

Public Meeting

April 23, 2009
Grace Gouveia – Room 10
5:00 p.m.

Members Present: Duane Gregory, Ken Janson, and Mark Phillips.

Members Absent: Jerry Anathan and John Livingstone (both excused)

Staff:

Russell Braun	Bldg. Comm.
Brian Carlson,	Health Inspector
Jane Evans,	Health Agent
David Gardner	Ass't Town Manager

AGENDA

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

Public Comments

There were none.

Old Business:

415-417 Commercial Street

Appeal Health Agents Decision – Bedroom Count

Attorney Lester J. Murphy, Jr. presented the appeal representing Harriet Hobbs, the Trustee.

Jane Evans did a recap of the case – she had initially done a walk-thru when the realtor wanted a bedroom count. She determined there to be one bedroom in each of the three units in the main house and one bedroom in the cottage. On 11/25/08 Duane Gregory and Jane Evans went back to the property and did another walk-thru.

The attorney said that the Building Commissioner had walked-thru the larger of the two structures. Russell B. determined there were 3 units in that building; he did not have an opinion in writing but he will do that for the record.

The attorney said that the “historic use” and the assessor’s records should be enough for the Board to allow the 7 bedroom count. In remodeling, they will be able to adapt the space to conform to present code. The Assessor’s records state there are 5 bedrooms in the larger building and 2 bedrooms in the cottage. It was noted that the assessor’s records are very often not correct as they often only have what people told them for their records..

Jane Evans said it would be a disservice to other people who have been denied in similar circumstances.

Motion: Move to uphold the health agent’s decision with the exception of determining pre-existing two bedrooms in the 3rd floor unit of the main house. The small bedroom not to be used for sleeping purposes until a legal egress window is added. The cottage is one bedroom. The lower level and first level of the main house is a combined 1 bedroom residential plus retail space. Also a written determination from Russell Braun is required for the health file verifying the total number of residential units. Total bedrooms is 4 in the main house (3 units) and 1 in the cottage, plus retail space.

Motion: Ken Janson Seconded: Mark Phillips Vote: 3-0-0.

New Business:

66 Commercial Street

Request for ACO

Motion: Move to grant an ACO for 66 Commercial Street.

Motion: Ken Janson Seconded: Mark Phillips Vote: 3-0-0.

3 Garfield Street

Request for ACO

Motion: Move to grant an ACO for 3 Garfield Street.

Motion: Mark Phillips Seconded: Duane Gregory Vote: 3-0-0.

John Livingstone requests to be appointed as a liaison from the Board of Health to the Board of Selectmen for the purpose of discussing the following:

1. Hearing health risk posed by involuntary exposure to noise levels above medical and industrial guidelines.
2. Health risk posed by involuntary exposure of young children to infectious dog excrement.

Due to Dr. Livingstone’s absence this item is continued until the next Board of Health meeting when Dr. Livingstone is present.

Deputize the following people to act on behalf of the Board of Health in the enforcement of Board of Health Regulation Part XIV – Habitations for Rent:

Licensing Agent – Darlene Van Alstyne

Building Inspector – Justin Post

Motion: Move to deputize Darlene Van Alstyne and Justin Post to assist in the administration of the Board of Health “Habitations for Rent” regulation.

Motion: Duane Gregory Seconded: Ken Janson Vote: 3-0-0.

Discussion

Proposed Hearing Loss Prevention Regulation

Due to Dr. Livingstone’s absence this item was continued until the next Board of Health meeting.

Approval of Minutes for April 2, 2009

Motion: Move to approve the minutes of the April 2nd meeting.

Motion: Ken Janson Seconded: Duane Gregory Vote: 3-0-0.

Any other business that shall properly come before the Board

Linda Balestrieri, a property owner, had a question pertaining to the “Habitations for Rent” regulation. She requested that the Board of Health accept those who had registered and paid last year for a renters certificate as the first of the three years that the certificate is now good for. The Board had a great deal of discussion on the possible dilemma and the following motion was made to give town staff some direction in implementing the new regulation:

Motion: The Board of Health will grandfather Rental Certificates and the associated fees up to 1 year prior to the May 1, 2009 effective date of the new Board of Health “Habitations for Rent” regulation. During this one year period, rental certificate expiration dates would be determined by taking the original rental certificate application date and adding 3 years to it. Due to changes in the Application to Rent the owners will still be required to complete and submit the new application.

Motion: Mark Phillips Seconded: Ken Janson Vote: 3-0-0.

David G. said that we will be sending out the new tax bills during the 3rd week in May. Within the tax bill there will be an enclosure talking about the new Habitation for Rent regulation so that people will be informed.

Health Agent’s Report

Jane said that she’s really busy right now. She’ll be doing another class on grease management. The Surf Club has a new floor. Jane went through the Martin House with Neal Kimball and explained to him what was necessary to bring the restaurant up to code. .

Mark P. asked about the police station sewerage back-up. Jane went over and they had cleaned it up properly. She cited the things that had gone wrong and feels they have now been rectified. Jane will follow up on the situation.

Health Inspector’s Report

Brian C., along with Jane and Justin, did a site visit to the Old Colony and there will be a suspension of the Common Victuals License. The owner either isn’t able or doesn’t want to correct the problems found; he wants the license suspended.

Brian is still working on the tenant issue and is doing regular visits to her. She doesn’t want to accept help and the landlord will probably evict her. Duane suggested a conservatorship but the tenant refuses the suggestion.

Brian said he’s also doing rabies baiting in May.

Board Members’ Statements

Duane Gregory said that she is disappointed in the comments made by a couple of the Board of Selectmen (BoS) members during their review of the fees associated with the Habitations for Rent regulation. The board held a public hearing and subsequently took a lot of things into consideration before finalizing the regulation. There was a lot of time and energy spent on this and the legal process was carried out quite properly. For Austin Knight to say that the Board of Health failed the Town is an insult to the entire board and for Mary Jo Avellar to echo that and further suggest that Duane has a

conflict of interest is even more disappointing. There was a written determination by the appointing authority (BoS) that any possible financial interest was not significant and it was signed by Ms. Avellar.

Ken Janson was very sorry to hear them say this. He thinks they're totally off base. Austin's concern was totally about the money.

Mark Phillips said if they wanted to discuss the regulation, they should have come to the public hearing.

The meeting adjourned at 6:45 p.m.

Respectfully submitted,
E. Rogers Gaudiano

Approved by the Board of Health on _____, 2009

Duane Gregory, Chair