



Town of Provincetown

Meeting of the BOARD OF HEALTH

Thursday, November 19, 20135

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

Board Members Present: Steve Katsurinis, Vice Chair, Acting as Chair; Dr. Janet Whelan; Elise Cozzi; Elizabeth Williams and Joseph Freitas

Board Members Absent: Mark Phillips, Chair (Excused Absence)

Other Attendees: Morgan Clark, Director Department of Health and the Environment and Laura Marin, Health Agent

Recording Secretary: Susan Leonard

Call to Order: Steve Katsurinis called the meeting to order at 4:00 p.m.

I. Public Comments:

There were no public comments.

II. Old Business

a. 227R Commercial Street – Follow up

Ms. Clark informed the Board that she has received the modified court injunction based on an agreement between Town Counsel and Mr. Brad Rose's counsel. It has been accepted by the judge. Ms. Regina Binder now has permission to access the property at 227R Commercial Street without having to be supervised by a Town official.

Ms. Binder thanked the Board for its confidence in her management of the project and informed them of progress being made on making the structure safe. She will be focusing next on the "dining room B" area. She has spent time with Ch. 91 consultant Jim Vincent and a preliminary Ch. 91 application has been submitted.

II. New Business:

a. 5 Nickerson Street – Release Administrative Consent Order

Ms. Clark explained that this is another formality concerning the ACO for 5 Nickerson Street. The Board had previously terminated the ACO for the property. The property owners had been paying into the fund and the Town Treasurer needs to have the Board's approval to release the funds.

Motion: *To release the funds for 5 Nickerson Street.*

Motion: Dr. Janet Whelan

Seconded: Elise Cozzi

Vote: 5 - 0 - 0

b. 2 Conway Street – Building Permit Review/Number of Bedrooms

Owner of the property, Mr. Guy Busa, his architect Ted Smith and consultant Ms. Regina Binder appeared before the Board.

Ms. Clark informed the Board that this building permit review has been brought to their attention because both she and George Heufelder need guidance on determining the number of bedrooms at the property. They have determined that the proposed plans for the property indicate one bedroom on the second floor. However, by the definition of a bedroom, the first floor proposed plans actually show two bedrooms because the opening to the area labeled as a dressing room does not meet the 6 - foot minimum opening requirement. It is, in fact, only 5 feet wide. The number of bedrooms is limited by a Title 5 system designed for two bedrooms.

Mr. Smith stated that the opening is 5 feet in order to maintain the existing bathroom in its current location and configuration and to allow isolation for heating and cooling. He has tried to achieve a "reasonable accommodation" to the Town code. They hope to keep this original wing of the house as intact as possible. Mr. Busa stated that the Title 5 has more capacity than needed for two bedrooms. They originally thought the house had 3 bedrooms.

Mr. Katsurinis suggested that granting an exception to the regulations, even with assurance from the current owners that the space in question would not be used as a bedroom, nothing could be done about it being used as a third bedroom if and when the property is sold in the future.

Ms. Clark added that they cannot get an un-varianced Title 5 system for 3 bedrooms on the property, which is what Growth Management requires in order to get approval for another bedroom. Although the current system appears to have extra flow, it does not have a tank. It is just a pit. It is not a compliant system within the current code guidelines.

Ms. Clark asked the Board if they are comfortable with the proposed plan showing two bedrooms or does the dressing room meet the definition of a third bedroom? She sees three bedrooms that meet the code.

Mr. Katsurinis asked for Board member's input. Mr. Freitas suggested that an architectural solution is probably possible to increase the opening to 6 feet. Ms. Williams asked if there is a way to design it so it is obviously one large bedroom? Ms. Williams said she is comfortable with the 5 foot opening. Dr. Whelan suggested that the closet be relocated to

the dressing room. Ms. Cozzi suggested that the name of the “dressing room” be changed to “bedroom suite” or den.

Mr. Katsurinis stated it does meet the definition of a bedroom and therefore is a bedroom. Changing what is called does not change anything. The rules have to be the same for everyone. At some point, the regulations have to mean what they say.

Ms. Clark stated that the Board can offer guidance through her or it can reject the plan because it does not meet the letter of the law. Mr. Katsurinis said he would be comfortable with Ms. Clark’s reviewing and approving an alternative plan as long as the 6 foot requirement is met. It does not have to come back before the Board.

Materials provided:

Existing & Proposed Plans, 2 Conway Street, Provincetown, Ma; Ted Smith Architect, LCC; Title 5 Official Inspection Form, 2 Conway Street, Miriam Freed Rev. Trust , Christopher Lucy, 08/14/2014

c. Discussion – Regulatory Work Session December 3, 2015

Ms. Clark asked the Board if there are any regulatory changes they would like her to bring to the work session scheduled for December 3. The DPW has asked for a few changes to be considered and she has been looking at the body art regulations, as well.

Mr. Katsurinis raised the question of food truck licensing. The regulations have it listed as a temporary food establishment, but a “temporary food establishment” is based on an inspected commercial kitchen. Ms. Clark replied that the State code defines this. He also wants to consider emerging trends. Mr. Katsurinis also would like to know about any enforcement difficulties that have arisen with any regulations.

Ms. Cozzi added that the Pier Commission is also looking at food trucks for the end of the pier where the ferries dock. Ms. Clark replied that currently it is a zoning issue. The Board of Health could license them if approved by zoning. Mr. Katsurinis thinks that the Provincetown Health Department should be inspecting the kitchens even if they are out of town. Ms. Clark does not see much difference between food trucks and farmers market vendors. As long as the other towns have regulations as good as Provincetown’s, he would be comfortable with accepting its inspection report.

d. Nominate a Board of Health Representative to the Case Management Contract Review Panel

This is related to the funding approved at the recent Special Town Meeting. Ms. Clark informed the Board that the Town is currently working on drafting a Request for Proposals. A consultant will be brought into the process to help with evaluating the program. Ms. Clark would like a member of the Board of Health on the review panel to review the applications and be present during the interview process in mid- February.

Mr. Katsurinis asked if it was ever considered to hire a part-time Town employee to fill the position? Mr. Freitas said he would like to see the opportunity given to a qualified person from town. The chance of conflict of interest may be reduced if it is done this way. Ms. Clark replied that she would bring it up to the Town Manager.

Dr. Whelan said she was interested in volunteering for the review panel. She would enjoy being involved with it.

Motion: To nominate Dr. Janet Whelan as the Board's representative on the review panel.

Motion: Steve Katsurinis

Seconded: Betty Williams

Vote: 4 – 0 - 1

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

There was none.

VI. Approval of Minutes

a. September 17, 2015

b. October 15, 2015

Motion: That we accept both sets of minutes, as written.

Motion: Elise Cozzi

Seconded: Betty Williams

Vote: 5 – 0 - 0

VI. Health Department Report

~ Ms. Clark raised the issue of what to do about expired and expiring ACOs. She is not getting a definitive direction from the Sewer Team in order to do the outreach the Board of Health requested. Can she have the Board's permission to extend the existing ACO with an inspection?

Mr. Katsurinis replied that having the ACOs is helpful. It shows the willingness to connect by the public. It is a legal contract. Ms. Clark is not comfortable to take anyone off the list who has expressed an interest and has paid money into the fund. The sewer was expanded by interest from big properties in the past.

~ A warning letter was sent to the Halloween weekend food truck. It is licensed in another jurisdiction, but they did not fill out an application to be in Provincetown. Although it is a zoning issue, the ZBA enforces its own regulations. Ms. Clark suggested that the local licensing fees and guidelines could be looked at regarding temporary food establishments.

~ Online permitting of smaller regulated industries (septic installers, refuse haulers, body art, etc.) will hopefully be ready for the annual license renewal .

~ The FDA does tobacco inspections in Provincetown. They issued violation citations in town. They may have been about signage or other minor violations.

~ The budget has been sent to the Town Manager for review. It will be sent to the Board of Health after it has been reviewed. If the Board wants to attend the meeting with the Selectmen when the time comes it would be helpful.

VII. Board Members' Statements

Mr. Katsurinis reported on the meeting of the Local Comprehensive Planning Committee. The issues he wants to raise at these meetings are about sewer expansion. Also, he wants to consider the capacity of the local health care facilities, especially in the summer. He also noted that according to the Cape Cod Commission every proposal has to be measurable against a benchmark goal. There will be public hearings and visioning sessions beginning in mid-January. It will be a year - long process. He encouraged Board members to attend.

Adjournment:

There being no further business, Mr. Katsurinis moved to adjourn the meeting at 5:12 pm.

Respectfully submitted,

Susan Leonard

Approved by _____ on _____, 2015