

**Truro Board of Health Minutes
September 2, 2014
4:30 PM-Truro Town Hall**

Members Present: Chair-Dianne Eib, Vice Chair-Tracey Rose, Tim Rose, Alternate-Ansel Chaplin, Clerk-Jason Silva, Mark Peters

Members Absent:

Present: Health Agent-Pat Pajaron, BOH Secretary-Noelle Scoullar, Dave Lajoie, BoS Liaison-Bob Weinstein, Shirley Brothers, Dave Lajoie,

REVIEW/APPROVE MINUTES

August 19, 2014 minutes

Dianne called the meeting to order at 4:30PM. She advised the audience that the meeting was being recorded, and asked if anyone else was making a recording. No one replied in the affirmative.

Tracey Rose made a motion to accept the minutes as corrected.

Tim Rose seconded.

Vote: 4-0, (*Mark Peters abstained*), motion carries.

REPORTS

Water Resources Oversight Committee

Per Mark, there is no report for WROC.

Health Agent's Report

Pat gave the Board an update on 25 Meetinghouse Road. To date, the electrical work has not been completed. She has had no contact from the property owner, or the electrician. The owner had been given until August 31st to correct the issue. Pat suggested that the Board could hold a Show Cause hearing. The earliest that could be held would be October 7th due to the necessity of advertising a legal ad in the local paper. Dianne instructed Pat to set up the owners of 25 Meetinghouse Road for a Show Cause hearing.

Dianne asked Pat if there were any dates chosen for the upcoming flu shot clinic. Pat stated that there are no dates set yet, and she is going to contact Mary Dublin this week. They have plenty of vaccine. They have State supplied, and purchased vaccine from the VNA. The State supplied vaccine is for people who are under insured or not insured.

PUBLIC HEARINGS

- 1. Shirley Brothers, Request for Meeting RE; August 5, 2014 Decision on Timeframe to Upgrade to Title 5 per June 18, 2014 Order to Upgrade, 586 Shore Rd.**

Shirley Brothers and Dave Lajoie approached the Board. Dianne asked if the other two owners were present, to which Shirley stated, "Apparently not". Dianne confirmed with Pat that the other two People had been notified about this meeting. Pat said "Yes". Shirley began by saying she was not aware

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of the August 5th meeting, and that is why she did not attend. She states that she is the trustee of the property, and she would like to have the Board of Health rescind the upgrade so that they can install the septic right away. The cottage has been on the market since 2006. It was taken off the market last September when the cesspool collapsed. Shirley had been under the impression that they were going to install the septic system right away until she received the notice showing that her sister had asked for an extension. Dianne asked for clarification on whether Shirley was sole trustee of the property. Shirley confirmed that she is the sole trustee. She produced a paper which proves that fact. What Shirley would like to do is fix up the dwelling, and install the system, to help with the sale of the cottage. Dianne asked how soon the system could be installed. Dave stated that there was a question regarding the number of bedrooms. He would like to review the bedroom issue, and ask for a two week continuance. They can come back in two weeks with a final plan.

Emily Beebe did a walk-through of the premises on Friday. In the Board of Health's information packet, Pat included a copy of the handwritten floor plan, which does not meet their floor plan policy. Emily evaluated the second floor, and the highest ceiling point is near the gable, which is at six feet. According to a conversation held between Pat and Emily, when you reach the top of the stairs, you have to stoop down, and crawl to the highest point of the gable end. Pat passed around photographs which show Emily at the top of the stairs with her head tilted, to avoid hitting the ceiling. The Board of Health's definition of Title V requires a six foot ceiling height (to meet the definition of a bedroom). In Pat's experience with older properties (built in the 1800's or early 1900's) you can get some variation in ceiling height by two or three inches, but a foot or more difference is quite significant. There are two bedrooms downstairs, and the two bedrooms upstairs do not meet the definition of a bedroom. There is also the issue of safety. If there were an emergency situation where someone upstairs needed to get out, they would bang their head going downstairs. This house was assessed as a two bedroom back in 2003, and currently it is assessed as a four bedroom home. Legally, under Title V, under the Board of Health's definition, it is a two bedroom home. Tim asked how big the lot was. Dave confirmed that the lot is ½ an acre in size. Shirley asked if the house could have dormers built, in the future. Dianne told Shirley that the issue is the acreage. There is not enough acreage to have more than two bedrooms. Pat added that this is in the Beach Point area, where there are no nitrogen loading limitations. Dave told the Board that in two weeks they would like to come back and either ask for new construction of a four bedroom septic system, or a two bedroom design with less variances. Mark pointed out that as far as zoning variances, those are not under the Board of Health's purview. Mark made sure that Dave understood the limitations regarding the two bedrooms located on the 2nd floor. Dianne further elaborated by saying that as things stand right now, the home cannot be advertised as a four bedroom dwelling. Pat told the Board that they need to make a determination of whether the home is a two, or four, bedroom home.

Mark Peters made a motion for the Board to consider 586 Shore Road a two bedroom dwelling.

Tim Rose seconded.

Vote: 5-0, (*Tracey Rose recused herself*) motion carries.

Pat mentioned to the Board that they needed to decide on a timeframe for the upgrade. Dianne asked Shirley how quickly they wanted to get the system installed. Shirley stated, "As soon as possible". Dianne confirmed with Shirley that the property was indeed unoccupied. Dianne suggested that the Board set the timeframe at their next meeting, and required that the property remain unoccupied until

a decision was made.

Tim Rose made a motion to continue this item until their next meeting.

Mark Peters seconded.

Vote: 4-0, (*Tracey Rose recused herself*) motion carries.

- 2. Felco Engineering Inc. for Shirley A. Brothers Trust, Shirley Brothers, Robert Brothers, and Joan Pizzigno, Request for Title 5 Variances 15.211, Minimum Setback Distances.**

Tim Rose made a motion to continue this item until their next meeting.

Mark Peters seconded.

Vote: 4-0, (*Tracey Rose recused herself*) motion carries.

- 3. Ellen Sheil, Walsh Cottages, 7 Walsh Way, Failure to Obtain a License to Operate in Accordance with Truro Board of Health Regulation, Section III, Article 3, License Required (continued from 8/19/14).**

No one was present for this agenda item. Dianne pointed out that the manager has had several opportunities to appear, and with her failure to show Dianne feels that the item should be removed from the agenda. It will be the owner's responsibility to get a license to operate. Dianne has asked Pat to send a letter stating that the item has been removed, and there can be no occupancy at the location because they do not have a license. The rest of the Board members agreed. Tracey asked Pat if the return receipt had been signed. Pat stated that it had not been signed, and she had not received it back. She pointed out that she also has Ms. Sheil's email address, to which she had sent the last communication as well.

Tim Rose made a motion to remove the items pertaining to Walsh Cottages from the agenda and require no occupancy because there is no license.

Mark Peters seconded.

Vote: 5-0, (*Tracey Rose abstained*) motion carries.

- 4. Walsh Cottages, 7 Walsh Way, Approval of Change of Manager from Joseph Walsh to Elizabeth Walsh Carver (continued from 8/19/14).**

Item was removed from agenda per the vote on Public Hearing item number 3 (above).

AGENDA ITEMS:

Discussion: Truro Board of Health Regulation Section III, Article 3, Manager Regulation.

Pat began the discussion by stating she knew some of the Board members wished to talk about the manager regulation. This discussion stemmed from their last meeting where they had an applicant before them, who had 10 units or more, and wished to employ an outside management service. Pat posed a question which arose from this conversation. If you have a condominium establishment, (with any number of units), usually the managers unit is listed in the condo documents as a year-round unit. If the condo establishment wants an off-site management service, what happens to the year-round managers unit? Pat has talked to the Town Planner about this, and what may have to happen is that the condo establishment might have to change their condo documents to no longer list the unit as the managers unit. Tracey felt that condominium associations would most likely not be willing to remove the managers unit designation from their documents, because once they lose that, they will not be able to get that designation back. Tracey stated that she knows of some condominium associations, with more than ten units, who do employ an outside management company. Mark asked how that would occur, seeing as how the Board of Health has regulations stating otherwise. Why doesn't the Board enforce the regulations they have? Tracey believed that these associations renewed their license each year with the on-site manager, but sometime during the year there was a change (an outside management company was hired), and the Board of Health was never notified. Mark is dissatisfied with that happening. He states that an off-premise management company is nothing but someone who comes and repairs things. Mark is concerned with an association this large (10 or more units), having an issue on a Saturday, or Sunday night, and people constantly having to call the police, as opposed to having an on-site manager handle the problem. He does not believe an outside management company will want to handle those issues. Tracey believes that the off-site management company would be the mediator in those instances, and they could either contact the local police department, or call someone to come and fix an issue. Mark stated that they are discussing two different types of management, social management, and property management. Tracey feels that whether there is an on-site or off-site property manager, that person will be able to handle both aspects of managing, both social and property. Tim added that if a property management company is going to be an off-site manager, the Board of Health should receive a full copy of the contract, to see what the association is paying for. If the property management company does not address the social aspect of managing an establishment, then the Board should not allow them to be the off-site manager. Dianne stated that the Board could require that a copy of a contract be provided to the Health agent, if an off-site property management company is hired. Tracey is concerned that the Board will not know when they approve an off-site management company, if that company has specifically excluded dealing with social issues. Additionally, she added, the Board will not know if the management company has included dealing with social issues. Both Mark, and Tim, stated that having a copy of the contract should answer that question. Dianne asked Pat if she experienced any issues with condominiums. Pat replied that she has had more incidents with rentals of single family homes, not condominiums. Dianne asked Noelle to compile a list of condominiums who have hired a property management company. Then, she added, the Board can go about asking for copies of the contracts. Dianne also thinks that if a condominium association decides to hire an off-site property management company, the Board can then ask that

property management company to come to a meeting. Jason pointed out that some people who are on-site managers could burn out due to many years of managing the property. Dianne stated that she wanted this continued to the next meeting. She would like a copy of the manager regulation in their packet.

Discussion: Habitable Studios and Workshop/Artist Studios

Pat wanted to bring this item up for discussion with the Board. She is receiving more requests/proposals to review preliminary construction plans for artist/workshop studios. Accessory use structures, habitable and working studios, are allowed in the zoning bylaw. Some of these proposals go before the Zoning Board of Appeals, whether it's approval for a working, or habitable, studio. The conflict with the Board of Health is that the applicant may receive approval, from another Board, that the structure is an accessory workshop studio, but it meets the definition under the Board of Health's regulation as a bedroom. As an example: Pat has a plan downstairs which she cannot review, because the applicant states it's his writing studio, but it meets the definition of a bedroom. Pat included in the Board's packet, the regulation from the Town of Provincetown which passed in 2002. When she was the Health Inspector for that Town, they were grappling with the issue of artist's studios. The Town of Provincetown decided to permit them with a deed restriction, stating they are an artist's studio limited to a sink and toilet. The sink could be a hand washing, or utility sink. If a bathtub, or shower, were being installed then it's considered a habitable studio. Tracey asked what the difference was between an artist studio and a writing studio. Pat stated that there was no difference. An artist's studio falls under the gamut of painting, woodworking, and writing, anything other than sleeping or living purposes. Dianne asked if the Board wanted more time to review this item. The Board agreed. Dianne asked Pat to place this discussion on a future agenda.

Reorganization of the Board

Dianne stated that she is no longer willing to be the Chair of the Board of Health. When her term is up in June of 2015, she will not renew. She has been on the Board for twelve years, and Chair for ten. She would like to spend more time off-Cape in the winter. She has a recommendation for Chair. Dianne would like to nominate Tracey Rose.

Dianne made a motion to nominate Tracey Rose as Chair of the Board of Health.

Mark Peters seconded.

Vote: 5-0, motion carries.

Dianne asked Tracey if she were willing to serve as Chair. Tracey asked to have some time to think about the nomination. She wants to make sure that she can put the time commitment in that's required for that position. Tracey stated that she would be willing to accept or decline at the next meeting. Dianne asked Pat to place that on the next agenda.

September 16 meeting

Pat explained that there is a meeting scheduled at Town Hall all day. There will be interviews with Town Administrator candidates. The Board of Health can still hold their meeting; however they will need to pick another room.

LICENSING RENEWAL APPROVALS

1. Elizabeth Walsh Carver, Walsh Cottages, 7 Walsh Way, Motel License

Dianne stated that there would be no approval of the renewal of Walsh Cottages motel license. Tim mentioned that the manager had paid for inspections and fees, and wanted to know if there would be a refund. Dianne pointed out that the legal ad, and inspection, had to take place. As for the fee for the license, it could be refunded.

Tracey asked if the Board was willing to pursue anything with the zone 1 activity/contribution zone. She reminded the Board that they had discussed setting a regulation to limit, or exclude, any type of work. Pat said that there is already an exclusion in the DEP drinking water regulations on zone 1's of public water supply wells. Tracey corrected herself to say that she meant to refer to zone 2. She reminded the Board that the Town of Eastham, and the situation that they are in with their water, and how they are held accountable for the bad water that some of the areas in Eastham have with the 1,4 Dioxane. She cannot help but think that the Town of Truro would be responsible, should there ever be a contamination at the South Hollow well field. Mark asked if Pat had any large scale maps showing zone 2 on the Cape. He thought the Board could look at that at their first October meeting. Pat stated that she did have such a map. She added that DEP, on the waste water side, has a policy regarding activity in zone 2's. Some towns have adopted something similar, where there's an upgrade of a non-conforming lot, an innovative alternative is required if you are in zone 2. Tracey thought that the Town Planner suggested that they review the Town of Harwich's more stringent regulation for zone 2. Tracey also said that they need to review their IA (innovative alternative) regulations as well. Pat said that particularly after phase 1 and phase 2 of their waste water plans, some of the recommendations from the consultant could be to start making changes with regulation to protect groundwater.

Bob Weinstein, Board of Selectmen's liaison to the Board of Health, approached the Board. He did not feel his forthcoming comment was inappropriate, since the Board had not finalized their reorganization. He stated, to Dianne, that in light of her announcement of her unwillingness to continue to serve as Chair of the Board of Health (and her impending retirement from the committee), he feels that he speaks for his colleagues on the Board of Selectmen, and the community at-large, that they all owe her a very big "thank you" for her years of service, and commendable shepherding, and stewardship, of this community. Personally, he would like to thank her. He knows that sometimes it can be very difficult, as a regulatory body, to address a lot of serious issues. He thinks she's done that in an exemplary fashion. He also wanted to thank the other members of the Board of Health, but in particular, Dianne. Bob

pointed out her many years of service, stating that it is something that people should give a big round of applause for.

Tim Rose made a motion to adjourn at 5:17PM.

Jason Silva seconded.

Vote: 5-0, motion carries.

Chair-Dianne Eib

Vice Chair-Tracey Rose

Clerk-Jason Silva

Mark Peters

Tim Rose

Alternate-Ansel Chaplin