

Truro Board of Health Minutes

April 1, 2014

4:30 PM-Truro Town Hall

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

Members Absent: Alternate-Ansel Chaplin

Present: Health Agent-Pat Pajaron, BOH Secretary-Noelle Scoullar, BOS Liaison-Bob Weinstein, Tim Brady, Ellery Althaus

REVIEW/APPROVE MINUTES

March 19, 2014 minutes

Dianne called the meeting to order at 4:30pm. She informed the audience that the meeting was being videotaped, and asked if anyone were making a recording. Hearing no replies in the affirmative, she continued by asking anyone coming up to speak to state their name for the minutes.

Mark Peters made a motion to approve the minutes as written.

Tracey Rose seconded.

Vote: 4-0, motion carries.

REPORTS

Water Resources Oversight Committee

Per Mark, there was no report.

Health Agent's Report

Pat gave the Board an update on the two housing related issues.

1. 4 Town Hall Road-Repairs are in progress. The owners have hired a plumber, who installed an equalizing valve for the shower.
2. 25 Meetinghouse Road-Pat has not heard from the property owners. She has made attempts to contact them via phone, however their mailbox is full. She believes the Board should have the owners appear at their next meeting (April 15th), to see what progress has been made on the property.

Mark asked if there were any updates on the Priest Road property. Pat did a drive-by today, and she will be contacting the owners. Mark gave Dianne some background information on the property. He had been contacted by a neighbor to the property, who informed Mark that young people are now on the property, exploring, etc. In his words, it has become "An attractive nuisance." The house is clad in asbestos shingles, which are deteriorating. Tracey asked the Chair what their options were, if the house were abandoned. Mark stated that there is an owner, the property has been neglected. It has been abandoned, as far as maintenance goes. Pat observed that the windows are boarded up, and the property is in disrepair. Tracey wants to know what they should ask the owners to do. Mark suggested they ask the owners to secure the property properly. If the asbestos shingles are in a friable state, they

have to be removed in a proper environmental manner. The property has been unoccupied for twenty years. It is extremely attractive for a young child to go and play in it. It is extremely hazardous.

PUBLIC HEARINGS

1. Ellery Althaus, Manager, Approval of New Business License and Food Service Permit for Salty Market, 2 Highland Rd.

Ellery approached the Board. He is asking for an extension on his hearing for the next meeting, April 15th. Dianne confirmed that Ellery would not be opening the market within that two week timeframe. Ellery said he would not be opening within that two week span of time.

Mark Peters made a motion to grant Ellery Althaus an extension to the April 15th meeting.

Tracey Rose seconded.

Vote: 5-0, motion carries.

2. Timothy Brady, PE, East Cape Engineering Inc., for Embassy Realty LLC, Request for Reconsider Upgrade of the Septic System Upon Property Transfer (Condition #2 per Board of Health September 9, 2013 determination).

Tim Brady approached the Board. This property is located at 11 Coast Guard Terrace. On September 19, 2013, the Board of Health reviewed an inspection report regarding the septic system at that property. At that time, there was a foreclosure going on. The original owner now has the property back. There was an inspection done at that point in time (during the foreclosure), and because there were no engineered plans, the results of the inspection, and the transfer, the Board had determined that any transfer in the future would require an upgrade of the septic system. The property has an existing, old code, title V septic system, which was created through an approval with the Board of Health. At the time, there was no requirement for engineering plans. Mark asked if there were any variances involved. Tim Brady stated that the well is about 84 feet from the leach pit. Dianne asked if this was a "prior to 1977" septic system. Pat stated that it was after 1977. Tim said it's prior to the present code, prior to the 1995 code, but after 1978. It has a septic tank, and a leaching pit. In 1987, Steve Williams issued a permit for the septic system that stated, "Board of Health waiver of full engineering specs. It's adjacent to "park", and there are no abutters." It was a straightforward upgrade at the time, and was typical in a lot of towns. There was no requirement of plans. It's a good area for a septic system, as it has basic sand, it is way above ground water, and it's a well vegetated site. It is directly adjacent to the Atlantic Ocean, and there is an eroding bank. The eroding bank is one of the issues Tim is bringing up. It is a continually eroding bank. The house has already been moved back as far as possible. He feels that in 10, 15, or 20 years the house will be gone. Mark asked how large the parcel is. Tim stated that per the Assessing Office, there is approximately ½ an acre, but much of that has fallen off the top of the bank. Tim believes it's between 9,000-12,000 feet at this time. It's approximately 90 feet long, and to the bottom of the bank is only 100 to 150 feet. There is the house, the deck, and then about 35 feet to the top of the steep bank. Tim thinks there is no real benefit to upgrading the septic system at this time.

There are no neighbors, and the only well is the onsite well. A water test for that well indicates that it's working alright. The reason why this is being brought up now is because the "older owner" got the property back, and it's been poorly maintained. The owner would like to re-shingle, re-side, and replace windows and trim. Tracey asked if the rate of erosion, ocean side, was about 3 feet per year. Tim Brady agreed with Tracey's statement. She then calculated that the owners "could" lose the property in 15 years, but then it's possible that would not happen. Dianne asked where the leach pit was located. Tim stated it's to the right hand side of the house, very close to the property line. There is National Park Service property all the way around the house. Pat is on both sides of the fence with this issue. The system has components of a title V system, but it is not title V. They don't know the inverts, outlet, or elevation. There are no design parameters on the leach pit. Tracey can appreciate the case Tim is presenting, but the Board of Health already waived the requirement to upgrade, and Tim is now asking for another waiver. The Board has their regulations, and she does not think it's a matter of convincing the Board of why the owners do not have to upgrade. They have to upgrade. She does not understand why the owner cannot bring the system up to code, while they are doing all the other renovations. Dianne agrees. It's the Board's regulation; however she is on the fence, similar to Pat. Pat suggested an alternative to upgrading. The owners could have the system inspected in three years, including a water test, and see where they're at then. Dianne added that Chris Lucy looked at the system 10 months ago, and that they could give the owners a number of years (not 20), to re-inspect to see what the status of it is. Tim stated that the owners, at some point in time, will sell the property. Mark pointed out that if the current owners were going to retain ownership of the property he would agree with Tim Brady's approach to the issue, however, down the road if they sell it, they will have to come to the Board with plans, and the variances they need. Jason agrees with the other Board members. Tim then clarified that the present owner can move into the house immediately, use it as much as he wants, but when he wants to sell it he will have to upgrade. Dianne and Tracey confirmed that he was correct. Tim Rose believes the system should still be inspected 12 months from the date the owner moves in, to ensure it is doing its job. Dianne stated they could not enforce that, all they are doing is denying the owner the relief from condition #2, per the Board of Health determination of 9/9/13.

Mark Peters made a motion to deny the request to reconsider upgrade of the septic system upon property transfer (condition #2 per Board of Health, September 9, 2013, determination).

Tracey Rose seconded.

Vote: 5-0, motion carries.

AGENDA ITEMS:

1. Patrick Riviere, Request for Waiver of Transfer Station Sticker Fee

Dianne stated that Mr. Riviere very graciously submitted paperwork, including his income tax records. In reviewing all of the material, she noticed that the property they would purchase the sticker for has two tenants. The Board only has the finance information on one of the tenants. Noelle had placed a call

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to Mr. Riviere, stating that the Board needs to discuss how the 2nd tenant contributes monetarily to the household. Dianne would like to continue this agenda item to their next scheduled meeting, on April 15, 2014.

Mark Peters made a motion to continue this agenda item until their April 15, 2014 meeting.

Tim Rose seconded.

Vote: 5-0, motion carries.

LICENSING RENEWAL APPROVALS

- 1. Tom Alexander, Mgr of Beach Point Recreational Housing, 169 Shore Rd, Motel License.**
- 2. Tom Alexander, Mgr of Horizon Beach Condos, 190 Shore Rd, Condo License.**
- 3. Tom Alexander, Mgr of Terrace Dunes, 179 Shore Rd, Condo License.**
- 4. Kathryn deSousa, Mgr of Village Café, 4 Highland Rd, Food Establishment, Ice Cream & Bakery Licenses.**
- 5. Charlie Costa, Mgr of Pamet Harbor Yacht Club, 7 Yacht Club Rd, Food Establishment License.**
- 6. Anthony Pasquale, Mgr of Terra Luna Restaurant, 104 Shore Rd, Food Establishment & Caterer Licenses.**
- 7. Pattee Durkin, Mgr of Sandbars Inn, 570 Shore Rd, Motel License.**
- 8. James Knowles, Mgr of Highland Links Golf Course, 10 Highland Light Rd, Food Service License.**
- 9. Bernard Roderick/Chris King, Mgrs of Cape Tip Fish and Lobster Market (dependent on receipt of workers comp affidavit and fire protection systems report), Food Establishment License.**

Dianne wished to skip to applicant number 9. She informed the Board that Mr. King had not returned his completed workers compensation affidavit or fire protection systems report, but had opened for business on Saturday without a license. Dianne suggested sending the Health Agent over to visit the business on the following day, Wednesday, April 2nd. Pat stated that she had tried to go over that day, but the store was not open. He is not open during the week yet. He was open this past Friday, and Pat has an inspection report from that visit. Dianne stated that the Board could not hear this request without the proper documentation. Tracey reminded the Board that they went through this last year with Mr. King, where he opened early, and they scrambled to issue his license. Pat asked the Board what they wanted her to do if she visited on Friday, and they are open. Tim Rose suggested a daily fine. Tracey suggested calling ahead of time to warn Mr. King that he cannot open without a license. Pat said that she could send a letter which would point out that if he were open, he was operating without a license, and the Board could hold a Show Cause hearing. Mark added that if Pat goes down to the business, and does not get the missing paperwork, he would suggest scheduling a Show Cause hearing. All Board members agreed to Mark's suggestion.

Mark Peters made a motion to send Pat to visit Cape Tip Fish and Lobster Market on Friday, April 3, 2013. If Pat does not receive the missing paperwork (Workers Compensation Affidavit and Fire Protection Systems Report) she will schedule a Show Cause hearing for the next Board of Health meeting on April 15, 2014.

Jason Silva seconded.

Vote: 5-0, motion carries.

Dianne asked if Pat could issue a fine at the time of the visit, or if the Show Cause hearing had to be held first. Pat stated that if they are operating without a license on Friday, she can issue a ticket, however she feels there needs to be some communication between the Board and the applicant. Dianne said Pat could call and state that the Board is disappointed, and he is not to operate until he has a license.

Bob Weinstein approached the Board. He is surprised that they have not issued an immediate cease and desist order. He advocates that they do not allow this business to open. One of the items lacking is the fire systems report. He believes this is potentially a huge public liability. As the Board has correctly pointed out, he would take it a step further with the Board being “disappointed”, and state that this is a business which is disregarding regulations. If you make someone adhere to septic regulations, where there is no environmental threat, here you have a case which is potentially endangering the public. He asks that the Health Agent be instructed to issue a cease and desist order. Then they can have a conversation with the appropriate individual. Pat added that under the regulation, it is an immediate closure. Dianne said to follow that regulation. Pat will send a certified letter stating that if he’s open on Friday, the 3rd of April, she and Emily will go over and do a closure. All Board members were in agreement.

Dianne asked if the other eight applicants were in good standing. Noelle and Pat stated all paperwork had been received and was in good standing.

Mark Peters made a motion to grant license renewals to the first eight applicants.

Tim Rose seconded.

Vote: 5-0, motion carries.

Mark commented on item number nine. He is not endorsing Mr. King, and his lack of attention to regulations, but upon inspections has there ever been a violation. Pat replied “no”. Mark continued by saying Mr. King keeps a sanitary, and environmentally safe operation. Whether this is sloppy paperwork, or arrogance, he cannot say. He wishes to rebut the implication that perhaps the public is at risk, given his past reputation and performance.

Tim Rose made a motion to adjourn at 5:06pm.

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