

# Public Meeting

April 3, 2003

Caucus Hall, Town Hall, Provincetown, MA 02657

6:00 p.m.

**Members Present:** Mark Baker, Cynthia Gast, Ken Janson,  
and David McLean

**Member Absent:** Kay Halle and Duane Gregory (excused)

**Health Agent:** Jane Evans Raasch

**Health Inspector:** Patricia Pajaron

**The chair, Mark Baker, called the meeting to order at 6:00 p.m.**

## AGENDA

### Public Comments

Rex McKinsey, pier manager for the Public Pier Corporation, spoke in favor of the application for a food cart license by the Whydah Museum. According to Rex, the Pier Corporation will eventually have pushcarts and he felt these amenities would mesh nicely.

### Discussion:

#### **212 Bradford Street – Proposed changes to property (formerly Patrician)**

Anne Howard presented the proposal on behalf of Nancy Carter. Nancy, the new owner, seeks to raise the building's roof (Anne cited Joe the Barber's building on Winthrop Street as an example). The plan would be similar - i.e., converting an attic into a two-bedroom, owner-occupied living quarters. Anne said there would be no scale considerations (it's next door to Foley House, Adam Wolf's, and Three Peaks) and she also cited the Local Comprehensive Plan which she claimed would support this endeavor. They are willing to look at alternative systems.

Jane Evans Raasch, the Health Agent, was not in support of the plan since it would increase the flow by about 128 gallons/day and there is no plan for this particular area to hook into the sewer.

Anne wanted to run the proposal by the Board of Health to determine, should she be able to get all other permits – such as Zoning and Growth Management – if the BoH would object. Cynthia Gast said she would have no problem, and the rest of the group seemed cautiously in agreement. Thus, Anne was going to pursue opinions and plans from engineers, etc.

### New Business

#### **Tracy Primavera – 284 Bradford Street – New Home Occupation/Massage Business License**

Patricia Pajaron, the Health Inspector, said that Ms. Primavera's papers were in order. She has her license, permission from her landlady, etc.

**Motion: David McLean made a motion to approve the home occupation license with the stipulation that only one client at a time be taken care of due to the limitations in parking mentioned in the application. Cynthia Gast seconded the motion and it was passed 4-0-0.**

#### **Whydah Museum – 16 MacMillan Wharf – Proposed Food Cart**

**Motion: Mark Baker made a motion to postpone hearing the case until Ken Kinkor appears. Ken Janson seconded it and it was unanimously approved.**

## **17 Carnes Avenue – Title 5 Variance**

Alan Cabral presented the plan for the owners, Thomas Tostengard and Peter Kassel. The Health Agent said the system appeared to be adequate for the intended use and she recommended approving a revised plan with a 4-foot variance from the SAS to the crawl space (which had already been incorporated into the plan before the BoH for consideration).

**Motion: Ken Janson made a motion to approve plan 02223 with no conditions. David McLean seconded the motion and it was approved 4-0-0.**

## **2 Brown Street – Building Proposal**

Owners William Hamlin and Ramon Accolea presented the plan themselves. They want to build a 2-story structure that would look like a garage but would actually house an artists' studio on the second floor and the garage on the first. The BoH informed the owners that an artist's studio is assigned a 50-gallon/day flow, therefore this proposal required an increase in flow and would need to go into the Growth Management queue.

Jane said the Title 5 is already at capacity; she recommends the applicants enter the Growth Management queue. Also it was felt that there may be zoning issues due to the proximity of the proposed structure to the property's sideline. The BoH suggested that Roger Dias or Warren Alexander could guide them. Jane further suggested they talk to Brian Dudley of the DEP.

## **Whydah Museum – 16 MacMillan Wharf – Proposed Food Cart**

Ken Kinkor rushed in and apologized for being late. Mr. Kinkor explained that he had a permit for selling prepackaged food from their gift shop. Warren Alexander told him that he wasn't sure if coffee was allowed. After a good deal of discussion the following motion was decided upon:

**Motion: Ken Janson made a motion to approve the pushcart application with the following conditions:**

- 1. No perishable food items will be allowed on the cart, use non-dairy cream instead.**
- 2. Limit the sale of items to prepackaged non-potentially hazardous foods.**
- 3. Sugar shall be served only from individually wrapped packages.**
- 4. Spoons or stirrers shall be single use and protected from contamination until served.**
- 5. A trash can will be provided for patrons to dispose of paper, wrappers, etc.**
- 6. Approval from the ZBA – if needed.**

**Cynthia Gast seconded the motion and it passed 4-0-0.**

## **4 Holway Avenue – Bedroom Issues (Building Permit Application Review)**

Neil Kimball presented on behalf of the owner, Edward Foley. A two-bedroom house had been bought by the applicant who has now decided that he wants to retain only one of the original two bedrooms on the first floor and expand onto the 2<sup>nd</sup> floor to make a large bedroom. The unused 1<sup>st</sup> floor bedroom would then become an office. The designer, Mr. Kimball, said he would be glad to open up the doorway to the former 1<sup>st</sup> floor bedroom making it a bona fide study that could never be used as a bedroom.

Ken Janson said that to him this would become a three-bedroom house, not a two-bedroom with a study. Ken further said, "If it looks like a duck, quacks like a duck, then it is a duck" – making reference to the eliminated bedroom which could easily be reinstated. David McLean suggested that maybe an 8-foot opening in the wall would make the plan more palatable.

**Motion: Cynthia Gast made a motion to approve the plan mandating an 8-foot opening from the living room to the den. David McLean seconded the motion and it was passed 3-in favor, 1-opposed (Ken Janson).**

## **795 Commercial Street – Building Permit Application Review**

Craig Lyon, the owner, gave a lengthy story about windows blowing out and finding at that time of repair that the entire house had rotted wood and has to be repaired and/or rebuilt. The BoH needed to review the case since the cost of reconstruction was enormous (above the 25% allowed without BoH review). He also cited the 40 to 50 trees on his property that would have to be felled to put in a new Title 5.

Jane Raasch said she had conducted a walk through on March 31<sup>st</sup> and the dwelling appears to be an existing 4-

bedroom residence. She continued that the proposed work indicates that the 4 bedrooms will remain. The owner has agreed to remove a loft over the kitchen. The existing septic system is a 1,000-gallon septic tank D-Box and a leaching pit. No dimensions are given for the pit but the inspector has determined the flow capacity to be 442 gallons per day. Jane recommends that since there is a wetland across the street, the inspector needs to provide an accurate distance from the leach pit to wetland. She further feels that the Board should follow previous decisions of this kind.

Mark told the applicant that he (the applicant) would have to engage an engineer and have the engineer come up with septic plans. Mark re-emphasized that the BoH will have to review actual septic system plans – a mere discussion of the problem is not sufficient.

**The above case has been continued until April 17<sup>th</sup>.**

### **56 Shankpainter – Failed System – A & P Store**

Jane Raasch introduced the case by telling everyone that she has been putting all the pumping records into the computer and found that the A&P has had their septic pumped 81 times during 2002 and 24 times the previous year. Both facts indicate a failed system. She then contacted Brian Dudley of the DEP and he said that using an additive such as Aid Ox can only be used in a preventative way; it is not a solution to a failed system. He continued in the letter that he sent to the Board that a new Title 5 MUST be installed.

The A & P was represented by three people:

**Thomas K. Uzzo** from Environmental & Geotechnical Engineers & Consultants from Watchung, NJ

**Joshua G. Swerling** from Bohler Engineering, PC from Southboro, MA

**Paul R. Bonvicino, Jr.**, from A & P, housed in Woodcliff Lake, NJ

Mr. Uzzo did most of the talking and said they were currently investigating options to rehabilitate the existing system. He said he suspected it's a lack of maintenance of a grease trap that caused the failure. Mr. Bonvicino said the group had already found grease traps responsible for system failures in other cases.

The problem is two-fold:

The system is located under the entire parking lot of the A & P and to repair by cleaning the soil would probably cost the same as an entire new installation.

And, secondly, a failure of this nature mandates a new Title 5 installation.

The three-person team continued that everyone had the same goals and the conclusion was that – they would write up a proposal – step by step – and then submit it to Brian Dudley at DEP for his opinion. Mr. Uzzo was trying to determine the most cost-effective solution.

Mark advised them to get the plan for remediation over to Brian Dudley ASAP and on review of DEP's finding(s) the BoH would act. He also asked the A&P representatives if the impending sale of the property would in any way affect the decisions made by the A&P and/or the BoH. The representatives answered that the sale would not affect the outcome of rectifying the problems with this system.

**The case was continued until April 17<sup>th</sup>.**

### **Any other business that shall properly come before the Board**

Mark referred to a March 25<sup>th</sup> memo he received from the Town Manager that asked the BoH to amend their solid waste regulations – allowing pick up for a 100% affordable housing project. This topic will be discussed at the April 17<sup>th</sup> meeting.

Also Mark would like to discuss the creation of guidelines for sewer hook-ups for “priority properties” that might be allowed to take advantage of any excess flow capacity in Phase I of the sewer project. How to prioritize? Jane was asked to try authoring a regulation for prioritizing hook-ups. This will be reviewed at the earliest possible BoH meeting.

Mark also asked the status of 586 Commercial Street (Ship's Bell, McNulty's old property) as they have asked to opt out from Phase I.

Bulletin: Next meeting – April 17<sup>th</sup> – is the annual meeting and, as such, an election of officers will take place. This was just mentioned as a heads-up.

David McLean said that three owners of bars and four bartenders said they needed signs to indicate the non-smoking regulation by the BoH. Patricia Pajaron will furnish.

Cynthia Gast asked for clarification on what constitutes a complete redo of a house. The ruling is 25% of the value or \$50K repair. – Question was spawned by 795 Commercial Street case.

### **Approval of Minutes: Meeting Minutes of 3/20/03**

**Motion: Ken Janson made a motion to approve the minutes of the March 20, 2003 meeting. Cynthia Gast seconded the motion and it was passed 3-0-1-abstention (David was absent).**

Two comments were made at the meeting regarding the minutes – Ken questioned whether or not Chris Snow said (Kuliopulos case) that no more than three bedrooms should be occupied at any one time. (That remark had been said by Attorney Snow.) And David argued that his absence should have been reported as excused – NOT unexcused. Mark agreed to make that change.

### **Health Agent's and Health Inspector's Reports**

Jane Evans Raasch had handouts. They referred to: A meeting of Health Agents taking place on April 7<sup>th</sup> on the issue of KI, an informational paper on SARS, Smallpox vaccine information, a policy statement on affordable housing developments, and a memo from Jon Gilmore.

Jane continued saying that a former plumbing inspector told everyone that they should have external grease traps under their sinks. Jane said this is not acceptable and will follow through by sending out letters with the water and sewer regs regarding the use and placement of grease traps.

Patricia Pajaron said she had sent out a letter to Bayside Betsy's warning them to abide by the BoH non-smoking regulations. The Angel Foods property (owned by George Bryant) has the clock ticking on its clean up. Braunwyn Malicoat was approached regarding her sheep herd. Pat noted that the animals are well cared for, have their health certificates in place, and that Ms. Malicoat is making arrangements for their housing elsewhere on the Malicoat property so as not to annoy abutters. Patricia has inspected many places that are getting ready to open for the season. She has also sent out letters to guesthouses that serve continental breakfasts in order to arrange for their inspections.

### **Board Members' Statements**

Ken Janson wondered if Jane ever did a walk through on Rose Kennedy's "for sale" property on Alden Street. It was done.

Mark would like to have Pat send a letter to George Bryant giving him 10 days to clean up the debris by Angel Foods and informing him that should it not be done with the time allotted, the BoH will issue an order for clean up and bill him for the removal of debris. Should he not pay, the amount will become a lien on his property. It was decided to let the County handle it from there.

**Motion and vote to adjourn came at 8:04 p.m.**

Respectfully submitted,

*Evelyn Gaudiano*

Evelyn Rogers Gaudiano

Approved by

\_\_\_\_\_ on April 14, 2003

Mark W. Baker, Chair