



Town of Provincetown

Meeting of the

BOARD OF HEALTH

Thursday, June 18, 2015

Caucus Hall, Provincetown Town Hall,
260 Commercial Street, Provincetown, MA

Board Members Present: Mark Phillips, Chair; Steve Katsurinis, Vice Chair; Elizabeth Williams and Dr. Janet Whelan

Board Members Absent: Ken Janson and Joseph Freitas, Alternate

Other attendees: Morgan Clark, Director Department of Health and the Environment and David Gardner, Acting Town Manager

Recording Secretary: Susan Leonard

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

I. Public Comments:

There were no public comments.

II. Old Business:

a. New Food Establishment: Mimiere's, 258 Commercial Street, Andrew Hood, presenting

Discussion:

Andrew Hood appeared before the Board to give an explanation of his new business. He is a graduate of the Cambridge School of Culinary Arts. He has been operating another retail business in town last year selling homemade jams and jellies that he makes in a commercial kitchen in Dartmouth. He is now cooking and canning the products in the kitchen at the new location and operating the cafe there, as well. He plans on staying open until October and possibly on weekends after that through the end of the year. He said the Licensing and Health Departments were easy to work with.

III. New Business:

a. New Food Establishment: Restaurant Mistral, 133 Bradford Street, Fernando Uva, presenting

Discussion:

Mr. Uva addressed the Board. He explained that he has operated a restaurant previously in Martha's Vineyard. He just opened three days ago in Provincetown, without serving alcohol in order to train his staff because he did not have his liquor license at the time. He has plans to be open through Columbus Day. The inspection and licensing process went fairly smoothly.

b. Appeal of Health Agent's Decision – 25 Franklin Street, Stephen Antonelli, presenting

Discussion:

Ms. Clark explained that the property came to her attention as part of the building permit review process. She conducted a walkthrough of 25 Franklin Street on June 8, 2015. She listed the following findings in the report that she read into the record:

~The plans as presented to the Building Department do not correspond with the existing framing in the basement area.

~The proposed work constitutes the addition of habitable space, including two bedrooms.

~Such work would necessitate additional design flow and approvals through Growth Management

Mr. Katsurinis asked how many bedrooms are not in the basement and how many bedrooms the Title 5 has been designed for. Mr. Antonelli replied that there are three bedrooms and that is what the Title 5 is designed for.

Mr. Antonelli explained that their intention is to add another bath and add living space, not to add additional bedrooms. They want a large family room. He has no problem with putting a larger opening and no door on the smaller space, which is an office. There is one space that is for storage and a well pump which needs a door.

Ms. Clark said originally her inspection showed two spaces with 3 foot openings that could be interpreted as bedrooms. The stairway leading to the basement was closed off as well. Mr. Antonelli replied the door was there to close off the unfinished stairs.

Ms. Clark informed the board that she and Mr. Antonelli have discussed a deed restriction that would help any future owner understand the number of bedrooms allowed. She also stated that a 6 foot opening with or without a door would be fine and she also suggested that the storage room be unfinished as per the Building Department.

Mr. Katsurinis said there is not actually an appeal; it can be worked out administratively, since there is not a request for a variance included. Ms. Clark stated that she asked the board to review this now because if they did want a deed restriction it could be done now, since they will not be meeting again for another month. A deed restriction has to be signed by the Board. The Town Counsel has provided a deed restriction form. Ms. Williams thinks a deed restriction is a good idea in this case. Mr. Antonelli has no problem with the deed restriction.

Motion: *To place a deed restriction on the property at 25 Franklin Street limiting it to the three bedrooms that currently exist.*

Motion: Betty Williams

Seconded: Steve Katsurinis

Vote: 4 – 0 - 0

The deed restriction was signed by Mark Phillips, Chair; Dr. Janet Whelan; and Betty Williams and notarized by Steve Katsurinis

c. Public Hearing on proposed regulation and fee changes:

i. Changes to Part IV Art. 5 - Food Establishment Regulations

ii. Changes to Part XII Art.1 – Habitations for Rent

iii. Changes to Board of Health Fees Part VIII, Art.1 – Fee Schedule; Part VI, Art.5 – Solid Waste Fees

Discussion:

Mr. Phillips explained that the regulation and fee changes being presented have been discussed and the previous Board meeting. The public hearing is made available for comments from the public regarding the proposed changes. There were no members of the public present at the meeting. Therefore, Mr. Phillips declared the public portion of the hearing closed and proceeded with discussion by the Board members.

Ms. Clark suggested that the fee schedule changes may still warrant further discussion.

Changes to Part IV Art. 5 - Food Establishment Regulations

Mr. Katsurinis had a question about food service establishments and required grease interceptor devices. Whether or not they are required is contained in another code? Ms. Clark replied that is correct; they are trying to simplify the regulations and remove redundancy. Ms. Williams pointed out that the draft regulation sections were incorrectly numbered. Section 2.8 should be numbered 2.7 and section 2.9 was renumbered 2.8. It was corrected by staff.

Motion: *To approve the amended regulation changes to Part IV, Art. 5 – Food Service Establishments*

Motion: Steve Katsurinis

Seconded: Dr. Janet Whelan

Vote: 4 – 0 – 0

Changes to Part XII Art.1 – Habitations for Rent

Mr. Phillips explained that the biggest change to the regulations is no longer requiring an inspection for the rental certificate. Mr. Katsurinis pointed out that rental certificate fees should be referenced as being found in the Board of Health Fee Schedule. Mr. Katsurinis asked if this applies to short term rentals? Ms. Clark replied that they do not distinguish between short term rentals, yet. When Town Counsel comes back with the clarification of Camps, Cabins and Motels definitions that would be a good time to discuss the question of transient rentals.

Mr. Katsurinis asked about the fining structure for a continuing violation. The first offense is \$100, is the second offense the second day of violation? Ms. Clark stated that each day is a separate offense. The fines are defined by Section 21-d.

Motion: *That we approve changes to Part XII Art.1 – Habitations for Rent as corrected, the fee for a rental certificate should be listed in the Board of Health Fee Schedule effective June 18, 2015.*

Motion: Betty Williams

Seconded: Dr. Janet Whelan

Vote: 4 – 0 - 0

Changes to Board of Health Fees Part VIII, Art.1 – Fee Schedule

Mr. Phillips explained that the \$50 annual per unit fee discussed at the previous Board meeting seemed reasonable to him. Mr. Gardner interjected that the fee schedule did not include an inspection fee if staff has to respond to a complaint. Mr. Katsurinis suggested that if there was a complaint on a non-compliant, unregistered property, then the owner would have to pay for the inspection up front. Mr. Gardner said double fees could be charged if a rental certificate has to be mandated. He clarified that it is a rental fee not a license fee.

Mr. Gardner said an increase in fees without an inspection has to be justified by the amount of administrative work done. A fee analysis should probably be performed. Ms. Clark said she still has administrative work to determine the occupancy and number of bedrooms administratively as determined by code. She would like more clarification on when to apply an inspection fee. Dr. Whelan suggested publicizing the new on line self-certification procedure and fees and having a trial period to see how well property owners respond.

Mr. Gardner conceded that, since there is a fine on the books, the inspection fee might not be as much of an issue.

Mr. Phillips and Mr. Katsurinis agreed that \$150 for three years/ per unit is an acceptable fee. It was previously \$40 per year/per unit. This is only a \$10 a year increase that is easily justified.

Motion: *To adopt the fee schedule as amended, as discussed by the Board.*

Motion: Steve Katsurinis

Seconded: Betty Williams

Vote: 4 – 0 - 0

Part VI, Art.5 – Solid Waste Fees

Ms. Clark explained that the solid waste fees had been previously approved in March and require a procedural re-vote in order to sent it on to the Board of Selectmen for approval.

Motion: *To approve the revised Part VI, Art.5 – Solid Waste Fees, as presented.*

Motion: Betty Williams

Seconded: Steve Katsurinis

Vote: 4 – 0 – 0

d. Appeal of Order to Correct – 323 Commercial Street - Old Colony Tap, Leonard Enos III presenting

This agenda item was indefinitely postponed.

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

Ms. Clark provided a draft of the online check-list for rental self certification. The Board was asked to review it and send any comments. It was already looked at by the Building Department, Zoning and Planning.

Mr. Katsurinis thought it would be valuable to ask property owners where they list their property for rent. It would allow the Department to verify and encourage them to be consistent with what is on the rental certificate.

Ms. Clark provided an information sheet from The American Public Health Association about trans-fats. The Food and Drug Administration announced it is removing partially hydrogenated oils from the nation's food supply.

The Planning Board is now considering Complete Streets community planning. She informed them that she would like to be a part of the process because it promotes walkability of the community, among other things.

V. Approval of Minutes

There were no minutes presented for consideration by the Board.

VI. Health Department Report

Ms. Clark informed the Board that the Selectmen have tasked her and the Police Department with looking into some sort of substance abuse diversion to treatment program. The basis is the Gloucester program that has been recently publicized. She is looking into established programs.

Mr. Katsurinis asked if the County has a Drug Diversion Court. It does not. There is a serious shortage of beds in treatment facilities, as well. The opiate epidemic on the Cape is now getting a lot more attention.

Ms. Clark has gotten IRB approval from UMass Dartmouth for the summer intern. The Intern will be doing one-on-one interviews with providers to help determine what is needed to build a public health program. The selectmen may be moving towards identifying the need for a case-worker.

The beach flags are not up yet, but Dr. Whelan has volunteered to do it. Dr. Whelan suggested that the red flag only put up the red flag when there is a beach closure and not bother with the green flag that is confusing for some people. The Breakwater Motel and Snail Road was closed for 24 hours.

Americorp and other volunteers are coming to help move in the supplies into the storage box soon.

Ms. Clark is working on a survey of other health departments to determine how they handle various issues.

Ms. Williams asked if Ms. Clark knew anything about reports of bacteria at the Ryder street beach as seen in the Banner. She replied that she did not.

Mr. Peter Brown, reporter from the Banner who was in audience, informed the Board that the Center for Coastal Studies has been monitoring the results of beach raking in the area. There was no effect on the water quality, although there was an increase in bacteria on the beach. Dr. Whelan commented that the Board concerns itself with pathogens. The news article does not make that distinction.

VII. Board Members' Statements

There were no statements made by the board members

Adjournment:

There being no further business, Mark Phillips adjourned the meeting at 5:30 pm.

Respectfully submitted,

Susan Leonard

Approved by _____ on _____, 2015