

**Public Meeting
Provincetown Board of Health
Caucus Hall
September 21, 2006
5:00 p.m.**

Members Present: Jerry Anathan, Duane Gregory, Tom Gaudreau,
Ken Janson, and John Livingstone (arrived 5:12p).

Members Absent: None

Health Agent: Jane Evans

Health Inspector: Brian Carlson

The meeting was called to order at 5:00 p.m.

AGENDA

Public Comments

There were none.

New Business

Nancy O. Robsham

New Massage Therapist

She will be working at a spa located at 361 Commercial Street. Brian Carlson said that her paperwork was in order. Duane Gregory asked if we just have a photo or is it proof of identification. She would like all applicants to have photo I.D. put into their file.

Motion: Approve the new massage therapist license for Nancy O. Robsham.

Motion: Jerry Anathan Seconded: Tom Gaudreau Vote: 4-0-0.

Michael Wilson

New Massage Therapist

Mr. Wilson was late so a motion was made, seconded and approved by a vote of 4-0-0 to take his application "out of order" whenever he arrived.

Michael Wilson came in close to the end of the meeting and was heard at that time. He will be working at a salon at 361 Commercial Street. He did show his driver's license and a copy was made for his folder. John Livingstone asked him if he had any diseases that he hadn't disclosed? The answer was, "No."

Motion: Approve the new massage therapist license for Michael Wilson.

Motion: Tom Gaudreau Seconded: Ken Janson Vote: 5-0-0.

8 Holway Avenue

ACO Request

The applicants/owners, Charles and Elizabeth Welsh, presented their case before the BoH. Their property is currently being served by two cesspools. The owners would like to obtain an

Administrative Consent Order in lieu of installing a new septic system. Their septic was inspected and found to be in good working order; they are going to continue to use the system until the hook up.

Motion: Approve the request for an ACO for 8 Holway Avenue.

Motion: Ken Janson Seconded: Jerry Anathan Vote: 4-0-0.

John Livingstone arrived at this time - about 5:12 p.m.

580 – 582 Commercial Street

Title 5 variance

Reggie from Coastal Engineering presented the plan to the BoH on behalf of the owner, Gerald Giardelli.

Motion: Approval of the Title 5 with a deed restriction to be recorded at the Barnstable County Registry of Deeds limiting the number of bedrooms to the existing six and proof of recording provided to the Health Agent prior to issuance of the Septic System Installation Permit.

Motion: John Livingstone Seconded: Jerry Anathan Vote: 5-0-0.

Discussion

Transfer Station Protocol and Fees – Sandy Turner

Duane Gregory asked Sandy Turner what the protocol is on how people are charged. If they have curbside pickup then anything over 2 bags is charged at \$4 a bag. Sandy said she has no control if people have curbside pick-up and they bring in bags, too. The sanitation men can't keep track of who gets pick-ups and who doesn't. By having people come through that gate – we can't tell you whether they put out bags or not. Duane asked who are the residences with no curbside? Answer: condo units with more than 8 units have no curbside pick-up.

The DPW has a list by addresses for free dumping. If James Menangas is off for two days a week then we can't track by memory. Also Sandy told about confusing rules regarding inner areas of condo complexes who can't have curbside pick-up because it would promote a liability issue for the rubbish truck to enter the private property. The address list they use comes from the Assessor's Office. Trash is expensive to deal with. We don't charge anyone to recycle. No charge for plastic, cans, bottles, etc.

John L said, "From a health point of view – if people are here on vacation – what do people do with smelly garbage?" Answer, "Better have a nice neighbor or a private hauler. If they show up at the Transfer Station, then they're going to be charged."

Phil Gaudiano, a member of the audience, expressed how incensed he was by being charged \$4/bag and feels as a taxpayer, he should be able to occasionally take extra garbage to the transfer station.

Revised Tobacco Regulations

Motion: Approve the revised tobacco regulations.

Motion: Jerry Anathan Seconded: Tom Gaudreau Vote: 5-0-0.

Smoking at the VFW Hall

Motion: Postpone the discussion for a later meeting.

Motion: Ken Janson Seconded: Tom Gaudreau Vote: 5-0-0.

Approval of Minutes for August 10 and 24, 2006

Motion: Approve the minutes for the August 10th meeting (with attachments).

Motion: Jerry Anathan Seconded: Ken Janson Vote: 3-0-2 ab (TG & DG)

Motion: Approve the minutes for the August 24th meeting

Motion: Jerry Anathan Seconded: Ken Janson Vote: 5-0-0.

Any other business that shall properly come before the Board

Health Agent's Report

Jane presented the selectmen's agenda for the upcoming Joint BoH meeting on Monday. The BoH was last after several other joint meetings. The Selectmen are going to possibly change the way the agenda items can be heard at their meetings. If they do, that would be effective after October 1. The consensus of the Board is that they do not want to have to wait around while other, possibly lengthy, agenda items are being heard by the selectmen.

Motion: Postpone the joint meeting with the BoS until we can get a definite start time on their agenda.

Motion: Duane Gregory Seconded: Jerry Anathan Vote: 5-0-0.

The members were all asked to save their BoS packets for an eventual future meeting. At one time Cheryl Andrews was trying to have us set a sewer protocol meeting at a joint meeting in order to aid with timing for a special fall town meeting. Since that has been done there is no urgency for the joint meeting.

Richard Faust, the Assistant Assessor, reported to Jane Evans that Ken Weiss was in violation of his deed restriction at 60 Race Point Road, Unit 16. Jane had no choice but to investigate since a complaint was made. There is a woman and her 17 year-old son living in the unit. The woman reported to Jane that she knew nothing about a deed restriction. Jane observed the finished basement being used for sleeping purposes. There were e-mails of record from Mr. Weiss after hearing from his tenant about the inspection stating that was not how he rented her the unit and he would order her to vacate by September 30.

Duane disclosed that she was previously involved in a business relationship with Ken Weiss but is no longer, nor does her office presently represent Mr. Weiss as a real estate listing agency. Ken Weiss was not contacted to get his version of the situation. A Cease and Desist letter was sent to him on September 20. Since the original e-mail from Mr. Weiss was dated September 20, it is highly unlikely he had received the letter by then.

Duane expressed dismay with the assumptions in the letter that was sent and felt the facts may not have been thoroughly researched before the letter was sent. She explained to the Board that once a tenant takes possession of a property, the landlord can't just go in and look around to make sure things are the way they should be. She felt that Mr. Weiss wasn't given any opportunity to explain how this situation may have come about and perhaps the letter was sent too hastily and punitively due to pressuring from the Assessor's office and DRM. She wasn't clear who really was in violation, the Landlord or the Tenant. There was also no direct evidence of a signed lease. There is a real possibility she is a tenant at will. Duane offered to try to contact Mr. Weiss as soon as possible (since our next meeting is October 5th and he was going to have her vacate by September 30th) to assure him that the Board in no way wants to see this woman and her son evicted from this apartment, only that the basement not be used for sleeping purposes.

The Health Agent was quite upset, since she certainly had no intentions of seeing this turn into an eviction situation. She felt the tenant was an innocent in all this.

Jerry Anathan said she thinks it's a good idea to have Duane, as Chair of the BoH, contact Mr. Weiss to explain that there may have been an error in how this was handled procedurally. She wants to fix the problem. Dr. Livingstone said we should think about having a regulation regarding deed restricted property that may be rented. He felt there should be a full disclosure to tenants about deed restrictions.

Ken Janson said the basement windows are not legal egress windows which is why it should not be used for sleeping purposes. It is a safety issue, as well as a Title V flow issue. Jane felt that in the future the bedroom restriction should be required in a lease. Maybe the wording on the actual deed restriction needs to change.

Regarding the Chairs of the Zoning and Planning Board attending our next meeting to discuss our procedures for assigning flow, Jane will thoroughly research our regs and specifically research the properties they mentioned in the letter sent to the Chair. She hopes to have them in our packets a few days before the meeting so we all have adequate time to review.

Health Inspector's Report

Brian Carlson citing a Supreme Court Ruling that BoH may regulate no smoking restrictions in private clubs. There is an outcry from some of the members of private clubs which are exempt from smoking restrictions, i.e. Masons, K of C, etc.

Brian also heard from the Chief of Police about emergency preparedness training. It is hoped that all public officials should become trained.

Someone e-mailed Brian & said his partner acquired Lyme's disease while he was here.

Board Members' Statements

Ken Janson, regarding the attendance of the chairs of the ZBA and Planning, said that the important thing is what our regs say – so that has to be part of the package. Jane replied that our BoH regs are for health department purposes. The Building Commissioner has the final decision on what is permitted and not the Health Agent. Ken Janson felt that we should have Doug Taylor at this meeting, too. He plans to attend.

Adjournment happened at 6:40 p.m.

Respectfully submitted,

Evelyn Gaudiano

E. Rogers Gaudiano

Approved by _____ on _____, 2006.
Duane Gregory, Chair