

Town of Foxborough Board of Health
Regular Meeting
Meeting Minutes - October 17, 2022

Members Present: Betsy Allo, MPH, Chair, Paul Steeves, Vice-Chair, Sophia C. Manos, Clerk
Members Absent: None

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

Others Present: Maurice and Sharon Brodeur (Remote), John F. Glossa, P.E., Jeff Lovely, Ranen Schechner (Remote).

Betsy Allo opened the regular meeting of the Foxborough Board of Health, under the Open Meeting Laws of the State of Massachusetts, at 7:00 p.m. on October 17, 2022. Meeting took place in the Andrew A. Gala, Jr. meeting room inside the Foxborough Town Hall, 40 South Street, Foxborough, MA. This meeting was also available for remote participation via Zoom.

Quorum was established.

**7:00 p.m. John F. Glossa, P.E., Glossa Engineering, Inc. – 1-3 Turner Road
Septic variance request from Title 5 (310 CMR 15.000) for the property located at 1-3
Turner Road**

M. Brennan began the discussion and provided the Board with information pertaining to the property identified as 1-3 Turner Road. He explained the property owner submitted a special permit request to the Foxborough Planning Board on July 15, 2022, to allow for a portion of the property to be used as a parking lot, to include 54 parking spaces, during Gillette Stadium events. To date, the special permit has not been approved by the Planning Board.

He further explained that the septic design plan submitted for the property's septic upgrade by Glossa Engineering, Inc. on September 6, shows a minimum separation between the bottom of the soil absorption system and high groundwater at only two feet. Under State Title 5 regulations, a minimum separation of four feet is required, unless there is evidence that shows there is no other location feasible on the property to place the system where it would allow for the four feet of groundwater separation. M. Brennan added that the greater the depth between the system and groundwater, the better protection.

Representing the Owner of 1-3 Turner Road was principal engineer, John Glossa with Glossa Engineering, Inc. J. Glossa informed the Board that the current system is in failure and has been for many years. He explained the proposed upgrade would include the installation of an innovative/alternative (I/A) Presby System. Since the start of the project, he stated multiple test pits were conducted

throughout different areas of the lot to determine the property's soil profile. J. Glossa summarized the results to the Board describing the majority of the property contained Woodbridge soils and the soil profile only changes in the far back area of the lot. He added that even with the change of soils in the back of the property, the location still does not contain four feet of naturally occurring soil. J. Glossa offered to perform more test pits but stated, in his professional opinion, he believes he would see the same soils throughout the property. He continued saying, he is comfortable with the septic design as presented on the current plan and moving the system would provide no difference in the environmental protection the Presby system would offer.

P. Steeves asked about the system and the possibility of cars being parked on the components. J. Glossa confirmed that no part of the system is designed to allow for cars to be parked on it. P. Steeves also commented on the high effluent standards related to the use of I/A systems, like the proposed Presby System.

S. Manos confirmed that the septic system approval is independent of the special permit approval by the Planning Board and the system will be installed regardless. M. Brennan stated that was correct.

P. Steeves made a motion to approve the septic system upgrade and the use of a Presby System, at the property located at 1-3 Turner Road, and require the system to be installed with a four foot separation between the bottom of the soil absorption system and high groundwater. In addition, the septic install shall include adequate fencing and/or a barrier around the system to prevent parking on any system component.

The motion was seconded by S. Manos. B. Allo called for discussion.

J. Glossa stated the system should be able to handle pumping up another two feet and confirmed for B. Allo that the mounding would not cause any issues related to abutters.

The Board discussed options related to fences and barriers and commented on the visual and permanent impact large boulders would have, if used. Following the discussion, P. Steeves moved to amend the motion on the floor and change the wording from "barrier" to "boulders".

Hearing no further discussion, B. Allo called for a roll call vote on the motion as amended.

P. Steeves: Aye S. Manos: Aye B. Allo: Aye

Motion passed, 3-0-0

Hearing no further discussion related to septic upgrade at 1-3 Turner Road, B. Allo closed the matter at 7:33 p.m.

7:33 p.m. Certified letter received by the Foxborough Board of Health on September 30, 2022

Discussion of the certified letter received by the Foxborough Board of Health on September 30, 2022, related to an alleged noise pollution complaint associated with the property located at 227 Cocasset Street

Those in attendance for this agenda item:

Attorney Ranen Schechner (Participating remotely via Zoom)

Attorney Jeff Lovely (In-person)

Maurice and Sharon Brodeur (Participating remotely via Zoom)

P. Steeves asked at what capacity Jeff Lovely was present for the meeting. Following J. Lovely's confirmation that he was the representing attorney for Oilman, Inc. of 227 Cocasset Street, regarding the noise pollution complaint, P. Steeves recused himself from the discussion.

M. Brennan provided B. Allo and S. Manos information related to the certified letter the Board members received on September 30, 2022 by Attorney Ranen Schechner.

A copy of the certified letter received by each Board member is included as supplemental meeting documents.

In summary, property owners of 217 Cocasset Street, Maurice and Sharon Brodeur, believed a violation to the Massachusetts Department of Environmental Protection's (MA DEP) noise control regulations was occurring, during certain business operations conducted by Oilman, Inc. the business located on the abutting property, 227 Cocasset Street. An acoustic consultant was hired by the Brodeur's to take acoustic measurements on their property during business operations that included oil tank cutting and disposing of tank parts into a trailer. Sound and tonal measurements from the testing on both April 7 and June 7, 2022 resulted in measurements in violation with MA DEP's noise control regulations. The letter included reports from the acoustic consultant, Cavanaugh Tocci, and requested assistance from the Board of Health to enforce the violations noted.

Ranen Schechner, the representing attorney for Maurice and Sharon Brodeur, participated in the Board of Health discussion remotely. R. Schechner provided a summary of the noise pollution complaint on behalf of his clients and stated since the time that the certified letter was sent, the Brodeur's have seen no improvement with the noise levels on their property. He continued, requesting that Oilman, Inc. provide a two week notice the next time they anticipate the cutting and loading of the oil tanks. A two week notice is being asked to allow for the scheduling of Board of Health, MA DEP and Cavanaugh Tocci personnel to come to the 217 Cocasset Street property and perform a noise pollution complaint investigation.

Attorney Jeff Lovely, representing Oilman, Inc., the property and business owner of 227 Cocasset Street was present in-person for the discussion. J. Lovely provided the following information and comments;

- His client, Oilman, Inc. has no objection to providing advance notice of when tanks come in and will be cut.
- The property, historically, has obtained approvals pertaining to the use of the land by Foxborough's Zoning Board of Appeals and the Foxborough Planning Board.
- The amount of time it takes to cut the tanks is approximately 5-10 minutes and to load the tanks into the trailer is approximately 5 minutes.
- Oilman, Inc. has already instituted different mitigation strategies including cutting oil tanks with the garage door, which faces 217 Cocasset Street, closed. Also, no cutting would occur on Sundays.
- Tanks that require cleaning, cutting and disposal are not received by Oilman, Inc. on a regular basis and cutting and loading of tanks are on an intermittent schedule.
- At the time the site plan for Oilman, Inc., was in front of Town Boards, trees were proposed. However, the Brodeur's requested a fence.

S. Manos provided comment on various noise reduction mitigation strategies available. She also asked the distance between the Brodeur's property and the Oilman Inc.'s cutting and disposal operations.

Maurice and Sharon Brodeur, property owner of 217 Cocasset Street, participated in the Board of Health discussion remotely. M. Brodeur provided an answer to S. Manos and stated the distance was approximately 200 feet. M. Brodeur and S. Brodeur also provided the Board the following comments:

- The Brodeur's contested the amount of time it took to cut and load the tanks as described by J. Lovely, stating the length of time these operations occurred was much longer.
- The noise has occurred more intensely within the last couple of years.
- The proposed trees and the request for a fence were independent of each other. The Brodeur's explained children were playing on large rocks that were located on 227 Cocasset Street, and adjacent to their property line. In order to protect their liability in the event a child fell onto their property and was injured, the Brodeur's requested that a fence be installed. According to the Brodeur's, the installation of the fence occurred approximately 5-7 years after the special permit was approved.

S. Manos asked M. Brennan the Board of Health's role with this complaint. M. Brennan stated an investigation would need to be conducted. The Health Department Office is able to record sound levels with the department's noise meter in order to determine if a nuisance is occurring. However, the Health Department's noise meter does not measure tones. MA DEP would need to assist

in the investigation and record tonal measurements. If a violation of MA DEP's noise control regulations is noted, it would be brought to Oilman, Inc.'s attention. He would then be required to determine ways to mitigate the cited violations and come into compliance. He explained the Office would need to perform multiple background ambient noise readings to get a baseline. Once a baseline is established, the Health Department will be able to enforce MA DEP's regulation if the noise levels coming from Oilman, Inc.'s cutting and loading operations exceed the levels stated in the regulations.

M. Brennan welcomed Maurice and Sharon Brodeur to call the Office if they believe they are experiencing a noise nuisance, if it occurs prior to the scheduled investigation date.

Hearing no further discussion related to the noise pollution complaint associated with Oilman, Inc.'s business operations at 227 Cocasset Street, B. Allo closed the matter at 8:10 p.m.

8:10 p.m. Remote Zoom access ended

8:10 p.m. S. Manos made a motion to approve the minutes of September 12, 2022 as written. The motion was seconded by P. Steeves. Hearing no discussion, B. Allo called for a vote.

P. Steeves: Aye S. Manos: Aye B. Allo: Aye
Motion passed, 3-0-0.

8:12 p.m. S. Manos made a motion to approve the following bills.

Lifeworks, Inc. (September Services)	\$812.83
Verizon Wireless (Data Usage for Inspection Tablets)	\$75.98
Amazon Business (Misc. Office Supplies)	\$31.43
Frederick J. Jones (Constable Services)	\$60.00
Hockomock YMCA (Grant funded wellness class payment)	\$560.00
Amazon Business (Inspection Supplies)	\$34.95
D.P. (October Communications)	\$50.00
M.B. (October Communications)	\$50.00
C.S. (October Communications)	\$50.00
Lifeworks, Inc. (October Services)	\$812.83
K.D. (Annual CHO License Renewal Re-imbursement)	\$79.83
Amazon Business (Misc. Office Supplies)	\$17.58

The motion was seconded by P. Steeves. Hearing no discussion, B. Allo called for a vote.

S. Manos: Aye P. Steeves: Aye B. Allo: Aye
Motion passed, 3-0-0

8:15 p.m. Department Updates

- M. Brennan attended court proceedings for 22 School Street on Friday, October 14 in order to try and come to an agreement with the property owner on the outstanding violation order. A second court case is scheduled in 30 days.
- The Attorney General's Office will be sending out demand letters to the properties located at 255 South Street and 28 Oak Street. M. Brennan explained to the Board that receivership is the last possible action and would request the Board of Health's votes on the matter during an upcoming public hearing. Attempts have been made to contact both Owners, but neither party could be reached.
- The State Department of Public Health's (DPH) capacity assessment is still underway with surveys. It is expected that Board of Health members will be receiving a survey soon.
- M. Brennan provided each Board member with the *Summary of Conflict of Interest Law for Municipal Employees* document and requested their signature confirming receipt.
- The draft version of the "Town of Foxborough Board of Health Regulations", the document encompassing all Board of Health regulations into one, has been completed. M. Brennan recommended that a couple of regulations be placed on the agenda for discussion during upcoming Board of Health meetings.

8:24 p.m. P. Steeves made a motion to adjourn. The motion was seconded by S. Manos. B. Allo called for a vote.
S. Manos: Aye P. Steeves: Aye B. Allo: Aye
Motion passed, 3-0-0

The next meeting is scheduled for November 7, 2022

Sophia C. Manos, Clerk/dp