

Time being 7:00 p.m. **October 7, 2019** Paul Steeves opened the meeting of the Foxborough Board of Health, under the Open Meeting Laws of the State of Massachusetts. Paul Steeves, Chairman presiding, Eric Arvedon, Clerk, Elana Dekkers, newly appointed Board Member, Pauline Zajdel, Health Director, and Diane Passafaro, Public Health Coordinator were present. Meeting took place in the Andrew A. Gala, Jr. Meeting Room inside Foxborough Town Hall at 40 South Street. Minutes were taken by Diane Passafaro.

Eric Arvedon read the agenda of the October 7, 2019 Foxborough Board of Health meeting aloud.

**7:00 p.m. Bay Colony Group, Inc., William R. Buckley, Jr., P.E. – Septic Variance, 316R South Street**

Others present relative to this agenda item  
Greg Spier, Principal - S&S Realty Trust  
Guy Brackett, Abutter - 8 Paula Lane  
James Lacroix, Abutter - 4 Paula Lane

Representing the Owner of the property, S&S Realty Trust, was Principal Engineer William R. Buckley, Jr. with Bay Colony Group, Inc. W. Buckley presented the Board with septic design plans for new construction associated with Lot 1, currently identified as 316R South Street.

E. Arvedon interjected and stated he was an abutter of the proposed 316R South Street project. W. Buckley corrected him and informed him he was only an abutter for the adjacent property at 314R South Street. E. Arvedon acknowledged and the meeting continued.

W. Buckley explained the location of the property and its proximity to nearby wetlands. He informed the Board the wetlands were recently delineated and the Site was also walked by the Conservation Agent. Applications have also been filed with both the Planning and Conservation Board. W. Buckley also spoke of a perennial stream, Morton's Brook, located off the property and the property is located in a Zone II.

Due to the proximity of the wetlands, W. Buckley requested the following variance;

- Soil absorption system to be located 100 feet from a wetland where 150 feet is required.

In order to provide equivalent protection to the environment, the proposed design plan calls for the installation of an Innovative/Alternative (I/A) system, specifically a Fixed Activated Sludge Treatment (FAST) system with nitrogen removal. W. Buckley informed the Board that this type of system is approved for use by the Massachusetts Department of Environmental Protection (DEP) and water quality tests on the effluent typically show results that fall below the allowable permitted

discharge levels. The system is also required to be monitored by a licensed wastewater treatment operator quarterly for the first year and semi-annual for all years following.

W. Buckley added that the system does fall within the Title V distance to a wetland which is 50 feet, further commenting that with the use of a FAST system, he believes this system will be providing equivalent and superior protection to the environment.

Six out of nine green cards were returned and provided to the Board. Proof of mailing for all nine abutters were also submitted.

Following W. Buckley's explanation of the property, E. Arvedon took a moment to welcome Elana Dekkers as the new member to the Board of Health. He further directed his comments to her as he re-iterated and confirmed the information W. Buckley just presented. He informed E. Dekkers that several FAST systems have already been installed in the Town within the last 20 years and to date no issues have been seen associated with their operation. He affirmed that the technology has shown to render cleaner effluent than a conventional system. A FAST system also requires the installation of a back-up generator to aid in continuous operation of the blower as intended.

E. Dekkers asked if there was noise associated with the operation of the system. W. Buckley stated that the blower is enclosed in a plastic case and the noise can be equivalent to the hum of a refrigerator. If there is a malfunction, there is an audio and visual alarm which is located inside the house.

E. Arvedon made a motion to approve the 50 foot variance and allow the soil absorption system to be located 100 feet from the wetland where 150 feet is required per local bylaw, for new construction on Lot 1, the property currently identified as 316R South Street, provided that a FAST System is installed, permitted and maintained per State requirements and there are no further comments from abutters. E. Dekkers seconded the motion. Paul Steeves called for discussion and opened the room for comments.

Guy Brackett, an abutter at 8 Paula Lane asked the distance between the system and the Brook and whether it was at least 200 feet. W. Buckley confirmed the Brook was over 200 feet away.

James LaCroix, an abutter at 4 Paula Lane expressed his concern related to the expected noise of the system, the variance request as a whole, what happens if the system were to malfunction, as well as his understanding that there is no maintenance of the system after the first year.

P. Steeves explained to J. LaCroix and reaffirmed that the inspection and maintenance plan of the system occurs for the life of the system. A decrease in

inspection frequency is the only thing that changes after the first year. He further re-iterated, from experience, the noise from the blower is minimal. E. Arvedon added that historically the use of a FAST system operates better than a conventional system, making it better and providing more protection to the Town as a whole, however, if it did fail, the responsibility would be on the Owner to repair it.

Hearing no further discussion, P. Steeves called for a vote. All in favor, motion on the floor passed 3 – 0.

P. Steeves called the matter of 316R South Street closed at 7:37 p.m.

**7:37 p.m. Bay Colony Group, Inc., William R. Buckley, Jr., P.E. – Septic Variance, 3 Ashcroft Lane**

Representing the Owner of 3 Ashcroft Lane was Principal Engineer, William R. Buckley, Jr. of Bay Colony Group, Inc. Owner, Jason Lippolis was not present.

One out of two green cards (electronic signature format) was returned and provided to the Board. Proof of mailing for both abutters were also submitted.

W. Buckley presented the Board with the septic design plan for the septic repair on the property located at 3 Ashcroft Lane. He explained the property has two existing houses, a four bedroom and a two bedroom, both of which currently have cesspools. Several constraints have been found to be associated with the property including;

- Three quarters of the property is surrounded by wetlands
- The water table is at four feet, making the existing cesspools currently in the water table
- The percolation rate was found to be 30 minutes per inch exhibiting poor soil characteristics
- The back house is on a slab foundation not allowing for re-plumbing of waste lines
- Due to the high groundwater table, the system will need to be raised limiting feasible locations for placement of the system.

In addition to the constraints noted above, W. Buckley also stated that the placement of a septic tank in the rear of the back house, presents a concern with protection to the nearby wetlands and stated a safer alternative would be for the installation of a monolithic pump chamber. The proposed design calls for a pump chamber prior to the septic tank for both houses on the property. Also noted on the plan is the installation of a polybarrier on the west side of the soil absorption system.

P. Steeves asked about the depth below grade the piping located under the driveway will be.

W. Buckley stated the depth will be between two to three feet per Title V regulations with the line pitched back toward the pump chamber tank to prevent freezing. He added that all elements of the system are designed for heavy loading including the piping, using SDR-11, as car parking can occur on the property.

E. Arvedon made a motion to approve the following variance requests for the septic repair at 3 Ashcroft Lane;

- bottom of the soil absorption system to be located three (3) feet from the estimated groundwater where four (4) feet is required per Title V regulations
- bottom of the soil absorption system to be located three (3) feet from the estimated groundwater where five (5) feet is required per local bylaw

E. Dekkers seconded the motion. Hearing no discussion, P. Steeves called for a vote. All in favor, motion passed 3 – 0.

E. Arvedon made a motion to approve the variance for an eight percent (8%) increase in flow for the septic repair at 3 Ashcroft Lane and allow pumping to a septic tank 33% of the design flow where no more than 25% is recommended. E. Dekkers seconded the motion. Hearing no discussion, P. Steeves called for a vote. All in favor, motion passed 3 – 0.

E. Arvedon made a motion to approve a 100 foot variance request for the septic repair at 3 Ashcroft Lane and allow the soil absorption system to be located 50 feet from a wetland where 150 feet is required per local bylaw. E. Dekkers seconded the motion. Hearing no discussion, P. Steeves called for a vote. All in favor, motion passed 3 – 0.

E. Arvedon made a motion to approve a 15 foot variance request for the septic repair at 3 Ashcroft Lane and allow the septic tank to be located 85 feet from a wetland where 100 feet is required per local bylaw. E. Dekkers seconded the motion. Hearing no discussion, P. Steeves called for a vote. All in favor, motion passed 3 – 0.

Hearing no further discussion related to the septic repair at 3 Ashcroft Lane, P. Steeves declared the matter closed at 8:05 p.m.

**8:05 p.m. Wormtown Brewery – David Fields, Owner  
New Establishment, 250 Patriot Place**

Representing Wormtown Brewery were Tom Oliveri, Founder, David Fields, Owner, and Shane Evan, General Manager for the proposed establishment. D. Fields provided the Board with a summary of their operation. The majority of the beer served will be coming from the Company's brewing location in Worcester. A section of the Patriot Place location will also be dedicated to brewing site specific specialty beers. The menu will consist of food that is pre-cooked which involves

pre-heat and serve preparations only. Temporary pop ups within the plaza are currently in place until the establishment is completed. He stated he anticipates an opening date of October 14.

P. Zajdel updated the Board saying the establishment's plan review and their 2019 food establishment application has been submitted and paid for. The Inspector, John Robertson will review it and follow up with the establishment to conduct an opening inspection.

Hearing no further discussion related to Wormtown Brewery, P. Steeves thanked those associated with the Brewery for coming and declared the matter closed at 8:12 p.m.

**8:12 p.m. Saga Hibachi Steakhouse  
Emergency Hearing – Non-compliance to the State Sanitary Food Code**

Those in attendance relative to this agenda item;  
Steven Lin, Owner – Saga Hibachi Steakhouse  
Annie Chen, General Manager – Saga Hibachi Steakhouse  
Brian Earley, General Manager – Patriot Place  
Maureen Lee, Saga Hibachi Steakhouse Food Safety Consultant  
Trevor Lee

P. Steeves informed his fellow Board members and those present in the room that he was on Patriot Place property on October 4 observing areas of concern related to the pest issue that has been seen throughout the plaza. Observations of heavy debris noted around the dumpster area of Saga were concerning and resulted in P. Steeves knocking on their back door for follow up. Upon being let in by Saga personnel, P. Steeves stated he witnessed unsafe food safety practices and unsanitary facility conditions that triggered him to have the establishment lock their doors immediately and call the Foxborough Health Department to request a full and thorough inspection from the Inspector. Between the time P. Steeves entered the premises and the Inspector's arrival, a large amount of food was discarded by Saga. Following the Inspector's inspection, all parties involved discussed and agreed the restaurant would remain closed to allow for proper cleaning, re-grouping and re-training of Staff and to allow time for re-prepping of food that was lost. The closure would be in effect until 6:00 p.m. that Friday night.

P. Steeves began the discussion by expressing his concern as he addressed Saga representatives in the room, saying that the inspection conducted by the Inspector today did not result in a good report and showed nine repeats from Friday.

A. Chen stated that cleaning was done, however, some employees did not clean as well as they should. She understands more help is needed and has hired a consultant, Maureen Lee, to assist in re-training of the Staff.

P. Steeves commented that the establishment has had a history of non-compliance and commented that this was the second time since Saga first opened that consultant Maureen Lee has needed to work with the establishment.

E. Arvedon stated his opinion, that the establishment does not have the knowledgeable Staff to run the type of business they operate. He continued expressing his concern that it was evident looking at the inspection report, that the operation ran the same way the entire weekend.

B. Earley spoke to the Board and agreed that observations observed on October 4 were unacceptable, however, what got accomplished during the few hours they were closed shows that it can be done. B. Earley shared in the belief that they currently do not have the skill set to operate their business as intended and suggested a hiring event take place to get to the competency level that is needed. He continued saying, it is part of all Patriot Place's establishments lease to run a first class operation. They are currently not demonstrating it, but will need to in order to maintain their lease agreement.

E. Dekkers shared her fellow Board members concern observing after viewing inspection photos showing the unsanitary conditions that were found during the inspections and wondered if this condition reflects the current condition of the restaurant during this meeting.

The Consultant for Saga, Maureen Lee spoke regarding the proposed efforts to occur moving forward. She explained efforts will include a Staff-wide training. This training will focus on each Staff's specific job demonstrating each task for a hands-on approach. Following the training, an initial audit will be conducted within seven to ten business days. In conjunction with the audits, training associated with active managerial control will occur, focusing on establishing a proactive instead of a reactive approach.

P. Steeves asked if interpreters will be available as part of the training. M. Lee confirmed yes. P. Zajdel also requested that training logs be kept.

A. Chen stated there is one employee who is currently employed in the person in charge role, however Management has had concerns about this individual not demonstrating the authority that is needed for the position and stated this person will need to be replaced. She acknowledged M. Lee's consulting services five years earlier and stated things have changed, including personnel. She added that a current chef is not working as well as he should be. She also understands that she cannot be the only person in charge and new staff including a re-training is needed and the consultant will assist with that.

P. Zajdel expressed her concern about the non-compliance associated with the sushi area and opined that the sushi area should remain closed until the competency level is seen.

E. Arvedon made a motion for Saga to be closed for four days during which time the facility is cleaned, training is conducted and violations are corrected. The establishment may re-open, less the sushi area, upon a satisfactory inspection by the Inspector. E. Dekkers seconded the motion. P. Steeves called for discussion.

E. Arvedon expressed his belief that adequate and effective training and cleaning could not be conducted while the operation remained open which is why a closure is warranted.

B. Early asked the Board if the closure could end on Thursday for a Friday inspection. He suggested that M. Lee would work off the October 4 and 6 inspection reports as a baseline and what the inspection is based off. He informed the Board he will not allow M. Lee to leave until competency within the establishment is seen. Competency will provide the level of confidence that is needed and expected of the establishment.

E. Arvedon moved to amend the motion on the floor by striking out the word “four” and inserting the word “three”. E. Dekkers seconded the motion. P. Steeves called for discussion.

B. Earley suggested that M. Lee could provide the Board with a summary report on Thursday detailing the status and competency level of the establishment, to also include the sushi area.

P. Zajdel acknowledged and thanked B. Earley for his comment. She agreed a report should be sent to the Board.

Hearing no further discussion, P. Steeves called for a vote on the amended motion. All in favor, amended motion passed, 3 – 0.

S. Lin apologized to the Board and thanked them for their time.

Hearing no further discussion related to Saga Hibachi Steakhouse, P. Steeves declared the matter closed at 9:05 p.m.

**9:05 p.m. Re-organization of the Board of Health**

Paul Steeves made a motion to appoint Eric Arvedon as Chairman through May 2020. Elana Dekkers seconded the motion. All in favor, 3 – 0.

Eric Arvedon made a motion to appoint Paul Steeves as Vice Chairman through May 2020. Elana Dekkers seconded the motion. All in favor, 3 – 0.

Paul Steeves made a motion to appoint Elana Dekkers as Clerk through May 2020. Eric Arvedon seconded the motion, All in favor, 3 – 0.

**9:17 p.m.** E. Dekkers made a motion to approve the following bills:

The Arc South Norfolk (September Services)	\$812.83
D.P. (September Communications)	\$50.00
J.R. (September Communications)	\$50.00
P.Z. (October Communications & Travel)	\$102.43
W.B. Mason (Office Supplies)	\$82.78
P.Z. (Travel & Hotel Accommodations – MEHA Conf.)	\$330.63
J.R. (Travel & Hotel Accommodations – MEHA Conf.)	\$485.89
Mass. Health Officers Assoc. (Annual Conf. – P.Z. & J.R.)	\$620.00
The Arc South Norfolk (October Services)	\$812.83

P. Steeves seconded the motion. Hearing no discussion, E. Arvedon called for a vote. All in favor, motion passed, 3 – 0.

**9:20 p.m.** E. Dekkers made a motion to approve the minutes of September 9, 2019 as written. P. Steeves seconded the motion. Hearing no discussion, E. Arvedon called for a vote. All in favor, the motion passed unanimously with E. Dekkers abstaining.

*(Elana Dekkers was not a Board of Health member during the September 9 Board of Health meeting)*

**9:23 p.m.** **Health Directors Updates**

- On September 26, P. Zajdel attended a Department of Public Health *Determination of Need Application* (Application) hearing at the Bringham and Women’s Center located in Patriot Place, Foxborough. While in attendance, she spoke in favor of the Application that requests the purchase of an additional MRI/CT equipment.
- The Massachusetts Association of Health Boards will be holding its annual certificate program. P. Zajdel asked E. Dekkers if she would be able to attend. E. Dekkers confirmed she could attend the Marlborough program in November.
- The Town of Foxborough Financial Summit meeting is being held on October 17. Town Manager, Bill Keegan is requesting at least one person from each Board be able to attend. E. Arvedon stated he could attend.

- The State is encouraging local Boards of Health to take part in signing a “Resolution” related to the vaping and e-cigarette epidemic and sending it to the State’s Representatives. The Board agreed to sign the Resolution.
- Update on non-compliance restaurants Splitsville and Sals and Mals.
  - Splitsville has improved. They have been working with a consultant and improving on logs the Consultant has developed.
  - Sals and Mals have also hired and is working with a consultant.

**9:34 p.m.** E. Dekkers made a motion to adjourn. P. Steeves seconded the motion. All in favor, motion passed 3 – 0.

The next meeting is scheduled for October 21, 2019.

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Elana Dekkers, Clerk/dp