**TOWN OF BOURNE**

**BOARD OF HEALTH**

**24 Perry Avenue**

**Buzzards Bay, MA 02532**

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**MINUTES**

**June 11, 2014**

**Members in attendance: Kathy Peterson, Chairman; Stanley Andrews, Vice-Chairman; Donald Uitti, Secretary; Galon Barlow; and Kelly Mastria**

**Support Staff in attendance: Cynthia Coffin, Health Agent and Terri Guarino, Health Inspector**

**Meeting was called to order at 7:00 P.M by Chairman Kathy Peterson.**

1. **14 Canonicus Ave- Bracken Engineering for Richard and Janis Shepherd- Request to amend site plan of record to include pressure distribution per request of Health Agent -** Ms. Coffin stated that Mr. Basinski would not be present for this item. She told the Board that Mr. Basinski had not included pressure distribution on the plan that the Board had previously approved and had resubmitted an amended plan for the Board’s approval. The Board always requires pressure distribution when the Board approves an alternative for nitrogen removal. Ms. Peterson stated that she would like to thank Bracken Engineering for coming back to the Board with the amendment. **Mr. Andrews made a motion to accept the revised plan by Bracken Engineering for 14 Canonicus , sheet one and sheet two, dated June 5, 2014 and received by the Board of Health on June 10, 2014. The new plan reflects the addition of pressure distribution. Mr. Barlow seconded the motion. It was a unanimous vote to approve the amended plan.**

1. **4 King Arthur Way – Ian and Belinda Rubinstein – Appeal of the Board of Health order dated May 28, 2014 to remove roosters –** The Board was presented with additional documents that the Board members took time to read. Ms. Peterson asked if there were any green cards for this hearing but Mr. Andrews stated that at this point it is just an appeal of the Board of Health order and no certified notifications are required. Mr. & Mrs. Rubinstein introduced themselves as did their two children. Present with them was Mr. Knieriem, President of the Cape and Islands Farm Bureau, State Director of the MA Farm Bureau and a member of the US Farm Bureau. He stated that he was at the meeting to represent and help the process. He would like to help the Rubinsteins and the Board of Health work through the regulation that was adopted. Ms. Coffin gave the Board members an overview of the situation. She said that in 2013 the office did receive a complaint about the crowing of roosters at this property. She and the Health Inspector at the time, Zack Seabury, visited the property and they did see that there were chickens on the property and there appeared to be one rooster that crowed when they went into the side yard but that the crowing was very low in volume. Mr. Seabury left and Ms. Coffin thinks that she spoke to the owner and told them that they should keep the rooster in so that it would not crow. The Board of Health regulation outlawing roosters had not been approved at that time. She did not receive any further complaints and she did not take any other action. At the end of the year when she was doing the Animal Inspections, she did return to the property and saw the coop but did not see any chickens and just assumed that there weren’t any on the property any more. Then on May 21st the Board received another complaint. Ms. Guarino did go to the property and did see chickens but was not sure if any were roosters. Ms. Coffin suggested writing an order for the Rubinsteins to remove any roosters on their property as per the regulation. The order was sent and then the Rubinsteins submitted a letter appealing the order. The complainant also submitted another letter and there were other submissions from the Rubinsteins. Ms. Coffin again stated that the chickens and roosters were on the property before the Board of Health adopted the amendment. Ms. Guarino agreed that Ms. Coffin presented the facts accurately. Ms. Peterson stated the Ms. Mastria went by the property on her way to the meeting and she would like her to give a report. Ms. Mastria stated that she went to the site and found a very small coop. She saw three chickens. She said that the chickens are in the back yard furthest away from the complainant’s address. Ms. Mastria said that Mr. Rubinstein pointed out that one of the chickens was a rooster. She felt that the coop was nicely made and clean. Mr. Knieriem stated that the chickens were bantams. Ms. Mastria stated that the chicken coop is away from the house and that the property abuts the woods. She stated that the complainants are on the right side of the property and that the coop is on the far left corner of the yard. She said that there is a wooded area between the two yards. Mr. Andrews stated that in the complaint there was a reference to a violation since the chickens were less than 50 feet to a place where milk handled but that he believes this is a misinterpretation of the regulation and he asked if Ms. Coffin agreed. He stated that this section of the regulation did not mean a residential kitchen area but an area where there is a milking parlor area. He said that the complainants should be notified that this is a misinterpretation of the intent of that section. Ms. Mastria also said that Mr. Rubinstein had told her that the chickens are not let out of the coop until about 8:30 in the morning and they go in at dusk. Mr. Rubinsteins had pictures of the coop on his laptop. Mr. Andrews asked him if he could present a digital copy of the pictures for the office file. Mr. Barlow asked if the chickens were ones that were shown at a fair. Mr. Andrews feels that the Rubinstein children do a lot of hard work to show the birds. Mr. Uitti made a statement that he wondered if the complaint was totally accurate. Mr. Rubinstein asked to see a copy of the complaint. Mr. Rubinstein showed the Board’s more pictures of the coop. Mr. Barlow asked what the Board is being asked to do. Ms. Coffin stated that the Board has the new regulation which states that roosters are not allowed until a property has 7 acres and there are roosters for raising chickens. The Rubinsteins were sent an order to remove the roosters and subsequently appealed that order. Right now they are before the Board because of that appeal. If the Board chooses to allow them the appeal then she would suppose that the Rubinsteins would have to formally request a variance to sections of the regulation. They would have to notify the abutters in order to have the variance hearing. Mr. Andrews asked how long the Rubinsteins have had the roosters and if they had them before the Poultry regulations were amended. They answered two years, which was before the regulation amendment. Ms. Coffin said that she and the Board had decided that since they knew that people probably had existing roosters at the time that the regulation prohibiting roosters was adopted, that the office would not go out looking for roosters but would address the issue if complaints on a particular property came in to the office. Ms. Peterson said that she feels that the best thing for the Rubinsteins would be for them to formally request the variances necessary. The Board has to consider the complaint and the nuisance issue. She would have liked to have had the complainant appear hear tonight. Ms. Coffin did state that complainant has some health issues and she believes that is why no one is here. Ms. Peterson would have liked more evidence such as a tape of the offense. Ms. Mastria said it is always best if neighbors can work with neighbors to reach an agreement. Mr. Knieriem stated that the Rubinsteins have other issues with the complainants. He believes that the Board of Health regulation should have wording that everything is site specific. Ms. Coffin said that the appeal process is right in the regulation itself. Mr. Knieriem said that he is here because it is only one rooster and he supports the children raising them for showing. He stated that there are a lot of other roosters in Bourne. Ms. Mastria asked if the Board could just dismiss the order. Ms. Coffin said that she thinks the best process would be for the Rubinsteins to request a variance or variances to the regulation and have a formal hearing. Ms. Peterson agreed. The Board seems to be willing to consider the request for one rooster. Mr. Knieriem stated that if in the future the family is in a situation to want more roosters they would have the right to come back before the Board. They could come back with a proposal for soundproofing of the coop. Mr. Barlow stated that the Board would like to just look at this one issue that is presently before the Board. Ms. Coffin stated that the next Board meeting would be June 25th. Abutter notifications would have to go out by June 16th and the proof of mailing receipts should be retained to present to the Board. At the meeting any abutter would be able to comment on the variance request. Mr. Rubinstein again stated that there could be a proposal to sound proof the coop and to agree that the chickens would not be let out till 8 am and would be back inside by 7 pm. Mr. Barlow again said that the present issue needs to be discussed first. Ms. Coffin described what needed to be done to request a variance and the time frame for the submittals. **Mr. Andrews made a motion to continue this item to June 25th and at that time the Rubinsteins will need to request a variance to the poultry regulation requirements. Mr. Uitti seconded that motion. It was a unanimous vote to continue this item. Mr. Mulvey, in the audience, mentioned a previous hearing before the Board of Health about a rooster on Little Bay Lane.**
2. **Discussion and Possible Vote – Regarding policy and guidelines for requests for reduction of Alternative Maintenance Inspections – continued from**

**April 9, 2014 –** Ms. Coffin told the Board members that she had drafted a policy solely for purposes of discussion. Part of the policy is what the Board is already doing when someone requests a reduction in the maintenance. Mr. Andrews would like to add that if the property has a change of use or change in ownership then any approval of reductions in maintenance inspections would be void. **Mr. Andrews made a motion for a quick 5 minute recess as the Rubinstein boys asked if they could show their rooster to the Board. Ms. Mastria seconded the motion. It was a unanimous vote. The Board recessed four five minutes and then reopened the meeting at 7:55 P.M.** The Board members discussed that they really felt that any requests for a reduction in the maintenance inspections should be handled on a case by case basis. They agreed that no action need be taken on the policy at this time. **Ms. Mastria made a motion that the Board deal with requests on a case by case/ site specific basis. Mr. Uitti seconded that motion. It was a unanimous vote.**

**Ms. Peterson told Ms. Coffin that she wanted two items added to the next agenda. One was to discuss and possible vote to remove Mike Lanan as the Board of Health representative on odor control issues. The second item will be to discuss Attorney Troy’s opinion on site assignment particulars that she will present to him tomorrow.**

**Mr. Andrews made a motion to adjourn. Mr. Uitti seconded the motion. It was a unanimous vote. The meeting adjourned at 7:57 P.M.**

Taped and typed by Cynthia A. Coffin, Health Agent

Kathleen Peterson \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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cc Board of Selectmen/Town Clerk