

Terri A. Guarino
Health Agent

TOWN OF BOURNE BOARD OF HEALTH

RECEIVED
2017 JUL 20 AM 9:11
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MINUTES June 14, 2017

Members in attendance: Kathleen Peterson, Chairperson; Galon Barlow Jr.; Don Uitti; and Kelly Mastria

Support Staff in attendance: Terri Guarino, Health Agent; and Meghan McLean, Secretary

MEETING WAS CALLED TO ORDER AT 7:00pm

Ms. Peterson asked if there were any audience members filming at this time. Mr. Gary Maloney, citizen of Buzzards Bay, disclosed that he would be filming this hearing on his person digital camcorder.

1. **Open Meeting Law Complaint filed June 1, 2017 by Gary Maloney Jr.—Review complainant's allegations in regard to Board of Health meeting on May 31, 2017. Discussion and possible vote on remedial action if necessary, and delegation of responsibility to respond to complainant.** Ms. Peterson said that there are two options in response to these allegations. The Board can try to resolve the matter or they can delegate responsibility to someone to respond to the complaint within a timely manner, which she believes is 7 days from this evening. Ms. Peterson stated that the Board will discuss the complaint in the open meeting, and that they are not obligated to take public comment and will not be taking public comment on this item this evening. She asked the Board if there were any questions as to how the item in question was handled. Ms. Mastria stated that she is very comfortable with how the situation was handled. She explained that the Board did not want to have to close the business, and being that it was within the scope of the Chair to amend the agenda, and did so in order to work with the business owner. Ms. Peterson stated that a vote needs to be taken to address how to resolve this complaint, or take action to correct which would require a response to be drawn up. The Board may appoint anyone to draw up the response whether it be Ms. Guarino, Town Administrator Mr. Guerino, or the Town Council. Mr. Barlow stated that because he recused himself from the meeting in question, he feels that if he offers his opinion on this complaint that it would not be fair. Ms. Peterson agreed and stated that there was a quorum and that he did not have to participate. Ms. Mastria stated that this is the first time she has seen a complaint like this and she is not sure how to respond. Ms. Guarino stated that any remedial action, if necessary, can be taken. The complainant outlined a few potential remedial action responses at the end of his complaint. She said that in her personal opinion, the amendment to the previous agenda was done as an emergency and that remedial action would be appropriate or necessary for this instance. Responding in a timely manner can be done in writing by Ms. Guarino herself, or it could be directed to Town Council or whomever is able to submit that response. **Ms. Mastria made a motion for Ms. Guarino to respond to the complaint, with the guidance of the Town Council, submitted by Gary Maloney Jr. on June 1, 2017. Mr. Uitti seconded, Ms. Peterson was in favor and Mr. Barlow abstained.**

2. 354 Circuit Ave—CONTINUED from May 17, 2017-- Zenith Consulting Engineers, LLC on behalf of The Estate of Carol S. White—Discuss and possible vote on variances and local upgrade approvals requested from the following provisions of 310 CMR 15.00 Title V and Local Regulations:

- a. Setback of SAS from 10' to 5' to the property line, and 20' to 10' to foundation or crawl space.
- b. Setback reduction of septic tank from 10' to 5' from foundation or crawl space.
- c. Reduction in distance of the pump chamber from 10' to 5' of the property line.
- d. Reduction of the septic tank, treatment unit, and pump chamber inlet and outlet invert elevations from 12" above the high ground water elevation to below water table.
- e. Variance to allow the construction of a soil absorption system in fill without a 5' lateral over dig with a <50% reduction in size in accordance with the standard conditions for secondary treatment units approved for remedial use dated November 30, 2016.
- f. A 1.87' variance from the 5 foot vertical separation to groundwater.
- g. A 100' variance from the Bourne Board of Health 150 foot Setback Regulation.
- h. Variance from the Bourne Board of Health Regulations that require a hydrogeological study for all leaching facilities within 100' of a salt marsh/wetland.

Ms. Peterson asked Mr. Jamie Bissonette, engineer with Zenith Consulting Engineers, to understand that he was being filmed. He understood, and stated that roughly a month ago there were a few abutters concerned about placement and the Board asked him to stake out the leaching field at the property. They subcontract their Property Surveyors who return to the site to stake out property corner. In the process of doing this, they found a broken bound about a foot and half down that changed where the property lines were located, shifting things about 2 feet. Revised plans were created and submitted to the Health Department with an additional variance being a reduction in distance of the pump chamber from 10 feet to five feet of the property line. That being said, the leaching field has also been moved further away from the abutter's property. He recalled that the abutter stated at the last hearing her concern of pulling into her driveway and opening her car door into the leaching field. He stated that the closest distance from the retaining wall to the edge of her driveway is a little over five feet, giving him no reason to anticipate that she should have any issues with the septic system placement. Ms. Mastria did a site visit and explained that the retaining wall will not be mounded. The wall will be straight up and down and there shouldn't be any run off issue into abutter's driveway. Ms. Peterson asked if Mr. Bissonette had met with the abutter since, to which he responded that he has not. Ms. Peterson asked Mr. Barlow if he had any questions. Mr. Barlow, as well as Mr. Uitti, stated that they too went on a site visit and the project seemed better than they had originally perceived. Mr. Bissonette said to construct the system, it would need to be staked out as well. The broken bound was a surprise to the surveyor, so they planted a wooden stake labeling that the bound was broken about a foot and a half down so others would be aware. Ms. Peterson stated that there was some opposition during the last meeting, so she suggested that Mr. Bissonette try to keep in touch with the neighbors and keep them involved with the process. She referred to a miscommunication regarding a property in the past, explaining that not having the right communication lead to abutters believe that the foundation of a proposed dwelling was a third story, and that there was much confusion that required a hearing before the Board to address. Mr. Bissonette stated that there are good working relationships with the neighbors and this should not be a problem. Ms. Peterson asked for questions from the audience. Mr. Maloney asked if a foundation was classified as a story to a dwelling. Ms. Peterson stated that she was merely giving an example of communicating and that this question was irrelevant to the topic of discussion. **Ms. Mastria made a motion to grant Zenith consulting the following variances: A setback of SAS from 10' to 5' to the property line, and 20' to 10' to foundation or crawl space; A setback reduction of septic tank from 10' to 5' from foundation or crawl space; A reduction in distance of the pump chamber from 10' to 5' of the property line; A reduction of the septic tank, treatment unit, and pump chamber inlet and outlet invert elevations from 12" above the high ground water elevation to**

below water table; A variance to allow the construction of a soil absorption system in fill without a 5' lateral over dig with a <50% reduction in size in accordance with the standard conditions for secondary treatment units approved for remedial use dated November 30, 2016; A 1.87' variance from the 5 foot vertical separation to groundwater; A 100' variance from the Bourne Board of Health 150 foot Setback Regulation, and a Variance from the Bourne Board of Health Regulations that require a hydrogeological study for all leaching facilities within 100' of a salt marsh/wetland that are illustrated on the revised plans submitted to the Board of Health on June 9, 2017. Mr. Barlow would like to amend the motion to include "contingent upon the approval of the Conservation Commission." Ms. Peterson included that the testing must be submitted to the Health Department, following the Town of Bourne's standards. Mr. Uitti seconded, all were in favor and the vote was unanimous.

3. Scenic View Motel—CONTINUED from May 31, 2017-- Discuss and possible vote on noncompliance with Board of Health Hotel, Motel, and Guest Cabin Regulations, and orders dated January 13, 2017, February 21, 2017, and May 17, 2017. Skip Barlow recused himself.

Ms. Guarino stated that since our last meeting we have received the written pest control contract from Griggs and Browne. She has had several discussions with the owner regarding the difficulty he has been experiencing retaining a contractor to repair the roof. He did indicate that he has found someone to do these repairs, but we have not yet received a written contract. Ms. Peterson stated that the Board had asked this of Mr. Waitekunas at the last Board of Health meeting to be contracted within fourteen days and we still do not have this. Ms. Guarino said that amongst her conversations with Mr. Waitekunas, he stated that he was taking this matter seriously and he is trying to find someone to do the roof. Certainly since he has waited so long to do these repairs it is posing some unique challenges, and considering the state of the building, he will need to obtain a skilled contractor to do the work. Ms. Peterson suggested that Mr. Waitekunas be given an additional 48 hours to obtain the contract, and start assessing a fine each day beginning on Friday June 16, 2017 at noon. He has had more than enough time, including the full fourteen days. He should be putting in writing who he is contacting and the work he is taking to achieve these goals, which he is not. She explained that it is not fair to other establishments who are in similar situations who find time to get the estimates in and work with the Board. Ms. Mastria asked what the cost of the fine is each day. Ms. Peterson clarified that the fine is \$300 per day. She asked Ms. Guarino if she felt that this order was appropriate. Ms. Guarino agrees that this would be a reasonable fine. She thinks he should be able to get that contract to the office by Friday. The past few times they spoke, he said he would submit the contract by today and he has not. Ms. Peterson said that if Mr. Waitekunas can't get someone to start the job, he at least needs a plan to correct in the meantime. The Board had asked for the tarp to be replaced during the last meeting, but it has still not been done. She asked if the audience had any comments. Mr. Maloney asked if the seven and fourteen days that were given were business days or calendar days. Ms. Guarino clarified that the timeframe was seven and fourteen calendar days. Ms. Peterson stated that when dealing with potential health hazards, every day is considered a day. **Mr. Uitti makes a motion to give Mr. Waitekunas 48 hours to secure a contract, and if that is not completed then he shall be fined \$300 per day starting Friday June 16, 2017. Ms. Mastria seconded this motion for Scenic View Motel, Ms. Peterson was in favor, and Mr. Barlow abstained.**

Mr. Barlow rejoined the meeting.

4. Approve the Minutes— Discuss and possible vote to approve the minutes from the previous meetings dated May 17, 2017 and May 31, 2017. Ms. Mastria made a motion to postpone the approval of the minutes until the next tentative meeting, which Ms. Peterson would like to be scheduled on July 19, 2017. The Board was not in receipt of them until 4:15pm this evening, and

caused the members to be unable to review them prior to the meeting. Mr. Uitti seconded the motion, and all were in favor.

Mr. Uitti made a motion to adjourn the meeting. Ms. Mastria seconded the motion. All were in favor, and the meeting adjourned at 7:22pm.

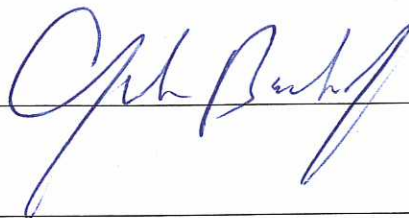
Taped & Typed by Meghan McLean, Secretary

Kathleen Peterson



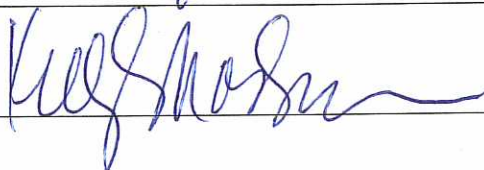
Stanley Andrews

Galon Barlow Jr.



Don Uitti

Kelly Mastria



cc Board of Selectmen/Town Clerk