

Board of Health

December 16, 2004

6:00 p.m.

Members Present: Mark Baker, Dan Brown, Duane Gregory, and Ken Janson (arrived at 7:15 p.m.)

Members Absent: None

Health Agent: Jane Evans

Health Inspector: Patricia Pajaron (excused absence)

AGENDA

The meeting was called to order at 6:00 p.m.

Public Comments

There were none.

Public Hearing

Revisions to Board of Health Title 5 Supplemental Regulations

These revisions can be found online.

Duane Gregory disclosed that she is involved in Real Estate and is presently involved in a sale of a property that would be affected by the proposed changes to cesspools (i.e., becoming automatic failures at time of real estate transfer). No one objected to Duane sitting in on the discussion.

Mark read the Public Hearing procedures that would be followed. The proponent was identified as the Town's Health Agent.

Jane Evans then asked everyone to go to page 2 section 4 –and to strike that from the proposed regs. This regulation will be discussed at a future public hearing.

The regs haven't been revised in a long time and Jane wants to keep Provincetown in line with other towns on the Cape (i.e., requiring all grease traps to have monitors and alarms, and requiring septic system maintenance & pumping to become mandatory). A bedroom definition has been cleaned up and delineated. Jane continued by stating that we are the only town that does not - on the sale of property - automatically fail a cesspool. There is also a fee change – septic system inspectors have to get an annual permit that would cost \$200/yr. She feels it is important to regulate these inspectors, especially if there are problems.

Mark Baker said he was concerned with the January 5th deadline for grease trap monitoring. He felt the timing was too short. He wondered if this could this be made January 15th or a grace period of some kind be allowed. Jane responded that the seasonal places just wouldn't be able to get their licenses until they have complied. She will hold a seminar for these people some time in February. She is thinking about a grandfather period and will add “effective as of February 1st.”

Mark had a correction on page 18 from “then” to “than.” Duane had a question regarding failed

cesspools: “Was it a February 1st deadline?” Jane replied that if she receives notification prior to Feb 1st then it will become a grandfathered item. Duane continued, “Are we going to have a form?” “How will this affect business – the buyers always want to see an inspection report.”

Nick Norman from Truro said that in the past, people had to pay \$500 for an inspection to prove the cesspool had failed. Now, in Truro, just a letter will suffice saying a cesspool has failed, *but* Truro wants the Title 5 in the ground before the sale is completed.

Duane asked about timing from the Health Agent. Jane said she does check property transfers and then the new buyers of cesspool properties have 60 days for installation of a compliant system. The caveat is that if the buyer needs additional time, they can always request a hearing before the BoH.

Duane had a correction on page 2, section 3 - #1 – pumped every year should be changed to every 3 years. Same CMR reg that applies to condos. And, referring to the bedroom definition, she thought that we weren’t going to spell out all these measurements. We were just going to cite the building codes – add “according to current building codes” or “requirements under current building codes” as regards to bedroom needs for egress. Mark said that in order for the regs to be more user-friendly, we should just leave it in as is and if the codes change then we’ll change the regs.

Under sewer line (page 14) for grease traps under section 17, this refers to the line out from the building. Under Article 18 – “accessory use structures” – is a bedroom considered an accessory use? Jane says we will just deed restrict everything, so that covers those situations, and Jane noted that “accessory use” is defined as meaning a building “not attached” to the primary structure.

Dan contributed a few corrections (i.e., discussion on use of periods and spelling).

Nick Norman wondered how long people have to get the Title 5 in the ground? Mark said, “If they have a problem with the standard 60 days, they can always come before the Board with a request for extension.”

There were no Opponents to the proposed regs.

At this time, Mark called an end to the public portion of this Public Hearing.

Motion: Duane Gregory made a motion to continue the public hearing after hearing the 14 Howland Street case. Dan Brown seconded the motion and it was passed 3-0-0.

534 Commercial Street - Title 5 Variances

Bradford Walker is the owner and presented his plans to the BoH. Jane recommended approval with a deed restriction for 5 bedrooms as a “housekeeping measure.” Dan had a question about the room count, but that issue had been satisfied by Jane’s walk-through.

Motion: Dan Brown made a motion to grant the 25% SAS reduction variance for 534 Commercial Street with a deed restriction to be filed limiting the property to the current 5 bedrooms. Duane Gregory seconded the motion and it was approved 3-0-0.

An abutter to the 534 Commercial Street then rose to state his concerns. He wondered if decreasing a leaching field was precedent setting and would result, in this case, in construction to reduce the SAS?

His name was Kevin Doherty and he was representing Unit 14 in the condo next door. The Board explained their reasons to him – that the Health Agent had done a walk-through and had determined the numbers of bedrooms and thus the Title 5 & SAS size was mandated but, due to the lot restrictions and the fact that the SAS is already in-ground, the leaching field reduction variance had to be granted. He thanked the Board for the clarification and left.

14 Howland Street - Title 5 Variances

Duane Gregory disclosed that she has a financial interest in the sale of this property, so she had to step down from the meeting. Both Alan Cabral and Nick Norman were very disappointed since without Duane there would be no quorum, the case had already been postponed once due to a lack of quorum, and the closing was set for Monday next. Given all that, Duane decided to call Ken Janson to see if he was at home. He was. Alan Cabral drove up to his house to pick him up in order for the case to proceed.

In the meantime, there was a letter that Alan Cabral submitted from an abutter on 12 Howland Street that had to do with the property line. Two plans by two different surveyors had been used to determine the accuracy of the property line – so that issue was resolved.

Motion: Dan Brown made a motion to table the 14 Howland Street case until a quorum could be established. Duane Gregory seconded the motion and it passed unanimously.

Discussion

Set Board of Health Meeting Dates for 2005

The discussion centered on moving the meeting time from 6:00 p.m. to 1:00 p.m. By consensus of the three members in attendance, it was decided to try the 1:00 p.m. meeting times for 2005.

Motion: Mark Baker made a motion to accept the 2005 meeting schedule. Duane Gregory seconded the motion and it passed 3-0-0.

Motion: Mark Baker made a motion to accept the proposed changes to the regs in accordance with the input generated by the Board and public during the Public Hearing. The motion was seconded by Error! Reference source not found..

Then a discussion by Duane began. She is not in favor of mandatory pumping because she feels it's a little bit too much of "Big Brother." She cited as an example her own septic. It has been about 4 years since she had her septic pumped; she pumped it recently, and it was not anywhere in need of pumping. She didn't want to vote in favor in mandatory pumping because it might be a financial hardship to some people.

Ken Janson arrived at this time.

Mark said he thinks it's important to have these mandatory pumping regs. We're talking about \$100 - \$150/yr for precautions that would guard against a huge expense to replace a failed SAS. He also said that 50 to 70% of our housing stock are 2nd homes and are probably getting excessive use during the rental season.

Duane Gregory said she will not vote for mandatory pumping. Dan Brown agreed with her thoughts on the matter.

Motion: Duane Gregory made a motion to amend Mark Baker's motion to take Section 3 out of the proposed Part 7 (maintenance & pumping). Dan Brown seconded the motion.

Ken thinks mandatory pumping should be done. Could be a financial burden, but the alternative would be much worse. Ken stated that he would support DG's amendment, however, in order to ensure approval of the underlying motion.

The vote on DG's amendment was 3-1(MB)-0.

The vote on MB's motion, as amended, was 4-0-0.

Motion: Mark Baker made a motion to accept Section 3, Part 7 of the regs. Ken Janson seconded the motion and the vote was 2 in favor (MB and KJ) and 2 opposed (DB and DG). The motion was tied and did not carry.

14 Howland Street (revisited) - Title 5 Variances

Alan Cabral was thanked for providing transportation for Ken to the meeting. Duane Gregory stepped down.

Alan presented the case. Alan used the recorded, stamped condo plan for planning the Title 5 vis a vis the common property line; he also had his own stamped plan. He is requesting a 14% reduction along with a deed restriction limiting the number of bedrooms to the existing 4.

Motion: Ken Janson made a motion to accept the plan 04-149 for 14 Howland Street with the condition that a deed restriction limiting the number of bedrooms to four (4) must be recorded. Dan Brown seconded the motion and it passed 3-0-0.

Approval of Minutes for November 18, 2004 and December 2, 2004

Motion: Duane Gregory made a motion to approve the minutes of the November 18th meeting. Ken Janson seconded the motion. The vote was 2 in favor (DG & KJ) – 1 opposed (DB) – 1 abstention (MB)

(Dan Brown opposed because some of his comments had been omitted.)

Motion: Duane Gregory made a motion to approve the minutes of the December 2nd meeting. Ken Janson seconded the motion and it was approved by a vote of 3-0-1 abstention (MB)

Any other business that shall properly come before the Board

Mark Baker wondered about the Heller Gallery renovation. Jane Evans said that George Heufelder had made a finding that if you can fit an unvarianced system on your property then you can increase your flow. This information was sent to the Water and Sewer Board along with the BoH's recommendation to approve the hook-up to the sewer system due to the proximity of the property to the harbor; they reviewed it and also allowed the increase.

Mark plans on attending the BoS Growth Management meeting on January 10th. Jane also noted that the annual report is due in January.

It is to be noted that Dan Brown is a full member of the BoH. Dan spoke to Doug Johnstone and his

full membership was determined. The Board is still lacking a full member and at least one alternate.

There was a concern on finding a secretary for the minutes during Evelyn's absence. It was determined that Phyllis Lutsky would be called to fill in on January 6th and 20th and on February 3rd and 17th. Evelyn is leaving Florida for Provincetown on February 25th on the auto train, so she'll definitely be here for the March 3rd meeting.

Health Agent's and Health Inspector's Reports

Jane said she was sure that everyone had heard about the Grand Union. They are in the process of complying and are also in the process of making repairs to the tile floor after the holidays. They are being very cooperative.

Board Members' Statements

Dan Brown wondered about Mr. Tran, owner of the Szechuan Restaurant. Jane told Dan that she will not sign off on his license renewal until the grease trap issue is resolved. His present license expires on 12/31/04. Mr. Tran was the only one who went to the W&S Board and told them that it wasn't fair to make him do this.

Ken Janson had no statement.

Mark Baker thanked Duane for her leadership during his absence. Also commended Duane for her perseverance in going to legal and pursuing their input on the possible conflict of interest for the Public Hearing.

Duane Gregory has no statement.

Adjournment happened at 7:40 p.m.

Respectfully submitted,

Evelyn Gaudiano

Evelyn Rogers Gaudiano

Approved by _____ on _____, 2005.

Mark Baker, Chair