



## BOH MEETING MINUTES 08-07-2023

Council Committee Room, 140 Main Street  
Jim Griffin, Chair  
Joseph Tennyson, MD, Vice-Chair  
Richard Tomanek, Member

Also in attendance: Director John Garside and Clerk Tina Nolin

**The meeting was called to order at 6:30 p.m.**

### **Reading and Approval of Minutes**

- Approval of minutes from June 7, 2023 - The motion to approve was made by Chair Griffin, Member Tomanek seconded, and the vote was 3-0 to approve.

### **New Business**

**Red Spring Road Homeowners Association (Assessors parcel 30-10) variance requests from City Code section 510-2 "Sewers," specifically from the requirement to connect all the dwellings on the property to public sewer before July 11, 2023, which is the deadline outlined in the previous variance that was issued on October 11, 2022.**

Director Garside introduced Bob Durand, President of the Red Spring Road Homeowners Association (RSRHA), who presented four separate variance requests to the Board for their consideration, which involved 12 of the dwelling units located on the property.

### **I. REQUEST FOR EXTENSION OF TIME THROUGH SEPTEMBER 2023 TO COMPLETE SEWER CONNECTIONS AT 9, 15, 25, 47, & 49 RED SPRING ROAD**

Bob Durand reminded the Board that last October they had requested to extend the timeline for finishing those connecting to the city sewer due to issues such as weather, supply chain delays, and other circumstances beyond the control of the RSRHA members.

The contracts and contractors are in place to connect numbers 9, 15, 25, 47, and 49 Red Spring Road to sewer. On behalf of the RSRHA and the homeowners, Durand requested an extension of time to complete these sewer connections until the end of September (9/30/2023).

Director Garside recommended that if the Board did grant relief to these 5 properties it include a requirement to register such relief at the Registry of Deeds, then as things get completed the notices can be removed.

City Engineer, Tom DiPersio, agreed with the Director that any relief be registered at the Registry of Deeds until they are connected to sewer. He had no issues concerning there being a time extension on these 5 connections.

Member Tennyson motioned to allow an extension until September 30, 2023, for the Red Spring Road properties numbers 9, 15, 25, 47, and 49, with notice of such extension filed at the Registry of Deeds. Member Tomanek seconded the motion. The motion passed with a 3 – 0 vote.

**REQUEST FOR AN EXTENSION OF TIME TO COMPLETE THE SEWER CONNECTIONS  
FOR THE 4 PROPERTIES THAT PLAN TO BE DEMOLISHED AND REBUILT**

The RSRHA is requesting a time extension on 4 properties (Red Spring Rd numbers 12, 13, 31, 43) that not only failed Title 5 inspections, but also are to be demolished and rebuilt. Demolition and construction on these properties have been put on hold because of the reorganization of Red Spring Road property to a condominium association. The RSRHA needs to obtain approval from the City Council of an overlay district in order for new dwellings to be constructed. This has not been done to date and they are looking to appear before the City Council in September.

Director Garside recommended that if the Board does grant relief to these 4 properties, understanding demolition and City Council timelines, that the Board should figure permitting to occur over winter 2023 and demolition/construction to occur in the summer 2024, so a deadline of October 31, 2024, seems reasonable.

Director Garside also recommended that any variance for these properties, in addition to being recorded at the Registry of Deeds, not allow occupancy of these existing dwellings after October 31, 2023, which would limit the sewage flow to these aging systems.

Member Griffin motioned to allow the Red Spring Rd properties (#12, #13, #31, and #43) an extension for connecting to the city sewer system until October 31, 2024, that such extension would be noted at the Registry of Deeds and that occupancy of these four addresses would be prohibited after October 31, 2023. Member Tennyson seconded the motion. The motion passed with a 3 – 0 vote.

**II. RED SPRING RD, #17**

Director Garside spoke briefly on this property, citing it was inspected in October of 2021. While the homeowner is under the impression the system passed, it was resulted by the Title 5 inspector as what is called “further evaluation required by the Board of Health.” The problem is that there is a drinking water well within 47 feet of the distribution box and since leeching fields usually start right after the distribution box this constitutes a failure. Understanding however, that this property has some ongoing drainage issues that further complicate the situation.

Mr. Durand explained that since the Goodnow School was built this property has allegedly been inundated with water due to water discharge out of the back of the school property. They have tried to put in drainage, but it did not work as they had hoped. The city engineer and conservation officer have both been out numerous times to look at the situation. On behalf of the property owner at 17 Red Spring Rd, the RSRHA is requesting more time to connect to the public sewer so that the owner can save up the money required for the connection, understanding that the owner has already spent money trying to resolve their water issues and will be required to spend additional monies to correct the drainage situation.

Tom DiPersio, the city engineer, agreed that the property has had ongoing water issues. Mr. DiPersio also felt that even though this was not the exact “extraordinary site conditions” they were thinking about when drafting the ordinance, a variance in such a situation may well make good sense.

Director Garside reported that 17 Red Spring Road’s septic system is 30 years old and was constructed under a different code than newer systems are – so that even a passing Title 5 on these older systems may mean they are mechanically working fine, but do not provide adequate environmental protections. However, recognizing the specific issues of the site and that Title 5 upgrades on failing systems are given a 2-year to 5-year grace period to upgrade, I would want to start the 5-year clock at the time of the original Title 5 inspection, which was in October of 2021.

Member Tennyson stated that while he has sympathy for the owner of 17 Red Spring Road and what they are going through, he feels the Board needs to think down the road and what would be fair if someone else comes along who has similar issues that there should be consistency in any variances granted. Thus, he thinks Garside’s recommendation of 5 years to connect as a fair solution.

Member Tomanek motioned to allow 17 Red Spring Rd an extension for connecting to the city sewer system until October 3, 2026, (allowing for 5 five-year variances from the inspection date of 10/4/2021) such extension would be noted at the Registry of Deeds. Member Griffin seconded the motion. The motion passed with a 3 – 0 vote.

### **III. RED SPRING RD, #23 and #37 – PASSED TITLE 5 INSPECTIONS AND ARE RELATIVELY NEW SYSTEMS**

23 Red Spring Rd septic system was installed in 2008, and 27 Red Spring Rd septic system was installed in 2014.

As the city engineer mentioned, when the 50-acre property suddenly went for sale the 27 homeowners rallied to buy it and now they're all subject to connecting to the public sewer. For these 2 dwelling owners however, it comes with an additional burden because they had expended substantial monies to install or upgrade their septic systems in 2008 and 2014, expecting their septic systems would last another 20-30 years and understanding there was no public sewer on the horizon at that point. This has arguably created a hardship for these folks and these properties have not changed hands since these septic systems were installed.

Director Garside mentioned that with these two systems, there are no environmental concerns or public health concerns. This variance request is before the board solely because this unique property (which was a land lease, now a condominium) changed ownership.

When asked by the Board for a recommendation on the length of time for the possible variances on these properties, Director Garside recommended ten years. The rationale was that generally, one tries to get at least 25 or 30 years out of a septic system, thus, given the age of these systems, he thought a 10-year extension from today’s date would be appropriate.



Member Tomanek motioned to grant sewer variances to both #23 and #27 Red Spring Rd until August 7, 2033, unless the property or the dwelling changes hands, which would trigger a connection to the sewer at that time. Thus, this variance would be vacated upon any transfer of ownership of the property. A notice of these variances and their conditions must be registered at the registry of deeds. Member Tennyson seconded the motion. The motion passed with a 3-0 vote.

### **Director's Update**

- **Beach Testing**  
Director Garside reported that the beaches had been testing well overall this summer. We have only had to close one beach for a weekend, back at the end of June. The beach was resampled the next day and the results came back within range to reopen.
- **Tobacco Control Director**  
A new Tobacco Control Director has been hired for the Metro West Control Collaborative, who helps with our tobacco inspections and education. Once they are fully onboard, we will invite him in to meet the Board so that you will be able to put a face with the name.
- **New Public Health Director for Marlborough**  
The Director reported that they were interviewing for a new Health Director. To date, resumes were few, as were those with experience.

Director Garside also shared with the Board that Assistant Sanitarian Nicholas Corcoran had resigned to take a position with the Town of Marshfield, which was closer to home and provided an increased salary.

Chairman Griffin and the Board said they hated to see Director Garside leave and thanked him for all of his work over the years, particularly through the COVID-19 pandemic when he did an amazing job, particularly given how quickly protocols were changing and the requirement to put things together very quickly.

- **West Nile and EEE**  
The city remains at low risk for both. Mosquito Control is in the city weekly doing various routine ground sprayings and management of wetland areas, as well as mosquito control in areas requested by property owners.

### **Subdivision, Site Plan & Special Permit**

There were no subdivisions, site plans, or special permits to review.

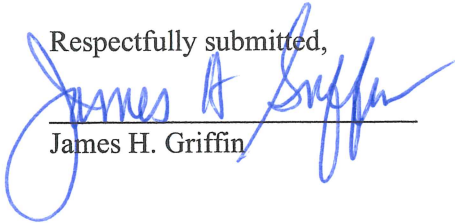
**Scheduling of the Next Meeting**

The next regularly scheduled meeting of the Board was scheduled for September 11, 2023.

**ADJOURN**

Member Tennyson motioned to adjourn the meeting at 7:28 p.m.; Chair Griffin seconded the motion; the vote was 3-0 in favor of adjourning.

Respectfully submitted,

  
James H. Griffin

9/11/2023  
Dated