

**Town of Foxborough Board of Health**  
Regular Meeting  
Meeting Minutes – January 22, 2024

The Board of Health meeting held on January 22, 2024 was conducted in-person inside the Andrew A. Gala, Jr. meeting room within the Foxborough Town Hall, as well as remotely via Zoom, and was broadcasted live on Foxboro Cable Access. Betsy Allo, Chair opened the meeting at 7:00 p.m.

Members Present: Betsy Allo, MPH, Chair, Robin Chapell, M.S. R.S., Vice-Chair, and Sophia Manos, Clerk

Health Department Staff Present: Matthew Brennan, R.S., Director of Public Health, Diane Passafaro, Public Health Coordinator and Meeting Recorder

Others Present: Bill Buckley (In-person), Cameron Gray (In-person)

**7:00 p.m. Bay Colony Group, Inc. – Bill Buckley, P.E. – Request for local upgrade approvals and waivers for the property located at 81 Ridge Road**

Representing the owner of 81 Ridge Road was Bill Buckley, P.E. and Cameron Gray with Bay Colony Group, Inc. C. Gray gave the Board a copy of the proposed septic design plan for the property at 81 Ridge Road. *(This document is included as supplemental meeting documents)*

C. Gray explained that due to the size of the lot and the close proximity of the property to the Neponset Reservoir, the proposed design calls for the installation of an innovative alternative (I/A) Presby system which provides enhanced treatment of the effluent coming from the septic tank. Pre-existing development of the lot also limits where the proposed system could be placed. C. Gray explained the leaching field is currently proposed to be installed in the front of the lot as far away from the wetland bank as possible, however, waivers from Title 5 (310 CMR 15.00) and Foxborough's local by-law will still be required. He further informed the Board that the existing tank will remain, and a pump chamber will be installed. Discussion continued around the existing topography and the use of the existing piping and gravel driveway. These factors will require a greater amount of coverage, of four feet, over the pump chamber when the maximum per Title 5 is three feet. C. Gray further explained however that Title 5 allows for greater cover during a repair, and the installation will consist of an H-20 loading pump chamber and both covers will be brought to grade.

C. Gray additionally informed the board that the property is located in a Zone II and due to the size of the lot the system cannot be expanded beyond a two-

bedroom system. Therefore, a deed restriction, restricting the property to a two bedroom, will be filed with the Norfolk County Registry of Deeds.

R. Chapell asked if the existing tank would be certified to ensure that it was structurally sound and safe to use. C. Gray confirmed that the tank will be inspected and certified during the installation process.

M. Brennan stated the system meets Title 5 other than the amount of cover proposed and gave his recommendation that the waivers being requested are approved.

R. Chapell made a motion to allow the following variances for the system repair at 81 Ridge Road:

1. To allow the pump chamber to have four (4) feet of cover where the maximum cover is three (3) feet per 310 CMR 15.221(7).
2. To allow the leaching field to be 126 feet from an inland bank where 150 feet is required per Foxborough local by-law.
3. To allow the septic tank to be 75 feet from an inland bank where 100 feet is required per Foxborough local by-law.

The motion was seconded by S. Manos. B. Allo called for discussion. Hearing no discussion, B. Allo called for a vote. All in favor.

**Motion passed, 3 – 0**

*C. Gray submitted two returned green cards which are included as supplemental meeting documents.*

Hearing no further discussion, B. Allo closed the matter of 81 Ridge Road at 7:06 p.m.

**7:06 p.m. Olive and Mint – Non-Renewal of Food Permit**

M. Brennan summarized the history of non-compliance that resulted in the letter on non-renewal sent to the Owner, Nirvi, Inc. On November 14, 2023. This summary included non-payment of back taxes owed to the Town of Foxborough as well as sewer fees owed to the Town of Walpole, using areas within the establishment for food service not permitted in accordance with their 2023 permit, outstanding issues with the Foxborough Police, Fire and Building Departments, and historical non-compliance which resulted in the suspension of their 2021 food permit.

M. Brennan said the Owner made corrections and paid the back taxes but thought it should be the Board's decision whether to issue their 2024 food permit. M.

Brennan continued, however, and stated he received a call from the owner who stated they were out of the country and requested their appointment be postponed to the next available meeting.

B. Allo made a motion to table the discussion on the Olive and Mint food permit non-renewal appeal. The motion was seconded by R. Chapell. Hearing no discussion, B. Allo called for a vote. All in favor.

**Motion passed, 3 – 0.**

**7:09 p.m. Town of Foxborough Board of Health Regulations (Draft) – Discussion of Public Comments**

*(All public comments received and provided to the Board for their review are included as supplemental meeting documents)*

Dumpsters: M. Brennan summarized the public comments received and stated there was concern with the term tight-fitting lid as well as the requirement of the dumpster area needing an enclosure.

Discussion and comments included:

- Reword the tight-fitting definition to say close and/or a lid that covers all openings.
- Allow the owner to come in front of the Board for a variance in circumstances where they would not be able to comply with the enclosure requirement.

M. Brennan to revise wording and bring a revised regulation back to the Board.

Fee Schedule: Public comment related to the fee schedule were focused on strict fee requirements for non-profits with no waiver allowance.

Discussion and comments included:

- Allow the fee for a non-profit to be waived if the organization gives back to the community.
- Allow the fee to be waived for existing non-profits that have been operating for three years or at the discretion of the Health Director.

M. Brennan to add additional language and bring a revised regulation back to the Board.

Housing Code: M. Brennan stated the Housing Code regulation received the most public comment and all opposed enacting the regulation as written.

Discussion and comments included:

- Revise the regulation to allow a certificate of fitness inspection to be free and recommended, but not required.
- It was commented that the requirements within the written regulations could be a burden to the owner, especially ones with higher turnover, however, leave the ability for the Health Department to require certificate of fitness inspections for owners with a bad track record. Regulations could include a time limit for requiring certificate of fitness inspections for non-compliant owners following a certain number of compliant inspections.
- Leave requiring inspections on a case-by-case basis if the Owner comes in front of the Board. Requiring inspections could then be included as part of the order.
- Occupants have the right to an inspection. A recommendation for more outreach on the Foxborough Health Department website or other platforms to make occupants aware of their rights.
- Require pre-occupancy inspections upon a certain number of complaints associated with the same owner.
- Certificate of fitness or pre-occupancy inspections are not defined in 105 CMR 410, so this could be incorporated into a regulation.
- There should be a policy in place associated with pre-occupancy inspections for when owners call needing Health Department approval due to certain housing programs.

M. Brennan to revise the regulation and bring the revised regulation back to the Board.

Private Well: M. Brennan stated the one public comment received spoke on eliminating sampling requirements for irrigation wells.

Discussion and comments included:

- Irrigation wells should be tested as there is potential for informal drinking from a connected hose.
- The regulations could require initial sampling, however, eliminate retesting every five years if the initial sampling parameters were found to be within drinking water standards.
- All Board members agreed to make no changes and keep the regulations as written.

M. Brennan confirmed no changes will be made to the Private Wells regulation and will remain as written.

Swimming Pools: M. Brennan said most public comments related to the proposed swimming pool regulations were questions and concerns about the lifeguard requirement. M. Brennan stated he recently had verbal communications with pool owners explaining how the regulation was written. During these phone calls, he explained that requiring all owners to have a variance for lifeguards will streamline the process and allow the Board to revoke the variance for any reason and time. The Board could then require the pool owner to get a lifeguard.

Discussion and comments included:

- There was confusion with the current language surrounding the variance and current lifeguard requirement as currently written in the regulations.
- There was discussion that language should change in a way that requires all pools to have a lifeguard, with an option for any pool owner to come in front of the Board to ask for a variance of that requirement, if they can prove lifeguards aren't needed.
- Discussed if existing pool owners are "grandfathered" or if all pools would need to come in front of the Board for a variance from the lifeguard requirement.
- Lifeguards are a premium and requiring the number of lifeguards pursuant to the provisions of the regulations as currently written, could be burdensome.
- Allow for a conditional variance related to the lifeguard requirement and require additional safety measures.
- The Board confirmed that the current regulations as written do not require a fee for the lifeguard variance and this type of fee is not written into the fee schedule.
- Confirmation that the regulations as written would require all new pools to come in front of the Board to request a variance from the lifeguard requirement.
- Discussion ensued related to emergency communication systems and to include examples of what could be considered "hard wired".

Following the discussion, the Board was undecided what revisions, if any, should be made to the pool regulations. It was decided that the Board would take some more time to think about the regulations and come back to discuss them further at a future meeting.

Title 5: Public comment opposed multiple requirements within the regulation that were more stringent than the current Title 5 requirements set forth in the State code, 310 CMR 15.00. These included the replacement of a septic tank over 30 years old, the definition of a bedroom, and current definitions and terminology associated with wetlands.

Discussion and comments included:

- Allow an engineer to sign off that the existing septic tank is structurally sound, regardless of age, if the design calls for the tank to be used.
- The use of tanks in series, in lieu of replacement of any size, offers greater protection if the tank is certified as structurally sound.
- Better define wetlands to align with the State's Title 5 code and their related setbacks.
- The Board was in favor of keeping the current language surrounding what is considered a "bedroom", as written, with no changes.
- It was understood, the potential for "non-bedrooms" to turn into bedrooms, thus increasing the flow to the septic, and ultimately causing problems.
- Add language to the current regulations that the septic installer must come in to pick up a copy of the signed approved septic design plans and the approved plans must be available on site.
- Better define what a repair is and what system component being replaced would constitute a repair. Include language that states the decision of what constitutes a repair could be at the Health Director's discretion.

M. Brennan to revise the regulations and provide the revised regulations to the Board for review.

Tobacco: The only public comment received aligned with the Board of Health's point of view. There was no further discussion. M. Brennan confirmed no changes would be made to the Tobacco regulations and will remain as written.

Toilets: M. Brennan relayed a concern that was brought up in public comment associated with the Toilet regulations not having language related to proper cleaning and sanitizing schedule for portable toilets.

Discussion and comments include:

- Add language that reads portable toilets, upon Board of Health inspection shall be clean and sanitary with no undo odors.
- Confirmation that the regulations exempt portable toilets on construction sites.

M. Brennan to revise language within the current regulation and bring a revised regulation to the Board.

Discussion of public comment received for the Town of Foxborough Board of Health Regulations in draft form concluded. M. Brennan said he would revise the regulations based off the discussion that ensued and bring a revised copy back to the Board for review. Once the Board agrees with the revisions, the revised regulations can be viewed by the public and a public hearing date can be set.

Discussion on the draft Town of Foxborough Board of Health Regulations closed at 8:15 p.m.

**8:15 p.m. Warrant Article Discussion – Revisions to the Town Charter**

M. Brennan informed the Board that B. Allo requested a proposed warrant article be included as an agenda item to facilitate a discussion among Board members.

M. Brennan explained the proposed warrant article would request changes to the existing Town of Foxborough Legislation and require Board of Health member to be appointed by the Town Manager as opposed to being elected, as is the current way.

M. Brennan continued and stated that Foxborough's Select Board may be forming a town charter committee to review the town's current legislation and bring forth any comments. M. Brennan added that other boards and committees are having similar discussions due to the difficulty in getting people to sit on the boards.

R. Chapell affirmed that whether the Board of Health members were elected or appointed, it has the same power. She suggested appointments should be with the Select Board as compared to one sole individual. She also added language should be included about grounds for a board member's removal from the board.

S. Manos provided comments in favor of this warrant article and the change it would bring but also believed appointments should be with the Select Board, as they remain elected and still hold representation of the town residents.

B. Allo reiterated that it is not something that needed to be done at the next Town Meeting, but simply wanted to start the conversation since, historically, it has been difficult to find residents to serve on the Board of Health and bring forth the idea of a five-person board versus a three.

Board members agreed to hold on submitting the proposed warrant article to Town Meeting until there is further discussion and more information on what other boards and committees may be doing. Discussion concluded at 8:30 p.m.

**8:30 p.m. 55 Fairway Lane – Condemnation Notice**

M. Brennan informed the Board that in response to a complaint and concern for the individual thought to be living within the dwelling located at 55 Fairway Lane, he conducted an inspection of the property. The inspection revealed the dwelling was open to the weather, had no water, along with other issues. Following the inspection, through conversations with various stakeholders, it was determined that the individual thought to be living at the property was not, and currently has a safe place to live, however, does frequent the home at 55 Fairway

Lane on occasion. M. Brennan continued and stated the mortgage company owns the home, the condemnation order was sent, and social services are working with the resident. Since no appeal of the condemnation order occurred, the Town will work to secure the property.

**8:33 p.m. Health Department Updates and Board Requests**

7 Revere Road: Mr. Bonofillio has met with social services and has completed applications for housing assistance. There will be another follow up in 30 days. In response to R. Chapell's question whether the property had been cleaned, M. Brennan confirmed yes.

20-22 School Street: Mr. Gomes has until March 1 to complete the repairs to the back staircase. Building plans were received by the town's Building Department and are shown to be incorporating recommendations spoke about during the Board meeting Mr. Gomes was present at. A meeting with the Town Engineer, Chris Gallagher, also occurred related to the property's required sewer connection. In response to B. Allo's question about placarding vacant units, M. Brennan confirmed no additional units have been vacated to date.

255 South Street: The Foxborough Health Department received a contract for an exterminator for the property. Currently, the court has not scheduled the next court date, but once scheduled, an inspection of the property will be conducted prior to the hearing.

175 Mechanic Street: The Town of Foxborough is now the current owner of the property. It is the Town Manager's goal to have the Select Board dispose of the structure and place the redevelopment out for bid.

Health Inspector Position: A new inspector was hired and is expected to start the week of January 29. M. Brennan to invite her to a future board meeting for introductions.

University of Connecticut Technical Assistance to Brownfields (UConn TAB): The next step related to the 131 Morse Street property will be if the Town of Foxborough will accept ownership of the property. The warrant article that addresses this has already been sent to the Town's attorney and has been accepted. UConn TAB will assist the Town of Foxborough with outreach on this warrant article. They are scheduled to develop a website that shows what this would mean for the Town, what the EPA grant can do in terms of remediation of the property, and other success stories from other towns and cities that have experienced something similar.

**8:41 p.m. Approval of Board of Health Meeting Minutes**



S. Manos made a motion to accept the Foxborough Board of Health meeting minutes of November 27, 2023, as written. The motion was seconded by R. Chapell. B. Allo called for discussion. Hearing none, B. Allo called for a vote. All in favor.

**Motion passed, 3 – 0.**

**8:41 p.m.      Adjournment**

S. Manos made a motion to adjourn. The motion was seconded by R. Chapell. Hearing no discussion, B. Allo called for a vote. All in favor.

**Motion passed, 3 - 0**

The next meeting is scheduled for February 5, 2024

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Sophia C. Manos, Clerk/dp

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