



BOARD OF HEALTH
Topsfield Town Hall
8 West Common Street, Topsfield, MA 01983

Board Meeting and Public Hearing

Minutes of February 19, 2020

6:30 PM

Board Members present in addition to Chairman Sheryl Knutsen RN were Vice-Chair Gerry Topping and Board Members Anthony Alley RN and Larry Fixler RPh. Health Agent Wendy Hansbury and Recording Secretary Susan Winslow were in attendance. Also in attendance were Selectman A. Richard Gandt and residents Joyce Bickerton, Adam Gauvin, Dan Gauvin, Norman Isler, David Larson, Holger Luther, Geoff Neale, Mark Rizza, Bob Sapienza, Ken Turner, Sue Turner, E.C. Wagner and Kelly Walgreen.

COMMONLY USED ABBREVIATIONS:

ADA: Americans with Disabilities Act

BOH: Board of Health

BOS: Board of Selectmen

MAVEN: Massachusetts Virtual Epidemiology Network

MDEP: Massachusetts Department of Environmental
Protection

CDC: Center for Disease Control

MEMA: Massachusetts Emergency Management Agency

CEU: Continuing Education Unit

MRC: Medical Reserve Corps

CEMP: Comprehensive Emergency Management Plan

COIN: Community Outreach Information Network

DPH: Department of Public Health

NEMMC: Northeast Massachusetts Mosquito Control

EEE: Eastern Equine Encephalitis

EDS: Emergency Dispensing Site

PHEP: Public Health Emergency Preparedness

ESHWT: Estimated Seasonal High Water Table

POD: Point Of Dispensing

EP: Emergency Preparedness

RN: Registered Nurse

FDA: Food & Drug Administration

RS: Registered Sanitarian

HHS: Health and Human Services

SAS: Soil Absorption System

HMCC: Health & Medical Coordinating Coalition

TBOH: Topsfield Board of Health

LSAC: Local State Advisory Committee

TRMRC: Topsfield Regional Medical Reserve Corps

MDPH Mass. Dept. of Public Health

VNA: Visiting Nurse Association

WNV: West Nile Virus

CALL TO ORDER

Chairman Knutsen called the meeting to order at 6:34 pm and announced that the Board will hold a Public Hearing related to R:1-2 Supplemental Regulations to 310 CMR 15.00 The State Environmental Code as

duly advertised at 7:00 PM and will return to Open Session at the conclusion of the Public Hearing. Ms. Knutsen also announced that the recording secretary would be recording the meeting and asked if anyone else would be recording. There was no response to this question.

MEETING MINUTES

January 15, 2020

VOTE: Mr. Fixler made a motion to approve the January 15, 2020 Meeting Minutes as written. Seconded by Mr. Alley. The motion passed in a vote of 4-0.

NEW BUSINESS

Resignation of Board Member Thomas Mannelta CE

Chair Sheryl Knutsen read a letter from Thomas Mannelta CE announcing his resignation from the Board of Health effective February 19, 2020. Ms. Knutsen expressed regret at Mr. Mannelta's decision to resign and noted that Mr. Mannelta had been a valuable member of the Board whose knowledge and leadership will be greatly missed. Vice Chair Topping and Board Members Mr. Fixler and Mr. Alley agreed and expressed gratitude to Mr. Mannelta for his volunteer time on the Board.

NEMMC 2020 Best Management Practice Plan

Health Agent Hansbury informed the Board that she has reviewed the NEMMC 2020 Best Management Practice Plan for Topsfield and she approves of the plan. Ms. Hansbury has also met with Boxford Health Director Kendall Longo and Middleton Health Director Derek Fullerton to discuss coordinating future Tri-Town response to Mosquito spraying particularly related to school and sports fields. The Board discussed authorizing Health Agent Hansbury to make future decisions regarding spraying based on risk level and recommendation from MDPH without calling an emergency meeting of the Board of Health.

VOTE: Mr. Fixler made a motion to authorize Health Agent Wendy Hansbury to be able to respond to Northeast Massachusetts Mosquito Control (NEMMC) for spraying if needed in the event of a threat.

AMENDMENT TO MOTION: Mr. Fixler made a motion to amend the motion as follows: a motion to authorize the Health Agent to approve intervention on the part of the Board of Health in the event of a threat as indicated by Northeast Massachusetts Mosquito Control (NEMMC). Seconded by Mr. Alley. The amendment to the motion passed in a vote of 4-0.

VOTE ON AMENDED MOTION: Mr. Fixler made a motion to approve the amended Motion. Seconded by Mr. Alley. The amended motion passed in a vote of 4-0.

Update on Coronavirus

Chair Sheryl Knutsen informed the Board that Coronavirus is an emerging situation that will change frequently in the coming weeks. The Board has posted information on the Town website, and Ms. Knutsen thanked Mr. Fixler for the New England Journal of Medicine article about Coronavirus he shared with Board Members.

Tobacco Control

Health Agent Wendy Hansbury informed the Board that new State regulations, "An Act Modernizing Tobacco Control" will go into effect March 6, 2020. The Commonwealth offered training to local tobacco permit holders to educate them about the new regulations. Currently, the Town issues four (4) Tobacco Permits. The Board reviewed the correspondence from the Northeast Tobacco Free Community Partnership regarding the new law.

Prospective Board Member

Health Agent Hansbury introduced resident Mark Rizza as a prospective Board Member. Mr. Rizza gave the Board a synopsis of his background and Board Members expressed gratitude to Mr. Rizza for considering service on the Board. If Mr. Rizza decides to pursue Board Membership, this will be addressed at the March 18, 2020 Meeting.

HEALTH AGENT REPORT

Health Agent Hansbury reported the following:

- The Bransfield housing court issue at 151 Perkins Row has been resolved.
- The Emergency Preparedness Tabletop Exercise on January 30, 2020 was very successful with participation from neighboring Towns as well as Topsfield representatives from Police, Fire, Highway, the Town Administrator and three (3) members of the Board of Health. An after-action report will be released when complete. Chair Knutsen added that this type of activity is important as part of an Emergency Preparedness plan to respond quickly in the event of a health crisis such as H1N1 in 2010 and the possibility of mobilizing a response to Novel Coronavirus.
- Ms. Hansbury expressed gratitude to Highway Superintendent Gary Wildes for his assistance with the MRC Emergency Preparedness trailer. Superintendent Wildes assisted with replacing the tires on the trailer and repairing a wiring defect. The repairs were paid for by grant funds from the Region 3A HMCC.
- School nurses at Proctor and Steward schools have reported high absentee numbers to Ms. Hansbury related to this year's outbreak of the flu. Ms. Hansbury has forwarded the information to VNA Care. Mr. Alley informed the Board that the current week of February 17 – 21 is considered the peak of flu season.
- Ms. Hansbury assisted Proctor School nurse Melissa West with a recent exercise at the Proctor School to educate children on the importance of proper hand washing, particularly during flu season. Ms. Hansbury provided school nurse Melissa West with the black light purchased by the Board for Ms. Hansbury's hand-washing educational exercise at the Wellness Fair this past Fall.
- Ms. Hansbury has been working with Town Administrator Kevin Harutunian to clarify the language in the Town By-law related to Board of Health Non-Criminal Disposition. Ms. Hansbury plans to submit language to the Selectmen be placed on the Town Warrant for a vote the May 5, 2020 Town Meeting.
- Ms. Hansbury inspected the installation of a grease trap at 246 Boston Street.
- The Board of Health has received a badging machine paid for by grant funds from the CDC.

7:00 PM PUBLIC HEARING

Chair Knutsen announced that the Public Hearing on R:1-2 Supplemental Regulations to 310 CMR 15.00 The State Environmental Code would begin. Ms. Knutsen read the following legal notice that ran in the Tri-Town Chronicle on January 16, 2020 and January 23, 2020:

Notice is hereby given that the **Topsfield Board of Health** will hold a **Public Hearing** in the First Floor Conference Room at Town Hall, 8 West Common Street, Topsfield, MA at 7:00 PM on **February 19, 2020** to address proposed changes to the following regulations: R:1-2 Supplemental Regulations to 310 CMR 15.00, The State Environmental Code, Title 5.

VOTE: *Vice-Chair Topping made a motion to open the Public Hearing at 7:00 PM. Seconded by Mr. Alley. The motion carried in a vote of 4-0 and the Open Hearing commenced at 7:04 PM.*

Vice Chair Topping explained that Topsfield septic regulations have not been updated since 2014 and the goal of the Public Hearing is to update the existing R:1-2 Supplemental Regulations to 310 CMR 15.00 The State Environmental Code Title 5. This is being done for clarity and to remove language that is redundant to 310 CMR 15.00 The State Environmental Code Title 5. Mr. Topping announced that he would be leading the Board through a review of the existing R:1-2 Supplemental Regulations section by section to explain the proposed changes. The document was distributed electronically to Board Members before the meeting and was posted on the Board of Health web page for public review. Copies of the proposed changes were distributed to residents in attendance at the meeting.

Mr. Topping read into the record the following letter dated February 19, 2020, from the Topsfield Conservation Commission:



TOWN OF TOPSFIELD

Conservation Commission

8 West Common Street, Topsfield, Massachusetts 01983

February 19, 2020

Topsfield Board of Health
8 West Common Street
Topsfield, MA 01983

Re: R:1-2 Supplemental Regulations to 301 CMR 15.00, The State Environmental Code, Title 5

Dear Board of Health,

On behalf of the Topsfield Conservation Commission, I submit the following comments regarding the proposed changes to the supplemental regulations:

- The Topsfield General Wetlands Bylaw Regulations state "Additionally, the Commission defines the boundaries of wetlands for the Board of Health and regulates the siting of septic systems to conform to the values of the Bylaw." A statement should be included in the supplemental regulations/definitions to the effect of: wetlands resource areas shall mean as defined in MGL c131 540 and regulations... and Ch 62 Topsfield General Wetlands Bylaw and regulations...
- Similar to the reference the Topsfield wetlands regulations has to submitting a permit to the Board of Health and other boards, etc, the BoH regs should include a reference to compliance with the Topsfield General Wetlands Bylaw and regulations when applicable.
- The Ipswich River Protection District excerpt/reference including the quoted section 8.02 should be left in the supplemental regulations, as those proposing septic work may otherwise not be aware of this restriction.
- A copy of the "Report of The Board of Health Regulations Review Committee on the scientific and technical merits of adopting the percolation rate limit of Title (5) of the Sanitary Code of the Commonwealth of Massachusetts" dated February 17th, 2005 is attached for your review.

Sincerely,

Heidi Gaffney
Conservation Administrator

Mr. Topping began the following review of R:1-2 Supplemental Regulations to 310 CMR 15.00 The State Environmental Code Title 5:

R:1-2.1 Authority to accept a change in the first sentence to read: In accordance with the provisions of the Title 1, Regulation 2 of the State Environmental Code and under the authority of MGL chapter 111, section 31 and any other powers thereto enabling the Board of Health of Topsfield to adopt regulations relative to the disposal of sanitary sewage in unsewered areas, the following regulations are adopted a supplements of Title 5 of the State Environmental Code to become effective as of the date of adoption.

Paragraphs 2 and 3 of R: 1-2.1 would be deleted.

R:1-2.2 Definitions (310 CMR 15.01) all definitions to be deleted. Conservation Commission Member Holger Luther suggested that the Board include Wetlands protection into the definitions including the Topsfield General Wetlands By-Law Chapter 62. Mr. Topping agreed and thanked Mr. Luther for the suggestion.

R:1-2.3 General Requirements Section 1. To be changed to: Application for Disposal Works Construction Permits. An application for a Disposal works Construction Permit shall be obtained at the office of the

Board of Health. A permit shall expire two (2) years from date of issuance unless construction has begun. An extension of one (1) year extension may be granted if the plan meets Title 5 and the Topsfield Board of Health Supplemental Regulations in effect at the time of expiration of the permit. If the environmental code or rules and regulations have changed, then no extension may be granted if said changes will affect the design of the septic system. If no extension is granted, then a new application is required. Extensions will not be granted if any changes occurred in soil, water conditions, and topography on site or on adjacent land that, in the Board of Health's opinion, would adversely affect the operation of the system and they affect the design of the system. A nonrefundable application fee and a permit extension fee will be charged.

Section 2 to be changed to: Plan of Sewage Disposal System. Application requirements:

Four (4) sets plans and one (1) electronic (pdf) copy containing the following information:

- (a) Name and address of owner, lot number, assessors lot number, Registry of Deeds book and page number.
- (b) Location of street, all structures including house, garage, swimming pool and outbuildings, driveway on the property and large trees within fifty (50) feet of the locus of the sewage disposal system.
- (c) Accurate perpendicular distance from lot lines and both sidelines to building.
- (d) Location of all existing and proposed utilities including water line and/or well, streams, brooks, ponds, lakes, swamps, marshes, culverts, pipes swales, flood plains, seasonally wet areas, and areas of temporary or permanent ponded water on the property or within one hundred (100) feet of the septic system, whichever is greater.
- (e) Septic facilities and wells within two hundred (200) feet of the septic system on immediately adjacent lots shall be indicated on the plan.
- (f) All easements shall be clearly indicated on the plan, and the ownership of record of such shall be marked therein.
- (g) The location of underground storage tanks within fifty (50) feet of the leaching area shall be shown and their size indicated.
- (h) Any additional data necessary to demonstrate compliance with Title 5 and these Supplementary Regulations.

Mr. Fixler asked if there is currently a sign off sheet or mechanism to track involvement of land use departments on septic and building permit applications. Ms. Hansbury informed Mr. Fixler that all soil testing applications must be reviewed and signed-off by the Conservation Agent. Also, building permits are reviewed and signed off by the Health Agent and Conservation Agent before a project can move forward. Additionally, because the land use office contains Board of Health, Conservation and Inspectional Services, there is excellent communication among the Departments on submitted projects.

Selectman Gandt suggested that the Board consider adding the option of accepting CAD files. Mr. Topping explained that this type of machine-readable scale drawing or TIF or JPEG files would not be acceptable because this type of file can be manipulated, and scale may be lost in transmission. Because the Board of Health requires plans that include a stamp from a Registered Professional Engineer, the safest way to ensure that the document is accepted and maintained as the primary valid document at this time is with PDF format only.

Section 3. Plan of Sewage Disposal. In order for the Board to accept a proposal for consideration, the application must consist of a set of plans in conformance with Title 5 and Topsfield Supplementary Rules and Regulations, a Disposal works Construction Permit application properly completed and the filing fee.

Section 4. Certificate of Compliance. Two (2) paper copies and one (1) digital (pdf) copy of an as-built plan shall be submitted to the Board of Health within two (2) weeks of the final inspection. A Certificate of Compliance will not be issued until all conditions set forth have been fulfilled. The as-built plan shall show the following:

- (a) The lot being developed.
- (b) Buildings and structures as constructed in relation to the lot bounds.
- (c) The location of septic tank and leaching field; distances to covers on the septic tank and the distribution box from the building foundation corners and to the four (4) corners of the leaching area; the location of the reserve area as shown on the approved site plan.
- (d) Elevations of the top of the concrete foundation, garage floor, if any, inverts of the septic tank and distribution box inlets and outlets, and inverts of the ends of the pipes in the leaching area.
- (e) Plans shall be prepared in accordance with the approved scale and shall contain the stamp and signature of a Registered Professional Engineer.
- (f) The direction of true north.
- (g) The as-built plan may be prepared from the design plan submitted and amended to reflect the actual horizontal and vertical dimensions as they apply to the completed system.

Section 5. Inspections

- (a) Where additional inspections are required, a fee will be charged in accordance with the Board of Health's current fee schedule. Inspections for emergency repairs shall be accomplished as required.
- (b) In new subdivisions, during the period from the time of commencement of construction until issuance of a Certificate of Compliance, the lot number shall be posted such that it is legible from existing or proposed ways.

Mr. Luther suggested that the Board consider including the Town's Stormwater By-law.

Selectman Gandt expressed concern about the wording related to mounded systems and the drainage that occurs with such systems.

Mr. Sapienza expressed concern about drainage related to mounded systems.

Health Agent Hansbury and Vice-Chair Topping explained that Title 5 as written addresses slope and drainage issues including mounded systems.

A discussion ensued regarding runoff. Mr. Luther expressed his opinion that a septic system installation in the past caused flooding at a Hill Street residence downslope from a that system after a heavy rainfall.

Ms. Hansbury explained that Title 5 takes into account the fact that runoff must be controlled. The Board will revisit the wording of this section.

Section 6. Maintenance System components, including innovative/alternative systems, are to meet compliance with 310 CMR 15.00.

Selectman Gandt asked if it is necessary to point out that a Reserve Area is approved. Vice-Chair Topping explained that this is covered by 310 CMR 15.00 Title 5.

Selectman Gandt expressed concern that the paragraph related to the Geohydrological Report on Clusters and Subdivisions would be removed. Mr. Luther recalled the Capen Lane Housing subdivision that resulted in a lawsuit against the Town in the 1980s which may have been the nexus for this specific language. Health Agent Hansbury explained that the issue occurred before the enactment of Title 5 and as such, the language is no longer necessary. Vice-Chair Topping added that the IRA in Topsfield is now 2 acres, and the percolation rate should not be used as a replacement for zoning. The Board will revisit this paragraph at the March 18, 2020 meeting.

Ken Turner asked the Board how they would handle the number of old homes in Topsfield that cannot meet setback requirements if their septic system should require repair or replacement.

Vice-Chair Topping explained that Title 5 requires maximum feasible compliance for existing septic systems, so variances may be requested on septic repairs. Mr. Topping explained that the primary goal is to protect groundwater, so no variances are granted to new construction which must comply with 310 CMR 15.00.

Health Agent Hansbury and Vice-Chair Topping explained the process for residents whose systems must be repaired or replaced, including a brief description of traditional and innovative/alternative systems. Mr. Topping informed the group that any system over 10,000 gallons must be reviewed by the State and comply with the most up-to-date regulations. Mr. Topping emphasized the fact that Title 5 Regulations are based in science.

Selectman Gandt suggested that the Board consider inserting into new Section 6 a line indicating that the Board may require a stormwater analysis by an expert and it is his wish to keep the original Section 11 in the new Section 6.

The Board will review this request.

Mr. Luther expressed opposition to the change in the perc rate from 30 minutes per inch to 60 minutes per inch.

Mr. Luther asked the Board if they had reviewed a study he assisted with in 2005 titled, "The Report of the Board of Health Regulations Committee".

Health Agent Hansbury informed Mr. Luther that the Board Members have copies of the document. Ms. Hansbury referred to a highlighted section 2-1.1 Conclusions and recommendations in the report of the report that read:

The *findings* of the Committee are as follows:

1. It is perfectly feasible to construct, operate, and maintain on-site disposal systems in 60 minute/inch soils. This was not clear at the outset in that such systems rely to a substantial part on transpiration of groundwater to function properly. New England winters are sufficiently severe to substantially limit such action. The investigations of OSDS technology in Nova Scotia by Mooers and Waller have provided convincing evidence in favor of these findings.

Mr. Luther expressed concern that Topsfield is comprised of many drumlins. He reiterated his opposition to a perc rate of 60 minutes per inch and his concern about development.

Kelly Walgreen expressed the following concerns:

- Relaxing the rule may change the character that separates Topsfield from other Towns.
- Changing the perc rate to 60 minutes per inch might open up land near her home for development.
- The only ones who will benefit from this change are developers.

Vice-Chair Topping explained that the perc rate cannot be used as pseudo-zoning. He explained that the 60 minute-per-inch perc rate in Title 5 is based in science, and placing limits on development is a zoning issue, not Board of Health issue. Mr. Fixler explained that the purview of the Board of Health is Public Health, not zoning or development.

David Larson asked the Board if there would be a document forthcoming before the next Board of Health Meeting outlining proposed changes from this meeting. Mr. Larson suggested that it would be helpful to note any changes that differ from 310 CMR 15.00 Title 5.

Dan Gauvin informed the Board that he was grateful that they were taking time to listen to residents and consider all opinions. Mr. Gauvin noted that he owns two properties that did not perc at 30 minutes per inch but may be compliant with a 60 minute per inch perc rate. Mr. Gauvin expressed his opinion that density must be taken up by other departments, not regulated through the perc rate.

Vice-Chair Topping explained that the Title 5 regulations based in science consider nitrogen loading, which is why the current regulation is based on a design flow of 110 gallons per bedroom per day with a maximum of 440 gallons per acre. He explained further that advancements in septic system design and the science behind it have proved that the old Topsfield 200 gallons-per-bedroom-per-day resulted in overbuilt systems that wasted water and created an unnecessarily large carbon footprint. Mr. Topping also pointed out that groundwater is protected by Title 5 regulation requiring a four (4) foot separation of the bottom of the leaching bed to Estimated Seasonal High Groundwater, determined through the identification of redoximorphic features, all based in science. Mr. Topping gave a description of sieve analysis which is the future of soil testing.

Section 7. Privies and Chemical Toilets (310 CMR 15.16) Restrictions. The use of a privy shall not be permitted. A chemical toilet may be approved by the Board of Health only as a temporary measure for outdoor use.

R:1-2 System Inspection (310 CMR 15.301) The septic tank or cesspool of every subsurface disposal system shall be pumped at the time of a Title 5 Inspection. If the system has been pumped less than six (6) months before the inspection, pumping is not required if proof is provided as part of the inspection report.

Properties served by a private water supply well, regardless of distance from the septic system, shall provide a water quality report that includes the minimum testing requirements as listed in the Title 5 Inspection report for wells within one hundred (100) feet of a septic system.

Health Agent Hansbury explained that requiring that the tank be pumped allows for a visual inspection of the condition of the tank and its structural integrity.

Selectman Gandt asked the Board why they would be placing the burden of the cost of testing a well on the homeowner. Health Agent Hansbury explained that well testing is not expensive and is a helpful data point on the water quality going forward.

R: 1-2.5 Policy Procedure

Adoption. The rules and regulations as a supplement to Title 5 of the Environmental Code of the Commonwealth of Massachusetts were adopted by unanimous vote of the Board of Health, Town of Topsfield, and shall be in full force and effect on and after the date of adoption and shall be published in a newspaper, and a copy thereof shall be filed in the office of the Town Clerk and the Board of Health.

VOTE: Mr. Fixler made a motion to continue the Public Hearing at the March 18, 2020 Board of Health Meeting. Seconded by Mr. Alley. The motion carried in a vote of 4-0.

ADJOURN

VOTE: Mr. Topping made a motion to adjourn at 9:14 PM. Seconded by Mr. Alley. The motion carried in a vote of 4-0.

Respectfully Submitted,

Susan Winslow

Recording Secretary

Items distributed:

1. Agenda
2. Board of Health Meeting Minutes 1/15/2020
3. Letter from Thomas Mannetta CE dated 2/19/2020
4. NEMMC 2020 Best Management Practice Plan for Topsfield
5. MDPH Fact Sheet: 2019 Novel Coronavirus (2019 nCoV)
6. Northeast Tobacco Free Community Partnership Overview of new MA Law
7. R:1-2 Supplemental Regulations to 310 CMR 15.00 The State Environmental Code Title 5
8. Septic Statistics for FY2011 – FY2019
9. Letter from Topsfield Conservation Commission Administrator Heidi Gaffney dated 2/19/20

These Meeting Minutes were approved at the 3/25/2020 Board of Health Meeting.

