to the last review by PSC, with particular attention to comment number three from PSC. There was not a representative from PSC at the meeting. Dr. Roman said that the Board will need to hear from PSC regarding item number three, which involved a specific level of rainfall event.

Request for a Variance from the Food Code to operate as a Mobile Food Operation from the Kitchen at White Barn Farm: Shawn Heidi was on the call, representing the Kitchen. John Robertson, the health agent for the BOH, gave a brief synopsis of the situation. He wanted to clarify that the farm has its own permit to operate and that this discussion would be about the Kitchen at White Barn Farm, which serves pizza. He continued that the Kitchen is looking for a variance from the Food Code to operate with their current set up, he said that the set up does not comply with the Food Code. He felt that he could not approve their permit with what was there, he had suggested Mr. Heidi could submit a plan review to show how he would come into compliance with the Food Code or he could ask for a variance from the Board.

Dr. Roman asked if Mr. Robertson feels that the Kitchen needs to meet the requirements for a full retail food establishment as opposed to a food truck. Mr. Robertson explained the different types of food permits that the BOH gives out, and while the mobile food permit is the correct permit for this establishment, they do not meet the requirements for that permit.

Mr. Robertson said for example if a "typical" food truck submitted an application to the office, Mr. Robertson would look for the following: where is your potable water coming from, where are you discharging your grey water, how are you keeping your clean equipment protected, how are you sanitizing, do you have a commissary or service area or do you do your dishes on the truck, do you store food on the truck or at a servicing area. He said that in this case there is not a commissary, there is not a large enough sink to sanitize their equipment, and that multi use items are not protected from contamination, to name a few things. He said that the plumbing is also not up to code, he said that most of the things that he and Mr. Heidi have discussed are in the letter that Mr. Heidi sent to the Board.

Mr. Heidi said that working with Mr. Robertson has been great and that he appreciated the comments that Mr. Robertson just made as he found them helpful. He said that his understanding is that the areas of issue are the lack of septic tank, the plumbing, the sink and the fact that he is located outside. He said that he is not necessarily requesting a variance for each issue but trying to figure out how he can come into compliance. He said with his current kitchen, the septic issue is a non-starter. He said they compost all the food waste for use by the farm, so there is not much food waste going through their sink. They would like to have a holding tank and have the company that already services the farm, pump the holding tank weekly.

Mr. Robertson asked Matt Tanis, the environmental health agent for the BOH, if he would have an issue with that plan. Mr. Tanis said that he would not have an issue, he said the tank would have to be bigger than the supply. He said that we would need a written agreement between the Kitchen and the company stating that they would be coming out weekly to pump the holding tank. He said he does not have a problem with this as a temporary solution, but that something more permanent would have to be worked out. Mr. Heidi said that the plan is to install a septic system for whatever permanent structure they place on the property. Dr. Roman said that there does not seem to be the need for a variance for this item as long as the written contract is supplied.

Mr. Heidi went on to address the plumbing issue. He said that their water source is a frost free hydrant that is fifteen feet from the Kitchen, he said he runs a hose from there and it goes through a water heater so that he has hot water to wash dishes. He said that he can install a "food safe" line to hook up to the water source. He asked if there was anything else that he would need to do with regard to the plumbing. Dr. Roman said that Mr. Heidi would need to get the proper equipment.

Mr. Heidi said that the third issue is the sink. He said the three bay sink is what a typical food truck would have, he said that it is a small sink. The Food Code requires that the largest piece of equipment be able to fit in the sink, his sink is not large enough for his large dough storage bins. He said one option is to figure out how to fit a larger sink in the space, or to continue what he has been doing, which is to wash them with soap and a sponge. They do not get submerged into water with this method, like the other equipment does and they do not get sanitized. Mr. Robertson said that his concern is the exposure with the outdoor setting, that it will not be convenient to frequently wash items as needed. He said that there could be a work around, he said that he has seen operations that get large buckets to allow for washing, rinsing and sanitizing in a temporary setting. He said that he is not sure there are buckets large enough for the dough boxes. He has a concern that in the current system the dough boxes are not getting sanitized but just washed and rinsed. Mr. Heidi said that they have big wash tanks

that are used for vegetables, he said that they are far bigger than the dough bins, he said that he could dedicate one of them for the washing of dough bins. Mr. Robertson said that would work from his point of view. He clarified that food trucks with large items to wash typically take them back to a commissary for washing, rinsing and sanitizing.

Mr. Heidi said the last item is the general issue of him being outside. He said that he does have a trailer where he could store his multi use items. He said that they also have an indoor facility at the farm where he could store these items. He said that he does not feel that his setup is all that different from a hotdog vendor on the street or a food truck with open windows. Mr. Robertson said that the day that he went out that it was raining, he said that he already had concerns about dust and debris coming in from the road, and he could see the rain being an issue as well. He said the equipment that day was on a rack, and exposed to the rain, as were the single use gloves. He said that there is a legitimate concern about contamination from the environment in that space, he said that limiting the amount of food handling going on in that space would be helpful. He said that he did bring up the idea of a commissary to Mr. Heidi but he recognizes that there are costs associated with that as well. Mr. Heidi said that there is a roof so it is not entirely exposed to rain, that he could put up plastic on the inside. He said that they do not use raw meat, everything that they serve is cooked at a really high temperature with the exception of the salads. The salad ingredients are coming in from the field and washed before serving. He said he doesn't really have a full solution for this issue but they have been doing it for two years already.

Dr. Roman said that he does not hear any need for variances from his point of view. He said that beside the outdoor issue, the other items have been addressed. He said that he agreed with Mr. Robertson that some processes should be put in place for the storage of equipment, but that you are outside is not a problem on its own. Mr. Heidi said that he would meet with Mr. Robertson to discuss the implantation of each item. Mr. Robertson said that with these type of accommodations an end date should be established, he said that it would not be reasonable for this to go on for another two years. He said that he has done a walk through but has not done a full inspection. He said that there are other issues that are not quite as pressing that they can work through. Dr. Roman said that if a temporary variance is required the Board can revisit the issue.

Chris Gallo, a town Selectman, was on the call. Mr. Gallo wanted to advocate for the Kitchen at White Barn Farm. He offered to help in any way that he could to get them up and running as soon as possible. He asked Dr. Roman when they business could anticipate opening. Dr. Ferrell had the same question for the timing. Mr. Heidi said that he would order the parts that he needs immediately and coordinate with Mr. Robertson. He said that he and the farm owner will discuss an end date.

Discussion Regarding the Rescinding of the BOH Stormwater Regulations: Dr. Roman said currently the stormwater regulations are being managed by two Boards, the Planning Board and the BOH. He said that he does not think that it is a good use of time or resources. He thinks that the BOH should rescind their responsibilities in this regard. Dr. Kelly and Dr. Ferrell said that they agreed. Mr. Tanis said that the Planning Board now has a bylaw for stormwater to fall under the Planning Board, so the BOH would continue to be very repetitive. There was a discussion about what would be required procedurally to rescind the regulations. Kevin Sweet, the Town Administrator, said that Wrentham is the only community that is left from the Bill Domey era, where the BOH had a hand in stormwater review. He said that Medfield was the last community to rescind their BOH regulations about five or six years ago. He said that it is cost prohibitive for applicants to pay for two full peer review fees. The Planning Board bylaw involves the DPW and Conservation. Dr. Roman said that the Board will take the vote at their next meeting on rescinding the regulations.

Conflict with Con Comm Meeting Dates: The Board had a discussion about what day would work best for them to meet in order to avoid conflicting with the Conservation Commission, which meets the second and fourth Thursday of each month. Dr. Roman made a motion to hold Board of Health meetings on the first or third Monday of each month, only using the third Monday if the first is a holiday. Dr. Kelly seconded the motion. The motion passed unanimously.

Mr. Tanis spoke to the Board about revising the septic regulations. He said that this topic was discussed last year, he cleaned them up a bit more and would like to review them with the Board at a later date and then schedule a public hearing. Dr. Roman said that a hearing date should be set and advertised.

Dr. Kelly made a motion to adjourn.

Dr. Roman seconded the motion.
The meeting was adjourned at 8:25pm.