



Town of Mendon
Board of Health
Minutes for
October 6, 2021

MINUTES APPROVED
By Board of Health on 10.05.2022

Andy Fiske, Chairman, called the meeting to order at 7:00 p.m.

Present Alan Greenberg -Vice Chairman Tom Fichtner - BOH Member, Missy Kakela-Boisvert, Sr. Administrative Assistant to BOH, Tom Ryder, BoH Engineer John Erickson, Building Inspector, Mike Merolli, Select Board member, Danielle Edmands, Health Agent, Kathleen Alexander of 14 Lovell Street, Lawney Tinio, Select Board member, David Kurczy, Police Chief and Detective Nick Erskine

Location – Join Microsoft Teams Meeting

106 Millville Street – Andy spoke about the current issue at 106 Millville Street is the area that has been filled in. Neighbors have concerns about their wells and the material that was brought in. Board member Tom Fichtner went out to the site and met with neighbors. Andy asked Tom to let the board and members of the audience know what took place.

Tom met with Kathleen Alexander of 14 Lovell Street, Sylvain Cormier and Dana Yurach of 16 Lovell Street and Wally, along with select board member Lawney Tinio. They took a look at the back area of 106 Millville Street and the concerns of the neighbors, with regards to the work that was done. They essentially walked them through and showed areas of concern. One being erosion of fill that has been brought to the site and possibly damaged a pipe that was in place. This pipe apparently helps with water flow or drainage. Tom sent pictures to the office. (See below) Tom will now let Lawney Tinio speak to some of the points that were made and how Lawney was looking to potentially address the situation not only from a select board perspective but overall, as a group including board of health, select board, conservation, building and whatever groups that are involved to help remedy what has happened.

Lawney thanked the boh for putting this together especially Missy and for having him. Looking from the backside aesthetically its an animal. It's an ugly mess. There is no retaining wall and from the rain runoff there's ruts and silt at the lower end. The good part is they did put up a silt fence. So at least it will buffer a little bit. However, if it continues without any intervention were looking it to overpower the silt fence at some point. Lawney has not met with the new conservation agent. He just got her contact information today and he will be reaching out to her. He will set up a quick meeting with her and ask her to do a site visit. The biggest thing Lawney thinks we are seeing here at from a board of health standpoint anything that happened such as the restaurant; he doesn't want to go too far into that because the boh is handling it he was not there first hand. From a legal standpoint with the police department whatever was illegally being done with the animals is being taken care of. Lawney is not sure if there is anything legally that can be done from an aesthetics point of view. However, something needs to be done there. He continued say that Mr. Erickson has been to the site and there's nothing from a standpoint of building which Lawney is sure Mr. Ericson in 100 percent right. But he thinks the biggest place we will have the most teeth are with conservation and board of health issues and violations.

Conservation might be the one to force a retaining wall or reduction in what is there. Lawney will follow up with the new conservation agent. Other than that, he does not have much more he can add. Andy thanked him for his input.

Andy asked John Erickson to speak as he is the building inspector. John said he did look at it, as far as the filling in there's nothing from building or zoning that is a violation. At least of any code he would enforce. But he believes Lawney is right on target, he thinks the biggest factor or controlling entity would be conservation commission. He thinks the wetlands protection act and the conservation commission has an awful lot of weight. He's not sure how to pursue it. Maybe the new conservation agent does know how to, but he thinks that is the avenue you want to be looking at. He was thinking about this earlier, if any one of us wanted some filling of our yards or even create a ski hill, there's nothing from a zoning or building perspective (for your own backyard recreational use) to prohibit it. Andy thanked John for his take on it.

Andy asked if Damon Tinio the Chairman of the conservation commission was on the call. Missy said she did not see that he was. Lawney spoke up and said he didn't believe anyone from conservation was on the call tonight but obviously Damon being his brother they have talked about it. Lawney said Damon's initial visit to the property there wasn't an issue. But they continued to bring in material and it needs to be revisited. It's way different then when Damon did his initial visit. Lawney asked if there's been a stop work order issued or have, they just stopped work on their own? He's just wondering if we need something more formal. Lawney mentioned that Mike Merolli had his hand up.

Andy asked Mike to ask his question if he had one. Mike said his question was the last meeting there were comments about bags of trash and other foreign matter that was in the fill. He asked what is the process to find out if this is clean fill or to the point that was brought up initially about contamination of groundwater and wells, is there a way for us to get some kind of certificate or assurance that all of this material that was brought in does not contaminate? And what was in those bags of trash? And what if that happens to leach out into the pond? Do we get DEP (Department of Environmental Protection) involved?

Andy is not sure which of the neighbors Kathleen, Dana or Mark, someone had some pictures of the material that was in there. First is that true and can you estimate quantity you saw? Kathleen said she witnessed, she did not take pictures, a man dumping two bags. She does not know the contents of those bags. He buried it with a hand hoe. As far as the fill is concerned, she does not know if it was certified. She believes Dana has pictures of debris in the fill. Andy asked if Dana was on the call. Andy asked Missy if she could see if Dana was on the call. She said no but Tom Fichtner has his hand and Tom Ryder has joined us.

Andy asked Tom Fichtner to speak. Tom said to add to what Kathleen had said regarding to the trash bags. Based on the pictures he took and Kathleen telling him where the bags were buried, there is an approximate location to these bags. Based on Kathleen it was done by hand and not by machine, so it's probably not too deep into the hill and be uncovered easily. Andy is guessing that its dead animals that were buried based on what happened when the boh initially went out. But he is only guessing.

Andy asked if 14 or 16 Lovell Street received results from testing their wells? Kathleen from 14 Lovell Street said she had a retest done on Monday. She believes it will take a couple of weeks. Andy then welcomed Tom Ryder to our meeting. He asked him if he had anything to add from what he witnessed. Tom said Tom Fichtner's pictures are pretty much what we saw when he did his site visit with Alan Greenberg. He did not see anything other than gravel, so anything that is buried we may need to contact the owner or have DEP assist with the clean-up and see what enforcement roll they can play. Tom said a huge amount of fill has been brought in. He could not quantify it.

Andy asked Detective Erskine (who was a big part of the boh initial investigation) if he had anything to add. Andy believes the barn is pretty much cleaned up. Detective Erskine agreed that the barn has been clean up through rules and regulation set forth by the MSPCA (Massachusetts Society for the Prevention of Cruelty to Animals) so that is being handled through the courts. He and MSPCA have been doing follow ups at that farm. It's not the same farm as when they first went out there.

Andy wanted to bring up a couple of point in case some are not aware, this property is not assessed as a farm but as a commercial property. He was told that it was spoken about at a planning board meeting. He was not present at that meeting to hear that but was told. Also, the man that did all this work, is not the one who owns the property. Andy asked Missy if the owner knows about what is going on with his property. Missy responded by saying the letter that the boh sent to the renter was also sent to the owner. She also asked if you would like to invite him to one of the boh meetings. The owner does own another property in town. Andy would like the owner to join one of our meetings.

Andy recognized Tom F. to speak. Tom was wondering if any communications has gone out to the owner by any other groups other than the boh. Missy was not aware of any communications from other departments.

Andy recognized Kathleen to speak. Kathleen has concerns about the renter getting permits for a business specifically the farmer's market. Andy asked Danielle to speak about that. The boh did have a cease and desist for running a restaurant. Danielle to her knowledge there are no applications. Last she spoke with Missy he was interested in a produce stand, if he is looking to sell whole uncut produce that is not her jurisdiction. That would be more of a Department of Agriculture. But as soon as he manipulates the food in any way then the boh would be involved with the food code and a permit to be issued. Missy added that when the renters originally came in with the application, they had the idea of having cooked food there and selling of livestock. She advised them to contact the Department of Agriculture because she was not aware of livestock being sold in Mendon and that the State might need to get involved. When she asked about preparing food, she instructed them that certain certification would be needed. For example, SERV Safe certificate and allergy awareness certificate.

Kathleen is still concerned that the owner would not be responsible to fix any violations and the renter can keep going with the business. John Erickson spoke that with building and zoning the owner would be responsible. He suspects that would be the same case with conservation. So, to

Kathleen's point about the owner not having much interest in these violations, that would not be the case. He would ultimately be held accountable and a lot of motivation.

Andy called on Tom Ryder to speak. Tom R said when an applicant goes for a permit, there is an area for the owner sign off. Essentially allowing the use because they own the property and become part of the application process. Lawney also added that there haven't been any permits issued. Everything has been done willy nilly. Any violations that have been found over there need to be rectified before any permits are issued. Andy just wants to make clear that this gentleman did not have any permits to do what has been done.

Andy asked if anyone else had any questions or concerns. Alan asked to speak. Andy apologized he forgot about Alan. Alan has somethings he will say and hope to get an answer. Alan wasn't sure that this property being an equestrian center for many, many years and this was considered a change of use came into play? When he toured the property with Tom Ryder, residents from 14 and 16 Lovell Street, he did see some green crushed sewer pipe. He's concerned about the septic tank that has been sitting in the yard at 9 Main Street which is owned by the same person. The issue of the crushed pipe, he believes the pipe takes water from Millville Street and Lovell Street and funnels it into a pond on Mrs. Alexander's property.

Andy thanked Alan. He believes the crushed pipe would be an issue for conservation. Lawney said that will be brought up to the new conservation agent. Missy brought up the dilapidated home that is also located on this property. Around 2013 106 and 108 Millville Street was combined into one lot. Missy is not aware anyone is living in the house but she is not sure if it should be looked. Andy brought up that the septic system is designed for 2-bedroom system and there are 9 people living there. He asked Missy to confirm that information which she did. There is a concern that the septic system might be over used and should be looked at. Until this point John Ericson said he heard that the concerns were usage and not heard that a structure is unsafe. He will take a look this week and have a more detailed assessment.

Andy asked if there was anything else, if anyone had anything else to say. Kathleen spoke up and wanted to thank everyone for pulling this meeting together, to address our concerns. She believes it's beneficial that we are all on the same page.

At this time the board ended the discussion for 106 Millville Street

Tom F did have a question regarding residential kitchens. There were talks about whether a residential kitchen would need special permit with regards to zoning. John Erickson spoke up and said if it was a separate kitchen preparing food that is going to be sold would certainly need a Home Occupation Permit and needs to fall into the rules and regulations of that. If it's just their regular kitchen that is used for the household, it would depend on the scope of activities. If there baking cookies once a week and bring them somewhere, he's would say no they don't. If they have customers come a couple times a day, then they would need a Home Occupation Permit. He does think that they should apply for one either way. Tom asked where that type of permit would be generated. John said it would be applied through the building department. There is a section of the zoning by-law that address it. What can and can't be issued, some would be issued by a special permit. He would have to look further to see if he can issue by right

or if it would go to the planning board. John will contact Missy to get more information. Missy explained she reached out to one of the residential kitchens and the people come to the house to pick up the baked goods. Andy asked John if this was local to Mendon and if it was in the zoning by-laws if Tom wanted to look it up. John said yes, it's right in the Town of Mendon's Zoning By-Laws.

Alan asked if the board needed to be concerned about the septic tank on 9 Main Street and Mr. Meehan's property at 1 Nipmuc Drive and there were solon signs in the window. Andy asked Missy to answer. She told the board that Tom Ryder is in the process of reviewing the plans for 9 Main Street. The installer told her that he is just getting the supplies ready.

Missy deferred to Tom Ryder regarding 1 Nipmuc Drive. Tom did.

Next meeting will be October 20, 2021 at 7:00 p.m.

Tom made a motion to adjourn the meeting. Alan seconds the motion. All members agreed.
Meeting adjourned at 8:26 pm









