



Town of Provincetown

Meeting of the BOARD OF HEALTH

Thursday, December 1, 2016

Judge Welsh Hearing Room, Provincetown Town Hall,
260 Commercial Street, Provincetown, MA

Board Members Present: Mark Phillips, Chair; Dr. Janet Whelan, and
Fred Latasa-Nicks, Alternate

Board Members Absent (excused): Steve Katsurinis, Vice-chair; Elise Cozzi; and Joseph Freitas,
Alternate

Other attendees: Morgan Clark, Health Department Director and Laura Marin, Health Agent, Jean
Horner, Water & Sewer Board Member

Recording Secretary: Susan Leonard

Call to Order: Mark Phillips, Chair called the meeting to order at 4:00 p.m.

I. Public Comments:

There were no public comments.

II. Old Business

There was no old business.

III. New Business:

a. Public Health Failure Determination – 15 Winthrop Street – Michael Keys, presenting

Discussion:

Atty. Lester J. Murphy appeared before the Board representing the property owner in this matter. Atty. Murphy explained that the condominium association for 15 Winthrop Street is requesting an emergency connection to the municipal sewer system because of problems related to a fiberglass tank that was installed as part of the Title 5 system at the property. The tank is beginning to collapse due to the weight and pressure of a secondary means of egress stairway that has been installed on top of the tank location. There has been a back up of sewage into one of the ground floor units in at least one instance.

Atty. Murphy explained further that removal and replacement of the fiberglass tank would require the removal of the stairway and would also require the use of a crane to pull out the existing tank. It would be expensive. For the interim, while waiting for a sewer connection, the property owners would re-plumb one of the units, install a monitor to detect any future back ups, and brace the

stairway to take pressure off of the tank. Local septic system installer, James Roderick, said the tank can not be fully pumped because it would totally collapse without the pressure the sewage exerts on the sides of the tank. The owner's plumber also recommends installing a back flow check valve.

Dr. Whelan asked how many times the system backed up and how it was resolved. Mr. Keys replied that the first time it resolved itself and the next time the holding tank was partially pumped, reducing the volume to a level that alleviated the back up problem.

Mr. Roderick added that he has installed several back flow preventers in recent years. He explained further that the weight of back fill and the stairway on top of the stairway distorts the shape of the tank causing the effluent pipe to be at such an angle that it begins to back up. At this point the tank can't be totally pumped, other wise it would collapse.

Mr. Latasa-Nicks asked why a fiberglass tank was installed in the first place? Who made that decision? Ms. Clark stated that there is no record of who installed the tank in 2002. The design that is on file specifies a pre-cast concrete tank; not a fiberglass tank.

Ms. Clark sated that this is different than other public health failure requests that have been considered. This is not an active failure with seepage from the system. We don't have any real information of when a sewer connection would be available to this area. In the past, when the Board has approved a public health failure it has been predicated no one inhabit the property in the interim. Ms. Clark also pointed out that the hardship is somewhat self-created.

Ms. Clark, in consultation with DPW Director Waldo agreed that there are two options:

- a. To declare a public health failure and require that no one inhabit the property
- b. Or require an immediate upgrade

Mr. Phillips explained that the Board of Selectmen declared a State of Limited Capacity and the Board of Health devised a list of criteria for prioritizing the allotment of remaining sewer system gallons of flow for public health failures. Mr. Phillips stated that this situation does not meet those guidelines. He is of the opinion that the property does not meet the public health failure criteria because a septic system can in fact be installed. Further discussion with an engineer could look at interim measures that might be taken to keep the current system operable while waiting for a future connection.

Ms. Clark is of the opinion that an Administrative Consent Order is not recommended because it will forestall a solution for up to 5 years and it is not a guarantee to connect. The property owners will have 30 days to correct and present an engineered plan.

b. Clarification of Deed Restriction -808R Commercial Street

Discussion:

Ms. Clark explained to the Board that this property is for sale and the buyer's lawyer found a deed restriction, recommended by the Board of Health stating that there shall no increase in habitable area (No increase in square footage of the building, per Mr. George Heufelder). The prospective owners are interested in adding a dormer and are concerned that this will not be allowed because of the deed restriction.

Ms. Clark continued, that in 2000 the Title 5 regulations were slightly different than they are now and cited the “no increase in habitable area” clause. Subsequent to that time it has reverted to “no increase in design flow is allowed”. The deed needs to reflect the current Title 5 regulation language in order to satisfy the buyers. The four bedroom deed restriction remains.

Mr. Phillips said he doesn’t have any objection if the deed restriction is consistent with what is currently in force. He asked if procedurally it makes more sense to withdraw the original deed restriction and then impose a new restriction to four bedrooms? Mr. Phillips would like to consult with Town Counsel so it is done properly.

Ms. Clark asked the Board for a motion so she can consult with Town Counsel regarding proper procedure, but the motion stands allowing her to remove the language of the current deed restriction.

Motion: To allow the Health department to remove the language “no increase in habitable area” and to affirm the restriction of four bedrooms be maintained.

Motion: Fred Latasa-Nicks Seconded: Mark Phillips Vote: 3 – 0 - 0

IV. Public Hearing

a. Public Hearing on proposed changes to the Board of Health Fees (Part VIII, Art. 1 – Fee Schedule; Part VI, Art 5 – Solid Waste Fees), including eliminating the fee for residents to drop off bags of household trash at the transfer station.

Discussion:

Mr. Phillips opened the Public Hearing at 4:34 pm and asked for public comments. There was no one from the public present to speak on the issue. The Public Comments portion of the hearing was closed at 4:35.

The Board had discussed and approved the change in fees at a previous meeting, however fee changes are subject to a public hearing which was not held at that time. Procedurally, the Board must re-approve the fee schedule and deletion.

Motion: To approve the fee schedule and delete the fee for residents to drop off trash at the transfer station.

Motion: Fred Latasa-Nicks Seconded: Dr. Janet Whelan Vote: 3 – 0 - 0

The Public Hearing portion of the meeting was closed and the Board returned to the rest of the Agenda.

V. Any Other Business That Shall Properly Come Before the Board

a. 2017 Meeting Calendar

Discussion:

Mr. Phillips stated that after looking at the proposed meeting calendar he suggested to staff that they spread out the summer meeting schedule. He suggested that August 10th would be better than August 3rd. Ms. Clark replied that she will make the change.

VI. Approval of Minutes

November 17, 2016

Discussion:

After reviewing the minutes, Dr. Whelan pointed out a misspelling of her name. The minutes will be corrected.

Motion: *Move to approve the minutes of Thursday, November 17, 2016 as corrected.*

Motion: Dr. Janet Whelan Seconded: Fred Latasa-Nicks Vote: 3 – 0 - 0

VII. Health Department Report

~Budget meetings this week

There will be level funding for the department and the Board

~ What would the Board like to be trained on? We have funds for training.

~Sewer tour will be arranged in the Spring

~FOG course will be offered again in the Spring before businesses open

Required by DEP for all food establishments. The DPW, Health Department and DEP will speak

~Smoking Cessation Course booked for Tuesdays at 10:00 – 11:30

January 10 - February 14 at VMCC Room 73

~ Interesting applications for Winter Wednesday programming

Almost finished booking Winter Wellness speaker series! Here's what we have so far

1/31 – Recovery Survival Tips

2/14 – [something about self love/care]

2/28 – Dikke Hansen, Winter Blues

3/14 – Nicole Cormier, Nutrition from the Ground Up

3/28 - Dr. Sadie Hutchings [pet related]

4/11 - TBA

4/25 - TBA

~ Navigator Report Forthcoming

More rental applications have been coming in. It has been a success.

VIII. Board Members' Statements

Dr. Whelan informed the Board that she will not be able to make the January meetings.

Mr. Phillips mentioned it is World AIDS day.

Adjournment:

There being no further business, Mark Phillips moved to adjourn the meeting at 4:48 pm.

Respectfully submitted,

Susan Leonard

Approved by _____ on _____, 2017