
Board of Health Minutes 01/15/2015

Town of Mashpee

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

BOARD OF HEALTH – PUBLIC SESSION

Minutes of the Meeting of January 15, 2015

Board Members Present:

Lucy Burton, Chair
Burton Kaplan, Co-Chair
Kalliope Eglhoff, Clerk

Also Present:

Glen Harrington, Health Agent

Chair Lucy Burton called the meeting to order at 7:05 PM.

For the record the recording portion of the meeting commenced at 7:35 PM on January 15, 2015.

APPOINTMENTS

7:15 PM – Appeal of Housing Violations (Scott Wheeler) – 51 Santuit Pond Road.

Glen Harrington stated that the original inspection for the property located at 51 Santuit Pond Road took place in August, 2007. The landlord refused to install a new oil tank and furnace in the house so that he could evict a family of five, a young couple with three children. The tenant took him to court; Mr. Harrington was present via a subpoena, and the tenant won. An extension to repair the violations was given until October 22, 2007. The Board condemned the house in October of 2007, for failure to repair the violations and because there was no heat. The owner had stated that the house was rented because eventually the house would be used as a retirement home.

The dwelling has remained unoccupied for the last couple of years. The owner applied to the Zoning Board of Appeals in 2008 to obtain a variance to add onto the master bedroom. The building permit was issued on September 2, 2008. The construction appears to have been completed, but no final inspections have been requested of the Board of Health or the Building Department.

Mr. Harrington emailed the owner to notify him of his responsibility to contact the Board of Health upon repairing the violations. No reply was ever received. So, in October of 2010, a show-cause letter was sent to the owner, but no one appeared at the meeting. The Board ordered the property to be sent to Town Counsel for issuance of fines for failing to keep the dwelling posted and not correcting the violations. Soon after the Board meeting, Jason Streebel, the Mashpee Assessor, notified Mr. Harrington that the owner had requested an abatement on the assessment of the property. In their January 6, 2011, conversations Mr. Streebel notified Mr. Wheeler that he needed to contact the Health Department to finalize the Sanitary Code inspections. No call or request was ever made. A follow-up letter was sent in November 2014, to issue fines for failure to comply.

Scott Wheeler, owner of 51 Santuit Pond Road, introduced himself to the Board.

Mr. Wheeler stated that he did not receive any of the letters that were sent by the Health Department. Mr. Wheeler remarked that he received the November 24, 2014, letter at the 51 Santuit Pond Road address. This is the only letter he has received in about three years.

Lucy Burton commented that the Health Agent needs to inspect the property immediately. There are ongoing lingering issues without final inspections for occupancy. The property had been condemned, and no one should be staying at the property. Lucy Burton stated that tonight's meeting of January 15, 2015, is official notification that there is a fine of \$500.00 on record for the property.

Kalliope Egloff remarked that an inspection of the property needs to be scheduled within seven business days. The inspection should be performed by January 23, 2015, and Mr. Wheeler must schedule a day and time for inspection of the property with the Health Agent.

Mr. Harrington commented that the Board has the right to raze the dwelling after one year of condemnation.

Kalliope Egloff made a motion that the Board of Health require Mr. Scott Wheeler, property owner of 51 Santuit Pond Road and other addresses, to schedule an appointment with the Mashpee Board of Health for inspection of the property located at 51 Santuit Pond Road to address the 2007 condemnation of the property prior to the end of the business day on January 23, 2015. Burton Kaplan seconded the motion. The motion was unanimously approved.

Kalliope Egloff made a motion that the Board of Health issue Mr. Scott Wheeler, property owner of 51 Santuit Pond Road the \$500.00 fine as official notification from the Town of Mashpee on January 15, 2015, for the October 22, 2007, condemnation for failure to repair the violations. Burton Kaplan seconded the motion. The motion was unanimously approved.

Kalliope Egloff made a motion that the Board of Health forward the property located at 51 Santuit Pond Road to Town Counsel for collection if it is not inspected by the end of the business day on January 23, 2015. Burton Kaplan seconded the motion. The motion was unanimously approved.

7:20 PM – Krystal Parsons / Attorney Kevin Kirrane – Housing Violations – 140 Noisy Hole Road.

Glen Harrington commented that the original inspection for the property located at 140 Noisy Hole Road took place on March 21, 2013, for the main dwelling. Two violations were observed: co-mingling of electricity for two dwelling units and no smoke detectors. The owner was notified via first class mail. It appears that no violation has occurred for the co-mingling of electricity because the owner has been paying for the electricity on the entire property. The owner's attorney provided the electric bills as proof of payment. In regard to the smoke detectors, an electrician visited the property, but no follow-up inspections were requested. The fines issued in the December 4, 2014, letter shall apply to the smoke detector violation only.

In January 2015, another inspection of the garage apartment was performed at the request of the garage tenant, Amy Harris. Four violations were documented: the lack of smoke detectors, the overflowing septic, a crack in the tread of the outdoor stairs, and the lack of weather stripping on the main door.

Mr. Harrington remarked that the garage was constructed in 2005, and according to the Building and Fire Codes, the smoke detectors must be hard-wired with battery back-up. The other violations noted at the garage apartment, except the septic, may be repaired within 30 days of receipt of the order letter.

The tenant indicates the septic has been overflowing since December 17, 2014. The Board of Health witnessed it for the first time on January 8, 2015. The owner has been notified by the Board of Health, and nothing has been done to mitigate the emergency. Conversations with the septic pumper, Peter DeBarros, have indicated that he has not received permission from the owner to pump the septic system to remediate the emergency. As two families are affected by the emergency, Mr. Harrington recommends that the Board of Health issue an order to have the septic system pumped immediately at the owner's expense. The pumping should continue as needed until the new septic system can be designed and installed.

Another issue is that the room over the garage was never meant to be an apartment. The Building Inspector issued Occupancy for sleeping quarters only with no stove for the father of the owner in 2006. The use as an apartment is considered a second dwelling unit. A bedroom in the main dwelling was removed to maintain the bedroom count at a total of three for the property because 140 Noisy Hole Road is located in Zone II, where the number of bedrooms are restricted. An accessory apartment also requires Site Plan Review and Zoning Board of Appeals approval.

Kevin Kirrane, attorney representing Krystal Parsons, the current owner of 140 Noisy Hole Road, introduced himself to the Board.

Attorney Kirrane stated that Ms. Parsons is currently living in Florida. The situation was brought to her attention in December of 2014, at which point she discovered that there was a fine of about \$22,000. Krystal Parsons informed Attorney Kirrane that she never received documentation nor correspondence from the Town of Mashpee relative to the imposition of the fine until she received the letter in December 2014. Ms. Parsons contracted Peter DeBarros to pump the septic system at that time.

Attorney Kirrane commented that Scott Torrey has been engaged to replace the septic system and that a letter was to be submitted by Mr. Torrey indicating that he had been hired to replace the septic system located at 140 Noisy

Hole Road.

Attorney Kirrane informed Ms. Parsons that, in his opinion, the apartment over the garage is illegal. He is not certain that the apartment over the garage was ever legal. In order to have an accessory apartment in the Town of Mashpee, the actual owner of the property must live on the property and in the main dwelling. This has not been the case. A Quit Notice was sent to the tenant residing over the garage advising them that they are a tenant-at-will and must vacate the premises.

Glen Harrington stated that he has not received a letter from Scott Torrey, and there has been no engineering of the septic system. Peter DeBarros has not pumped the septic system because he has not been given approval. Glen Harrington remarked that the pumping of the system must be accomplished by the end of the business day on January 16, 2015, notification to the Board of Health of the pumping, and continued pumping on an as needed basis because the septic is overflowing onto the ground surface. Mr. Harrington stated that the owner has until January 27, 2015, to have the system designed, engineered, and repaired. The septic system needs to be addressed since there are children living on the property.

Kalliope Egloff made a motion that the Board of Health mandate the septic system located at 140 Noisy Hole Road be designed, engineered, and repaired by January 27, 2015. The septic system shall be pumped by a licensed septic pumper by the end of the business day on January 16, 2015, with notification to the Health Agent of the pumping. A fine of \$300.00 per day will begin on January 28, 2015, if the septic system is not engineered and installed by January 27, 2015; and a fine of \$300.00 per day starting on January 17, 2015, if the septic system is not pumped by end of business on January 16, 2015, with notification to the Board of Health. Burton Kaplan seconded the motion. The motion was unanimously approved.

Amy Harris, tenant residing above the garage at 140 Noisy Hole Road, introduced herself to the Board.

Ms. Harris stated that she lives in the apartment above the garage with her two children. There was a hole in the ground in the area near the entrance to the apartment where septic is flooding the ground around the stairway to the garage apartment. The hole has recently been pumped and filled. Ms. Harris paid the first month's rent, last month's rent and a security deposit for the rental above the garage to Krystal Parsons. The plumbing issue has been corrected so that the toilet does not run continuously which was contributing to the overflowing/failed septic system. Ms. Harris had the well water sampled since the septic overflow is near the drinking well. Ms. Harris commented that she has been buying bottled water since even before this all came about.

Donna Spaulding, mother of Amy Harris, introduced herself to the Board.

Ms. Spaulding commented that Amy Harris's oldest daughter has been ill and was placed on a nebulizer. It is not certain whether the drinking water may be the cause. Amy Harris has been served with a Quit Notice and must vacate the property by February 28, 2015.

Attorney Kevin Kirrane remarked that the homeowner was recently made aware of the situation, and Ms. Parsons hired Mr. DeBarros to pump the system. Because this is a zoning violation and an illegal use, the garage apartment cannot be occupied. Therefore, a Notice to Quit was issued to the tenant, Amy Harris.

Lucy Burton commented that she is not comfortable with allowing 45 days for installation of the septic system. Glen Harrington offered to design the septic plan on an emergency basis, therefore shortening the time frame to 30 days. The Board agreed that the system be designed and installed by February 10, 2015.

Kalliope Egloff made a motion that the Board of Health modify the previous motion for 140 Noisy Hole Road to have the septic system pumped by January 16, 2015, with notification to the Board of Health. If the system is not pumped by this date, then a fine of \$300.00 per day will commence on January 17, 2015. Installation of the septic system must be completed with a Certificate of Compliance issued by February 10, 2015. If the installation is not completed and the Certificate of Compliance issued by February 10, 2015, then a fine of \$300.00 per day will accrue beginning February 11, 2015. Burton Kaplan seconded the motion. The motion was unanimously approved.

Lucy Burton made a motion that the Board of Health require the property located at 140 Noisy Hole Road be connected to town water, allowing the existing well for irrigation purposes only, by the February 10, 2015, deadline. Burton Kaplan seconded the motion. The motion was unanimously approved.

Lucy Burton remarked that the other issue is the existing fines. In Ms. Burton's opinion, she would like to continue discussion of the accrued fines, the inspection items noted above, and the Health Agent's inspection of the bedrooms and smoke detectors to the first meeting after the February 10, 2015, deadline so that the issue can be revisited if and when everything has been addressed.

Lucy Burton made a motion that the Board of Health revisit the smoke detector, the weather stripping, and other repair items after the Health Agent has had the opportunity to verify the number of bedrooms in the main house and confirm or deny that the smoke detectors are hard-wired in both dwelling units at the first meeting following the deadline of February 10, 2015. Kalliope Egloff seconded the motion. The motion was unanimously approved.

NEW BUSINESS

1. Sign Expense Warrants. The Board members signed the expense warrants.

2. Review/Approve BOH Public Session Minutes: December 4, 2014.

Kalliope Egloff made a motion that the Board of Health approve the Public Session minutes of December 4, 2014. Burton Kaplan seconded the motion. The motion was unanimously approved.

3. Revision of Bare-Hand Contact Regulation: Part IV Section 4.00.

Glen Harrington commented that this is a language change of the Bare-Hand Contact Regulation. The wording "Town Clerk" should read "Board of Health". The Town Clerk collected fines because a citation, according to the non-criminal disposition ticket, is paid to the Town Clerk.

Burton Kaplan made a motion that the Board of Health approve the revision of the Bare-Hand Contact Regulation. Kalliope Egloff seconded the motion. The motion was unanimously approved.

4. 2014 Town Report.

Lucy Burton and the Board of Health commended Glen Harrington on a job well done for preparing and presenting the 2014 Mashpee Town Report.

OLD BUSINESS

1. Follow-Up Calendar:

A. 87 Lighthouse Lane.

Glen Harrington commented that the Board of Health had approved for the Town of Mashpee to issue a loan to repair the septic system located at 87 Lighthouse Lane. It is now at the point of obtaining bids. Mr. Harrington sent a memo to the Town Manager requesting the issuance of Title V funds to repair the septic system. In the Town Manager's opinion the request must be presented at Town Meeting.

B. 17 Ship's Wheel Drive.

Mr. Harrington remarked that he has not had the opportunity to inspect the property located at 17 Ship's Wheel Drive. The Board continued discussion to the next Board of Health meeting scheduled on February 5, 2015.

2. Mobile Food Regulation – Draft.

Glen Harrington commented that he made a couple of changes to the Mobile Food Regulation. The changes were discussed and corrected with the Board.

Kalliope Egloff remarked that in her opinion she would like to have all mobile food vendors acquire CORI and SORI checks to protect the health and safety of the public. Massachusetts State Law requires all ice cream truck vendors to have a CORI and SORI check prior to obtaining a mobile food permit.

Lucy Burton made a motion that the Board of Health approve the Mobile Food Regulation as amended. Kalliope Egloff seconded the motion. The motion was unanimously approved.

ADDITIONAL TOPICS

None.

DISCUSSION

1. October 2014 Asher's Path Landfill Monitoring Report.

Burton Kaplan remarked that there are several monitored areas which indicate the findings exceed secondary allowable limits. Mr. Kaplan suggested the laboratory analysis that exceeds the maximum limits be reduced if there is nothing further that can be done. Mr. Harrington remarked that the Department of Environmental Protection must first approve the reduction in monitoring.

NEXT MEETING

The next meeting of the Board of Health is scheduled for Thursday, February 5, 2015, at 7:00 PM. As there was no further business, Lucy Burton made a motion to adjourn the Public Session Meeting of the Board of Health at 8:58 PM. Burton Kaplan seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Frances Boulos
Administrative Assistant
Mashpee Board of Health

attachments