

Truro Board of Health Minutes

January 21, 2020

4:30 PM-Truro Town Hall

Members Present: Chair Tracey Rose, Vice-Chair Jason Silva, Member Mark Peters, Clerk Peter Van Stratum, Member Tim Rose

Others Present: Health Agent Emily Beebe

Chair Tracey Rose called the meeting to order at 4:30PM. Ms. Rose requested that everyone speak clearly for the video recorder. She asked if anyone in the audience was recording. No one replied in the affirmative.

I. PUBLIC COMMENTS

There were no public comments.

II. AGENDA ITEMS

Enforcement discussion regarding properties in non-compliance:

31 Stephens Way (53/76) failed cesspool

The property owner reported overflow of the cesspool. The Health Department issued an Order to the property owner that the cesspool had to be upgraded. The subject property is known as the Hopper House. The Agent has not heard from the property owner despite confirmation that a certified mailing was received, as evidenced by the return of the green card. Mr. Silva asked if anyone is residing in the house; the Agent confirmed the property is unoccupied. Mr. Silva asked about penalties for the lack of upgrade. The Agent responded that non-criminal violation citations with monetary penalties could be assessed to the property owner. Mr. Peters agreed to the non-criminal violation citations and suggested that the owner be notified that the property is not to be occupied under any circumstances until the matter is resolved. Ms. Rose suggested that the owner be advised of the Barnstable County Betterment program.

Motion by Mr. Peters to send the non-criminal violation citation to the property owner and that the property shall not be occupied under any circumstances until the septic system is resolved; seconded by Mr. Van Stratum; Vote: 4-0-0, motion carries.

55 Fisherman's Road (42/132) expired extension to upgrade pursuant to transfer of deed

Attorney Benjamin Zehnder came to the table on behalf of the property owner. The property owner is having the already approved septic design plans re-drawn by a different engineer. The septic system was pumped per the Board's requirement. Ms. Kettler, the property owner, is not occupying the property. The Agent stated that the current septic system is deemed failed prior to transfer as there is no plan on file and the system is a modified Title 5 with a tank and cesspool. *[Mr. Tim Rose joined the meeting at 4:45pm.]* The Agent discussed the prior approvals; the original septic system plans were completed in December of 2018 and subsequently approved by the Board and the Conservation Commission. An extension was granted, with benefits, allowing minimal occupancy, which is outside of the Board's normal set of conditions. Mr. Van Stratum was opposed to allowing the property owner back on the property prior to the completion of the septic install.

Motion by Mr. Van Stratum to require a new septic design plan, which shall be submitted within 60 days, and that the owner shall not occupy the property; seconded by Mr. Peters.

Discussion occurred on the motion: the Agent asked Attorney Zehnder if he requested a 60 day extension; Attorney Zehnder said he did not, but had said that the engineer thought he could have a plan prepared within 60 days. Ms. Rose noted the timeline excludes the installation of the system. The Agent thought a 90-day timeline may be more realistic.

Mr. Van Stratum amended his motion to allow for the receipt of the plan and installation of the system within 90 days and that the owner shall not occupy the property; seconded by Mr. Peters; Vote: 5-0-0, motion carries.

The Agent asked to discuss the enforcement process for this property. Mr. Peters suggested that should the matter not be resolved by the end of the 90-day extension, the Agent should issue non-criminal violation citations.

36 Knowles Heights (35/24) DelGizzi - cesspool at transfer

The property was transferred to the current owner, Dana DelGizzi, in September of 2019. When the inter-family transfer was brought to the attention of the Health Department, Mr. DelGizzi was contacted by Arozana Davis, the Assistant Health Agent, who informed him of the upgrade requirement. Mr. DelGizzi requested something in writing, so the Health Department issued a Notice of Correction on October 10, 2019. The green card from the certified mailing was received by the Health Department on October 19, 2019. The notice requested that Mr. DelGizzi contact the Health Department within 10 days to discuss the schedule for the upgrade. The Agent has received no contact from Mr. DelGizzi since the Notice to Correct was sent.

Mr. Peters asked if the property is occupied; the Agent confirmed the property is not occupied. Ms. Rose asked how the Board would like to proceed. Mr. Peters suggested sending Mr. DelGizzi a second notice advising him that if he doesn't respond in a timely manner, that non-criminal violation citations will be issued, and that the property is to remain unoccupied. Mr. Silva asked if the property taxes have been paid; the Agent will check on the tax status.

Motion by Mr. Peters to have the Agent send a second letter advising Mr. DelGizzi that if he doesn't respond in a timely manner that non-criminal citation violations will be issued; that the property shall remain unoccupied until the septic system is upgraded; and that Mr. DelGizzi has 10-days to respond to the notice; seconded by Mr. Silva; Vote: 5-0-0, motion carries.

9 Highland Avenue (22/35) expired timeframe for changes to cottage and install septic tank

Mr. Clint Kershaw of 9 Highland Avenue came to the table. Mr. Kershaw read from a prepared statement in which he discussed the original variance application, his concerns regarding the Board's decision process, his opinion that his variance request has merit, and asked the Board to revisit his variance application.

Ms. Rose asked Mr. Kershaw if he could provide a timeline for compliance. Mr. Kershaw responded that he is asking the Board to re-open and re-evaluate the variance request. Mr. Silva asked if the Board could review the matter. Mr. Kershaw responded that he has eliminated the third bedroom. Ms. Rose said the Board will revisit the matter and will not deliberate or make any decisions at this meeting. Responding to statements made by Mr. Kershaw, Mr. Silva told Mr. Kershaw that the Board does not rule on bias, but on the law and requirements. Mr. Peters noted that Mr. Kershaw initially came to the Board with an application and stated that only one of the buildings was being occupied, despite reasonable

and verifiable statements that both buildings were being occupied. Ms. Rose agreed that the Board is not biased, nor do the members have any personal agendas, and the law is the law. Ms. Rose said she would be happy to re-visit the matter, but it seems like Mr. Kershaw is not hearing what he wants to hear. Mr. Kershaw asked the Board to revisit his variance application. **Motion by Mr. Peters to re-visit the matter at the February 4th meeting; seconded by Mr. Rose; Vote: 5-0-0, motion carries.**

Motel, Cottages/Cabin Colonies License amendment: Topmast resort 231, 248 and 242 Shore Road; adding 209 Shore Road

The license for the Top Mast Motel needs to be amended to include the property at 242 Shore Road, and the number of licensed units will also be modified.

Motion by Mr. Peters to approve the license amendment; seconded by Mr. Rose; Vote: 4-0-1, motion carries.

Truro Board of Health Regulations: proposed amendments: Section VII, article 3: Water Resource Protection Regulations (Cont'd from 1/7/2020)

Ms. Rose requested to continue the matter to the next meeting.

Motion by Mr. Peters to continue to the February 4th meeting; seconded by Mr. Rose; Vote: 5-0-0, motion carries.

III. REPORTS

Health Agent's Report:

- The court date for the Truro Motor Inn was moved to January 29th. Town counsel has had contact with an attorney who is working for the DelGizzi family. The DelGizzi's attorney asserts that corrective work and removal of the debris behind the property has been completed. The Agent has requested that the Fire Chief re-inspect the property. The DelGizzi's attorney claims that any delay in connection with the submission of septic plans is the fault of the engineer and that half of the units have been vacated. The Agent received a list of the occupied units which showed that 21 out of 34 are occupied. The Agent also received an updated floor plan. The building permits that were filed in October by Carolyn DelGizzi remain unsigned by a licensed contractor, and therefore, are not issuable. No septic plans have been received to date. The Agent expects a meeting to be scheduled for a conversation with Town counsel, the DelGizzi's and their attorney regarding compliance with the square footage requirements and the proposed number of bedrooms prior to the next Board meeting.

IV. MINUTES

December 17, 2019 **Motion by Mr. Peters to approve the minutes as presented; seconded by Mr. Van Stratum; Vote: 5-0-0, motion carries.**

January 7, 2020 **Motion by Mr. Peters to approve the minutes as presented; seconded by Mr. Silva; Vote: 4-0-1, motion carries.**

- Mr. Peters informed the Board that he had a conversation with Mr. Kevin Kuechler; Mr. Kuechler stated to Mr. Peters that he would like to speak at the next meeting regarding the Cloverleaf Development project.
- Mr. Van Stratum asked to have the Tobacco Control amendments placed on the next agenda.

Motion by Mr. Rose to adjourn the meeting; seconded by Ms. Rose; Vote: 5-0-0, motion carries. The meeting was adjourned at 5:41pm.

Respectfully Submitted,


Michelle Fogarty



Chair, Tracey Rose



Vice-Chair, Jason Silva



Mark Peters, Member



Tim Rose, Member



Peter Van Stratum, Clerk

