



**CITY OF GLOUCESTER
Board of Health Meeting
July 9, 2026, 5:30 p.m.
Harbormaster Conference Room
Minutes**

Board members present: Chairperson: Joseph Rosa; Vice-Chairperson: Dr. Eric Kaplan; Jesse Dole; and Thomas Markert. Absent: Erin George.

Also present: Health Director: Dominique Hurley; Sanitarian: Cody Smith; Regional Prevention Director: Chelsea Goldstein-Walsh; Assistant Health Director: Gabrielle White; Administrative Assistant: Alison Battle; and Advisor to the Septic Review Subcommittee: Dave Sargent.

The meeting started at 5:30 p.m.

Public Oral Communication:

There was no "Public Oral Communication".

Approval of Minutes:

MOTION by Dr. Kaplan to approve the Gloucester Board of Health minutes of the meeting of June 4th, 2026 as written. **Seconded** by Mr. Dole. **Carried 4-0.**

279 Western Avenue - Designer Dan Johnson - Septic Variance and Relief Requests:

Gloucester Onsite Waste Water Regulations Variance Request

- *Request reduction of the relocated garage to not be within 5 feet of where 10 feet is required of the new leaching area or any other septic system component (Reference GOWR 211 Table 1).*

Local Upgrade Approval Relief Request

- *Request reduction from the leaching area to the property line from 10 feet to 6 feet, 310 CMR 15.211 and 15.405(1) (a).*

Dan Johnson, engineer for Domestic Septic Design appeared before the Board on behalf of the homeowner. He stated that the proposed design is to upgrade a failing system. He gave a brief overview of the proposed request for relief.

Mr. Smith reviewed the proposed variance request and the four local upgrades with Board members. He stated that the proposed requests are for an upgrade, so it is not for an increase of flow. He stated that there are two septic systems on the lot and both have failed. He stated that the Health Department suggests approving the variance and the relief requests. He stated that

he spoke with the engineer and he told him that if the applicant really wants to try to have that reduction in groundwater in conjunction with all this, then they need to make sure they're not paving the site, because we really want to make sure they're getting oxygen in there.

Mr. Sargent stated that he would request that the leaching chambers that are next to that catch basin are abandoned. *Mr. Smith* responded that the engineer does have the one note, which says that everything needs to be abandoned per the code, and he can include an extra note because of the sensitive nature of the area in the plan approval.

Chairperson Rosa asked if anyone in the audience would like to speak for or against the request for relief. There was no one.

MOTION by Mr. Rosa that the Board of Health approve the variance request and the relief request as written on the agenda for 279 Western Avenue. **Seconded** by Dr. Kaplan. **Carried 4-0.**

69 Dollivers Neck Drive - Septic Variance and Relief Request:

Gloucester Onsite Waste Water Regulations Variance Request

- *Situate a septic system 164 feet away from Mean High Water while using advanced treatment, where the Gloucester Onsite Wastewater Regulations (Table 1) require the setback to be 200 feet.*
- *Situate a septic system 141 feet away from the salt marsh, where the Gloucester Onsite Wastewater Regulations (Table 1) require the setback to be 200 feet.*
- *Situate a septic system and tanks 64 feet away from the FEMA VE zone where the Gloucester Onsite Wastewater Regulations (Table 1) require the setback to be 200 feet.*

John Judd, engineer for Gateway Engineers, appeared before the Board on behalf of the homeowner. He gave an overview of the proposed plan and the variance requests.

Mr. Smith gave an overview of the variance request. He stated that his recommendation is to approve the 3 variances and 2 local upgrade approvals based on manifestly unjust, also to deny this person would lose use of their home.

Mr. Sargent stated that the proposed plan is an improvement to what exists currently.

MOTION by Dr. Kaplan that the Board of Health grant the variance requests for 69 Dollivers Neck Drive as outlined on the agenda. **Seconded** by Mr. Dole. **Carried 4-0.**

Review for Approval: 187 Atlantic St Subdivision Water Quality Assessment:

Mr. Smith gave an overview of the seven-lot subdivision plan that had to go through the Subdivision Water Quality Assessment.

Mr. Dole asked if there was buildable space behind the seven lots. *Mr. Smith* responded that right now the seven lots were done under an ANR, not done under a subdivision; so when the applicant first came forward, a couple years ago, they submitted something where they were planning on possibly developing this back area. He stated that he thinks they're trying to work on getting these ANR lots developed. He stated that he did take the liberty of drafting a letter, for the Board's approval if they decide to go that route and the approval letter that is drafted does specify that this subdivision water quality study is only valid for these seven lots.

Mr. Smith stated that his recommendation would be to approve the subdivision water quality assessment, based on the standards that they've met. He stated that the third party's recommendation is similar and he did share that letter with the Board, although late.

Chairperson Rosa asked if the overall approval of the development will necessitate yearly monitoring for three years. *Mr. Smith* responded that the approval of this report then puts it into a sampling schedule, so they will have to do another, almost what would be considered like a baseline sample again after all the roads are in and after all the drainage structures are in and then after the system has been in use for a year they will have to sample again.

A representative from the Procopio Company appeared before the Board. He stated that there are also representatives present from Haley Aldrich. He stated that they are confident in what the study shows right now for their highest levels. He stated that if needed they can write something to limit the amount of nitrogen and fertilizer used on the grass in the condo documents.

MOTION by Dr. Kaplan that the Board of Health approve the subdivision water quality study that is in front of them and that their models have adequately met the threshold of the regulation.

Seconded by Mr. Dole. **Carried 4-0.**

The Board agreed to have Mr. Smith send the approval letter and that the letter would also include comments that if there's any variance in modeling numbers, they would be willing to add actual site numbers, not modeling numbers.

EWS Suitability Subcommittee Report and Guidance:

Ms. Hurley stated that the EWS Suitability Subcommittee met twice since the last Board of Health meeting. She stated that at the first meeting they discussed the operational scope and the workflow with the primary goal of making sure they have transparent and consistent communication with the applicant and with counsel. She stated that they came up with a set of responsibilities that she would like the Board to review and approve. She stated that they want to build and maintain communication standards with Seaside Legal and the applicant to make sure that whenever they're communicating, with the City, ConCom, Planning Board, City Council, that they are included. She stated that they would like to propose a project status sheet so that they will be able to consistently communicate with the applicant and their counsel on exactly where they stand with each element of the 37 conditions and the deliverables that are

surrounding them. She stated that they agreed that the obligation of their meetings would be to meet in advance of a deliverable with the applicant to rely on form and format. She stated that the next thing they discussed was how do they provide guidance on site suitability, condition submissions, and actions that might be taken and so they aligned on the fact that this is unbiased; it's a fact based review of condition requirements. She stated that they are going to be leveraging the decision document only. She stated that they agreed that when the City is meeting regarding site suitability dynamics that there is a representative or a member of the subcommittee who would be sitting in and available to offer and represent that decision document. She stated that they agreed that the subcommittee meetings should be open meetings so that they have full transparency to the public and to the applicant. She stated that they agreed to report back to the Board, helping the Board understand status and providing detailed review of submissions, and confirming that they do or do not meet criteria. She stated that they will update the Board on a rolling basis.

Ms. Hurley stated that at the second meeting they discussed internal departmental coordination and more specifics on communication protocols. She stated that they want to be sure that the site suitability decision in the case of the notice of intent is included in all third party reviews. She reviewed certain conditions with Board members that they believe hit different points, but are important for the Conservation Commission to consider to be sure that they are reviewing and considering as they look at the notes of intent. The Board discussed the possibility of adding a condition to suggest or make a suggestion to ConCom that they periodically monitor the stormwater that's running off into the wetlands.

Ms. Hurley stated that the applicant has redone their wetlands mapping and there is actually significantly less property that's sitting in the buffer zone than originally anticipated.

The Board agreed that the site suitability decision is explicitly included in all third party reviews, calling out not just the presence of the deliverable, but the rationale within the body of the decision that led to the need of that condition for consideration by that third party and that the Board of Health be welcomed at the Conservation Commission meeting to clarify the nuances of the site suitability criteria and the facts of the original decision and that they write a letter to the Conservation Commission to that effect and specifically call out, the concerns that are identified in Part 3, Section 11, 14 through 16, 20, 24, and 33, 32 and that they request the ability to make a presentation.

Ms. Hurley stated that she will draft a letter on the Board's behalf and send it, copying the members of the Board.

Ms. Hurley stated that the subcommittee is going to implement a standardized review methodology, leveraging the status sheet; she went into detail on how the status sheet will work.

Health Director's Recap:

Ms. Hurley stated that the Health Department has a new Administrative Assistant, Alison Battle. She stated that Carla DellaPorta applied for and received the position in their prevention department as a program manager.

Ms. Hurley stated that they had to change how they're counting things from reports and the reports they send to the State. She stated that the IT Department created a ticketing system for the Health Department to assist in creating reports.

Ms. Hurley stated that a few months ago the Board voted to update the Subdivision Water Quality Assessment Regulation regulations and in the process of reviewing that document to send it to the State they found a random reference to the 2000 Wastewater regulations and another bit of stuff about subcommittees. She stated that they are pretty confident that that content is not needed, however, because it is documented in the regulation, they have to come back and propose another change to the regulation and hold another public hearing.

Ms. Hurley stated that a letter went out in early June to the tobacco retailers reminding them that if they have products that are not FDA approved, they can't sell them. She stated that the FDA has a product database that retailers can use to confirm if the product has a Marketing Granted Order. She stated that the challenge is that some retailers have products sitting on the shelves without FDA clearance, and other retailers disposed of any inventory they shouldn't have. Some retailers are saying they have inventory that they want to sell down, and they have retailers that they haven't heard from, so they don't really know the status. She asked the Board for guidance on how they think they should approach enforcement.

Mr. Dole noted that two weeks ago, a group of tobacco retailers filed a lawsuit in U.S. federal court against the Massachusetts Department of Public Health and 16 other municipalities—though not Gloucester—to challenge their authority to enforce federal regulations. This legal action was prompted by enforcement letters similar to the one sent by the City of Gloucester.

Mr. Rosa asked if they have any documentation from any of the retailers stating that they cannot return the product.

Ms. Hurley responded that they have had retailer reaction to say, "Here's how much money I'll be out."

Mr. Markert stated that on a go-forward basis, retailers should only want to work with a distributor that can take back something that shouldn't be distributed in the first place.

Mr. Dole stated that they are in limbo, at least in Massachusetts, with pending litigation that will not get resolved in the next few months; it might be a year, year and a half out, but there's a decision from the federal court specifically about this issue in Massachusetts. He stated that it's been litigated in other federal courts in other states.

Mr. Rosa stated that they could provide access to a physical list and a website for retailers, they could ask retailers for documentation from distributors stating that the product cannot be returned, or if they get to the place where they have to allow sell down of these illegals they could ask the retailers to put in place a plan that'll cost money to inform youth of the health issues regarding these products with a plan to be approved by the Health Department.

Ms. Hurley stated that they could ask retailers to document exactly what products they have and how many so that they can keep track of that inventory, and then after an expiration time, there's zero tolerance. The Board agreed that the product that they buy from the distributor has to be on the approved list, or there has to be some documentation that shows otherwise.

Sunny Patel appeared before the Board. He stated that he owns two smoke shops in Gloucester. He stated that they buy all their products within the State of Massachusetts and he pays 75% tax on those products. He stated that marijuana, soda, and other products are not on the FDA list but they are sold in Massachusetts.

Ms. Hurley responded that Board of Health regulations and a retail permit both state that they have to apply to federal, state, and local regulations, and any product that they have on their shelves that is not approved by the federal government is therefore in defiance of federal law, which in turn is in defiance of their regulations. *Ms. Hurley* stated that it's illegal to sell products that are not FDA approved and it's further, even if they are FDA approved, illegal to sell those products in the state of Massachusetts if they have flavor. She stated that if they are selling a product that is not approved, there is a risk to their business, and they should be reporting any products that are in defiance of federal law to the FDA via their online portal.

Ms. Hurley stated that the letter went out in June and the deadline was July 1 and the letter was delayed in going out so that left a two week time frame for retailers to comply. *Mr. Dole* described the legal issue surrounding this topic that is occurring in Beverly.

Neil Warner of 67 Dollivers Neck Drive, appeared before the Board. He stated that he used to own a biochemistry company and had many products go through him. He stated that they do not approve products, they approve products for marketing, so that's different. *Mr. Dole* responded that the issue is the FDA is lagging far, far behind the issue of the marketing and branding orders for these new styles of tobacco products, vapes, and pouches.

Mr. Dole stated that they can ask retailers to provide documentation of the products they have on the shelf. *Chairperson Rosa* stated that they have to put together some process that has to be vetted that they could add to their annual permitting process.

The Board agreed that having some information about why they bought illegal products would be useful to know.

Ms. Hurley stated that they can work with retailers who have issues with these products to figure out why they have the product and come back with a recommendation on how they can move forward.

Ms. Hurley stated that they have goals as part of their budget and the administration is now working with all the department heads on figuring out how they attend those goals. She stated that none of our goals are new and they have been working on them for a while.

Ms. Hurley stated that Ms. Larabee has a briefing which is included in the packet, which is an assessment of how they did on a state performance against public health excellence norms. She stated that she will give the briefing at the next Board meeting.

Ms. White gave an update on the Brian Pollard case with the 10 rental properties. She stated that five properties were randomly inspected at the Board's request and they had good outcomes. She stated that she was impressed with his process and the way he was running his businesses. The Board agreed that these five inspections were a good representation and no further inspections are required.

Prevention Team Reporting:

Ms. Goldstein-Walsh stated that they are in the process of reapplying for a federal grant due next week. She stated that if they receive it, it would be a five-year grant which focuses on substance use prevention across seven communities on the North Shore. She stated that it's \$250,000 a year for five years.

Ms. Goldstein-Walsh stated that Carla Dellaporta will be joining their team later this month.

Dr. Kaplan asked about the Risk Behavior Survey. *Ms. Goldstein-Walsh* responded that they are waiting for the final data report. She stated that she needs to get permission before she can share the data in a public forum.

Concerns of the Board:

Next Regular Monthly Meeting Board of Health- The next regular Board of Health meeting is scheduled for Thursday, August 6, 2026 at 5:30 pm.

MOTION by Dr. Kaplan to adjourn.
Seconded by Mr. Dole **CARRIED**.
MEETING ADJOURNED – 7:59 p.m.

Respectfully submitted,

Bobbi Orlando

Accepted by:

Joe Rosa, Chairperson

Documents Referenced:

July 9, 2026 Board of Health Agenda

BOH Minutes of June 4, 2026

HD June Monthly Report