



BOARD OF HEALTH MEETING

July 26, 2016 – 6:30 PM

Rockport Town Hall Annex

PRESENT: Board members Dr. Sydney Wedmore - Chair, Dr. Russell Sandfield, Dr. Sydney Jimenez, Dr. Bruce Cohen, Health Agent Leslie Whelan, Assistant Town Administrator Mitchell Vieira, Food Inspector Laura Osmond, and Administrative Assistant Marianne Peters.

6:30 p.m. Chairman Wedmore called the meeting called to order.

COMMUNITY CONCERNS:

Tom Mikus (of the Green Community Task Force and of 73 Marmion Way) asked which types of LED lighting recently installed at Annex as there are health concerns associated with various types of LED lights. Dr. Wedmore directed him to check with DPW and/or Selectmen's Office. Suggested also that Mr. Mikus think about an educational presentation on the subject matter. Mr. Mikus also inquired about herbicides that appear to have been sprayed near the well field and what the Board of Health may know about spraying; Dr. Wedmore replied that we have a long-standing policy of prohibiting herbicides near the well field and railroad tracks and stated that the Board would look into the matter.

5 PENRYN WAY; REQUEST FOR PLUMBING IN HOME OFFICE ABOVE GARAGE:

Attorney Mark Glovsky questioned the Board's denial of request for a bathroom addition (at a minimum a sink and toilet) during new construction of the home to detached garage. The new homeowners' 11-room home replaced sellers' original 4-bedroom system/ 11 room home. In 2006, previous owners requested permission to finish off a family room in the basement; this was allowed by Board of Health but with a deed restriction of 4 bedrooms and that the house will remain a 4-bedroom house.

As a statement of conditions for building the new home, the Board of Health noted that the original house had been granted to finish a basement family room but such would not be counted as an additional bedroom in the new home. In addition, while property was being worked on, new owners agreed to a more robust septic system; that condition did not grant permission for an extra bedroom but recognized the property had questionable drainage in the past and the original septic system just barely met the requirements. Agent stated that original decision was made to allow the new house 11 rooms, of which a maximum number of 4 bedrooms were allowed and a deed restriction would continue in perpetuity. All parties, including the agents (architect, engineer as agents of the owners) agreed to these conditions before the building permit was granted. Request denied; original agreement stands.

LOBSTER POOL - 329 GRANITE STREET – SEATING CAPACITY:

Continuation of discussion on seating capacity and the number of 'active diners'. Handful of abutters have stated that there is frequently an overage of diners, traffic, cars. Lobster Pool owners stated that the neighbors group all of their complaints as the fault of Lobster Pool and pointed out that non-patron vehicles park along the area (divers, picture takers, sunset seekers at Folly Cove) as the area is known to be the most popular sunset viewing area. Dr. Wedmore asked Assistant Town Administrator if the area has public parking and directed abutters to contact the Traffic Committee as it is not the Board of Health's purview; also stated that Lobster Pool owners are not to be considered responsible for the traffic or the cars that park in the popular area. The Board directed Lobster Pool owners to actively monitor number of active diners and keep it at 75 at any given time; also directed them to reduce number of total tables (configured however they determine) temporarily until an accurate system of

counting/measuring 75 active diners at one time. The Board directed Food Inspector Laura Osmond to do random visits at least once weekly to count the number of 'active diners' and report the info to the Board. Dr. Cohen had concerns about 20 tables outside in addition to the 6 inside and suggested that by reducing the tables, it might help keep the seating capacity accurate and that the owners should encourage the sharing of tables. Board stated that the owners can figure out the geometry of the tables as long as the seating capacity is 75 but stated that it's not necessarily the amount of tables, but more so the seating area is important. A potential of temporarily reducing the number of tables to 18 but no final decision made. The restriction on the number of actual tables to be temporary until a system of 75 active diners at a time until a better solution can be arrived. If the '75 active diners at a time' system works, the number of tables may be changed; Food Inspector to report to Board; matter to be continued on agenda in September.

4 SEAVIEW STREET – TIGHT TANK – VARIANCE REQUESTS:

Variance request approval from June 28, 2016 meeting reintroduced at this meeting as last month's approval done without notification/knowledge of abutters by engineer; approval had been rescinded for that reason). Title 5 septic failure in 2015; homeowners were ordered to vacate property until septic system brought into compliance. Neighbors stated that homeowners violated the order and have been using the cottage right along even though the DPW shut the water off on 9/15/15 (they hooked up a hose to a neighbor's home to occupy). Franz van Berkhout of 3 Seaview stated that the cesspool and tight tank for 4 Seaview is located on his property. Agent stated that the cesspool and leach pit for existing system would need to be filled and engineer was directed to coordinate with neighbors for permission of transient right of passage to close up system; Franz van Berkhout responded by reading a letter of the history of the property's septic system and timelines since 1973. Requested that homeowners sign a formal letter stating that they promise to abandon the current system and offered to cover the financial costs for them to do so if need be.

Dr. Cohen said no occupancy at all is to be allowed and questioned who has the authority to make sure they're not occupying the home and state that they have shown no good faith in remediating the breakout. Dr. Cohen moved to enforce letter o 6/1/15 and disallow occupancy via another Cease and Desist Order effective within 72 hours of receipt of Certified Letter/Return Receipt. Agent to send Cease and Desist Order. Mr. van Berkhout asked what remedies/avenues can be taken if they ignore the order again/still; Dr. Wedmore directed him to Health Agent who could notify Town Counsel. Mr. van Berkhout requested that all requirements be stated/written on the septic plan and he'll assume financial responsibility of the filling of the cesspool and leach pit; engineer directed to put all requirements of the Board on the plan. The Board voted on a watertight tight tank and wants to see it done as expeditiously as possible. Approved.

16 PENRYN WAY – ADDITION OF 1-BEDROOM DWELLING UNIT:

Architect Campbell representing an homeowners (elderly couple) in making bedroom in their 10-room home for daughter moving in to care for parents and would like have a separate 1-bedroom apartment. This would be done by making modifications to interior (by taking out doors/closets) and would limit the bedroom count to 3. When new room is added, one of the current 3 bedrooms to be abandoned; also will change the framing on the door and remove closet to de-bedroom. Title 5 inspection was not done but they retained an engineer to design system. Dr. Wedmore discussed that when property goes to relative, no Title 5 needed. Existing system is viable but the new addition being put on would want to upgrade system (leaching pits). Two permits are required: to change configuration of house to net 3 bedrooms on current system; if upgrading, need new permit. Dr. Wedmore directed Health Agent to work with Mr. Campbell. Approved.

3 BROOKS ROAD/SEPTIC VARIANCE REQUESTS:

Dan Ottenheimer/Mill River Consulting requested variance for 1 bedroom design for small cottage which has been occupied for several decades; owner wants to donate to Rockport Music (to sell and generate proceeds to non-profit). System failed Title 5; new system complies with Title 5 and Rockport; 1 variance; one variance would be to system designed for 110 gallons rather than 220 minimum. Designing for 1 bedroom 110 gpd as opposed to state minimum for 220/2 bedrooms. Checked with state and the state approved with deed restriction; a draft has been given to Agent. Abutter says appropriate but that raised the fact that an application for zoning relief for 2-bedroom was taken out originally and would like confirmation that the deed restriction prevents 2 bedroom home from being built. Tony Beadle explained that Zoning Board relief was originally sought because they wanted to show that the property had the real estate potential for larger structure originally; but in that a buyer came up right away that was happy with the 1-bedroom design, they are going with the 1-bedroom design/restriction. Approved.

BOARD MEMBER SEARCH (FOR 5th MEMBER):

Discussion about 5th member coming on board; candidates will be asked to attend future meeting.

HEALTH AGENT REPORT:

Sandy Bay Estates: Report from Town Counsel: Most of the outstanding items have been corrected; 3 unoccupied units and they're working on and counsel working on agreements with the property owners. Wedmore asked if inspection fees will be paid; Agent stated that Town Counsel is negotiating because fees cannot be more than the cost of the work involved.

Lead Testing/School: The Water Department will be testing the quality soon as part of their 3-year testing protocol at the schools.

ADMINISTRATIVE ASSISTANT UPDATE:

Marianne Peters updated about the Infectious Disease Event with Dr. DeMaria of the Mass. Dept. of Public Health on 7/19/16; successful, well attended, and that it was a collaborative effort.

FOOD INSPECTOR UPDATE:

Working with FOG Coordinator and Administrative Assistant on non-compliant restaurants that have inadequate or no grease traps. Studio Crepe given 2-4 weeks to finish structural things that were not finished (but did not impede food safety). Was asked about Lobster Pool number of diners; stated that everything appears the same as when previous owners had. Asked if there was more capacity (tables); said not really when they opened; maybe added 4 more and stated that the owners have been responsive to whatever food inspector has asked. Dr. Sandfield concurred that the owners have made strides in doing what requested. Inspector stated that she's gone by several times on different days/times and that it's busy but not more than any other summer; she inspected on a busy day to see if they could handle food flow; they were doing fine, etc. Checked on Emerson Inn; have done good job but still working on things. Food Code 2013; first training 8/9 and runs through beginning of October.

NEXT MEETING DATE:

August 23, 2016 - Agenda Prep Meeting on August 16th at noon with Dr. Cohen.

ADJOURNMENT:

Dr. Sandfield moved to adjourn the meeting, Dr. Jimenez seconded, and it was voted unanimously to adjourn the meeting. Meeting adjourned; 9:25 p.m.