



**TOWN OF BOURNE
BOARD OF HEALTH
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Cynthia A. Coffin,
Health Agent

**MINUTES
SPECIAL MEEETING
August 3, 2011**

Members in attendance: Kathy Peterson, Chairman; Don Uitti; Galon Barlow

Support Staff in attendance: Cynthia Coffin, Health Agent; Carrie Furtek, Health Inspector; Melissa Chase, Secretary

Meeting was called to order at 7 pm by Chairman Kathy Peterson.

- 1) 62 Old Plymouth Road: request by tenant Gail Spencer for special hearing before the Board regarding housing issues at 62 Old Plymouth Road**

Ms. Peterson opened the meeting expressing her unhappiness with Ms. Spencer's attitude taken toward the Board of Health. Ms. Peterson felt she could honestly say that the Board of Health (BOH) has bent over backwards for this tenant and other renters. She again expressed her dissatisfaction with the tone taken towards the office when it was known that the Agent and Inspector had put many hours into the case. Ms. Peterson wanted it known upfront that she felt the accusations made toward the Board of Health were erroneous and uncalled for. Ms. Peterson stated she could understand the tenants' frustration with their home situation, but took exception to the accusations against the Agent and Inspector. Ms. Peterson asked for Health Inspector Carrie Furtek to bring the Board up to date on the housing issues at 62 Old Plymouth. She also addressed the legal representative of the Bank, asking for an explanation as to why the Bank had not yet fixed this house and the issue was once again in front of the Board. The tenant would then be allowed to express what she believes to be incomplete. Ms. Spencer asked to respond to Ms. Peterson. She stated that under State Sanitary Code under rule 14850, she has a right to a hearing. Ms. Peterson agreed, saying that was why this meeting was being held. Ms. Spencer said if she felt aggrieved by the failure of any inspector or any other personnel of the Board of Health upon an inspection to not find violations where they exist, or to not cite them, or to clear them when they still clearly exist; that is why she asked for this hearing. Ms. Peterson agreed, saying again that was why this hearing was being held and that Ms. Spencer would be satisfied this evening. Ms. Peterson also wanted to add that, as the hearing progresses, there would be shown many instances in the minutes from past BOH meetings that Ms. Spencer was personally asked by the Chairman, as well as other members of the Board, if she (Ms. Spencer) was satisfied and she had stated on record that she was. Ms. Peterson realizes that the tenant is not satisfied **now**; but, she questioned how Ms. Spencer can say that the Board did not take the issues seriously, when she stated that she was satisfied with the work that was

completed. Ms. Peterson addressed Ms. Furtek, asking for a complete update, from the first violations and the date of correction after the Board heard it. Ms. Furtek stated that she first received a call of complaint on October 22, 2010, and made an appointment at 3pm for an inspection. She inspected the property and sent a letter on October 29, 2010. There were several issues (which are on record as well as in the Aug 3 Board agenda packets). Another letter was sent on November 1, 2010 to Ablitt/Scofield, and again on November 16 with confirmation of delivery (Nov 18, 11 am). There was no response. December 7 a letter was sent to Mr. Scofield stating that the tenant had not received any notification of intent to correct the violations, and that if the violations were not corrected (or at least started) by December 31, 2010, there would be no choice but to put them on the agenda. Ms. Furtek stated that she believed at that point that Ms. Spencer sent a letter to the BOH that was received January 7, 2011, stating that she was writing regarding violations from the acquisition of the property. Right after receiving this letter, Ms. Furtek's had her first contact with TenantAccess (Rachel), who put her in contact with Senior Code Compliance Officer Danielle Hernandez from Field Asset Services--Code Compliance, Fines and Liens. Some issues were fixed; Ms. Furtek did a re-inspection and a letter was written on January 25, stating that many of the issues were fixed. Ms. Peterson interjected, stating that on January 19, the BOH had a meeting in which Ms. Spencer was asked if she was comfortable with living in the home while the rest of the repairs were done; the minutes reflect that Ms. Spencer stated yes. One of the things agreed upon with the contractor was the issue of peeling paint on the front of the home, which was to be remedied by power washing and repainting. Ms. Peterson asked Ms. Furtek if that issue was on the first report. Ms. Furtek said it was, and had originally had concerns of lead paint, but, after ascertaining that there was not a child under 6 residing in the home, felt that the peeling paint was no longer a health issue. Ms. Furtek has subsequently had recent contact with the State Department of Public Health (DPH) and was told that while lead paint may not be a concern, excessive peeling paint can be construed as a housing violation. Ms. Furtek stated that she originally did not follow through on the peeling paint because she didn't feel it was an issue because there was no child under 6 residing in the home. With the recent information from the DPH, she has since sent a letter to rectify the situation. Ms. Peterson stated again that according to record, Ms. Spencer was comfortable living there. Ms. Peterson asked for confirmation of the following needed repairs as noted in a letter on January 25: front door threshold was rotting; second window pane in the basement has an opening; and the screens for the living room and the second bedroom were ripped; and that was all that was in need at that point. Ms. Furtek confirmed. At the February 2, 2011 BOH meeting, where it was discussed that some of the items (door and threshold) had been ordered by Ms. Hernandez at Code Compliance, which took about 2 months to arrive due to special order issues. Ms. Peterson stated (according to the minutes) that Ms. Spencer was asked again at this time if the house was habitable and she stated yes. Ms. Peterson stated that she was trying to point out that the Board of Health office and Board members has taken everything that the tenant has said very seriously and that it was believed that all parties were working together on the same page. On Feb 2, a motion to continue for 3 weeks was made, and this is the time frame where it "all went bad." Ms. Furtek stated that at this point she was emailing Ms. Hernandez, asking for her to send a work order for the door and window, which could not be supplied. There was some miscommunication between

all parties, which Ms Furtek stated was unfortunate. However, when an item was fixed, she would re-inspect the property. Ms. Peterson asked what kind of rodent was in the house; Ms. Spencer stated it was a squirrel in the attic that has been there since April. Ms. Furtek stated that she was told that the squirrel was taken out of the attic. Ms. Spencer stated that this was the day that she arrived at the property when Ms. Furtek and Mr. Larry Maynard (contractor at the property) were conducting an inspection without her present. Ms. Furtek stated that the tenants were not, at this point, living at the property, and Mr. Maynard was authorized to be on the property; he was the one that requested the inspection. Ms Furtek stated under inspection code 410.820: *all interior inspections shall be done in the company of the occupant or the occupant's representative*. She felt that Mr. Maynard, since he was authorized to enter the property and had access keys, fit that requirement. Ms. Spencer argued that he in no way represents them as occupants since he is hired by and paid by the owner of the property. Health Agent Coffin stated that she had spoken with Paul Hunter from the State DPH, and was told by him that because the tenant was, at that time, not residing at the property, the contractor had the right to let the BOH in to do an inspection. Ms. Spencer says she should have been notified of the inspection. Ms. Furtek stated that the Mr. Maynard wanted an inspection before he left the property, and she was able to quickly stop by to ensure that everything was done properly. Ms. Spencer believes that Ms. Furtek did not follow that code parameters. Ms Furtek did another inspection on the property regarding a hole in the roof; at this inspection, she found a new violation. She wrote up a letter about the roof on March 9 and sent it out. On March 24, Ms. Furtek send out a fine letter, stating that because the Board had determined at its March 23 meeting to impose a \$100/day from that date until the date that the issues of the original violations notice were fixed. Another inspection was done by Ms Furtek on April 29, with electrical and basement issues believed by her to have been resolved (fixed lighting fixtures, window well covers to prevent leakage of water into the basement, sealing of exterior of bulkhead area to prevent leakage of water into the basement). She told tenants if there were more issues of water leakage to contact her so she could witness and document for repair. Mr. Storer (tenant) stated that he had pictures from the rain the night before showing the water coming into the basement from the bulkhead and the walls and around the sump pump. Ms. Spencer claims that every time the BOH agent/inspector have been in the cellar, it has been moist or wet. Ms. Peterson asked for the pictures to be printed and brought to the BOH office as new issues, and these would not be regarded for the issues already present to the Board. Ms. Furtek felt that at that point, the fines against the owner should be stopped. There is a letter dated May 19 from Ms. Spencer saying that she felt excluded from the meeting regarding the fines. Ms. Coffin said that the office accepts responsibility for the oversight; it was unintentional. Ms. Peterson stated that the Board was within its rights to issue the fine. Ms. Peterson stated that, at that point, the property owner had fixed everything they were originally asked to repair. Ms. Spencer stated that there was still a window and a screen that she was waiting on for repair/replacement since January. Ms. Furtek asked if Ms Spencer was referring to the storm window. Ms Spencer said yes. Ms. Furtek asked if the windows had been repaired, and pointed out that storm windows are for older windows that are not double paned glass. There was unresolved debate between Ms. Spencer and Ms Furtek as to whether or not the Inspector had actually seen and cited the missing storm window. Ms Peterson then addressed the other audience member who stated her

name and occupation as Rachelle D. Willard, attorney with Ablitt/Scofield, representing Deutsch Bank, the owner of the property. Ms. Peterson asked why it has been so difficult to resolve the issues at hand and getting a representative here. Ms. Willard responded that her office conducted the foreclosure process on the property for her client, Deutsch Bank. In November of 2009 when the foreclosure sale was completed, at that point, her representation of Deutsch Bank was completed as well. Ms. Willard stated that her office became re-involved in the case in early July 2011. There was other representation before that, and she could not speak for the actions of previous counsel. Ms. Peterson asked what Ms. Willard was authorized to do. Ms. Willard is authorized to find out what is going on at this point. Her office was notified in July that repairs were completed as previously cited. The Bank had the occupants residing outside the home paid for by a stipend. On July 14, the tenant moved back into the dwelling, as all of the violations had been cleared. After she moved back into the home, there were new violations cited. After some miscommunication and timing issues someone came out to the property to inspect and bid, and that brings us to today. Ms. Peterson asked Ms. Willard if there was now a contractor ready to work on the house. Ms. Willard stated that she believed her client was currently evaluating bids at this point. Ms. Peterson asked Ms. Furtek what current health violations on the property were still outstanding right now. Ms. Furtek stated that a letter by Agent Coffin was written on July 22 stating that issues still in violation were 1) non-secured sump pump: needs to be secured so float does not get stuck; 2) additional crack in the bulkhead area needs to be sealed; 3) paint on the exterior. Ms. Peterson addressed the tenants asking what additions to that list they felt were necessary. There was again debate on the issue of the screen in the second bedroom and the quality of its repair. It was pointed out by Mr. Barlow that the quality of the repair was not a reflection on the Inspector, but the contractor who repaired it. Ms. Willard stated that her client, since they became involved and are actively working on this case, they are there; they are doing work; they get reports of completed work; they get new reports and they do the new work and get completed work reports. Ms. Peterson stated that because this has been going on so long she was not inclined to feel sorry for the Bank. There was again lengthy debate on the issue of the screen in bedroom 2. Ms. Peterson again asked the tenants for other issues they were concerned with; they stated water in the basement. Ms. Peterson said that it had to be documented, and requested a site visit to the property with other members of the Board. Mr. Barlow and Mr. Uitti both expressed interest in accompanying her. Another tenant concern is the squirrels in the attic. Ms. Furtek spoke with the contractor Mr. Maynard, and it was her belief that there were no squirrels in the attic. Ms. Spencer felt that, although one access point was repaired, the rodents were getting into the attic via another points. Ms. Peterson asked if there was an exterminator on site. Ms. Willard stated that there had previously been an exterminator on site, but would have to bring the information back to her client expressing the concerns of the Board and express what need to be done, and on that list she has written that any dead squirrels need to be removed from the property and re-exterminate the property of remaining squirrels.

Ms. Peterson asked the tenant if she was dissatisfied with the contractor doing the painting on the outside. Ms. Furtek corrected her, saying it was the painting of the bathroom. Ms. Spencer cited standards of protocol for lead paint remediation. Ms. Furtek stated that the issue revolved around the removal of wallpaper, and that she talked to Mr.

Lasky at the State DPH, and lead was not an issue with wallpaper removal but it should be disposed of properly. It was disposed of in the trash, and would go to the dumpster. The issue would be with exterior fugitive dust. On the outside when they are doing the door repair and repainting, they will have to follow certain protocol. The contractor in question is Lead Paint certified (his license number was found online by Ms. Furtek). Ms. Spencer stated that under MA regulations, he needs to be onsite at all times, and she claims that the contractor's wife did the work without certification or supervision. (There was no proof provided that the wife was doing the work). Mr. Barlow stated that the BOH doesn't license the contractor, and she needs to have reported that to the agency that does that permitting. The job was completed and cleared by the BOH.

The Chair moved on to the next issue of water in the basement. Ms. Coffin stated that she took offense to the accusation that the BOH has not dealt with the chronic dampness issue. It is an old house (c1885) and has a large stone foundation. Ms. Furtek stated that she documents every leak that she sees and notifies the owner to seal it. Ms. Coffin stated the sump pump was installed, and there was an issue at first with the pump and piping, which has since been corrected with the installation of a dedicated dry well. Ms. Peterson asked if the tenants were provided with a dehumidifier; they stated yes. Ms. Coffin stated that after a recent heavy rain, the sump was overflowing, causing an inch of water around the pump and the surrounding floor was wet, but she could not determine if the water was from the sump pump overflow or from the rain. She told the tenants that if they could actually see rain coming in the foundation crack, she would need to document it as leakage, but without visually being able to document the source of the water, she would not document it as leakage. Mr. Barlow pointed out that with the age of the house, they may have to go to the historic commission to do any major repairs to the property. Mr. Uitti asked if the landscape grade was a problem; the tenants stated no. He asked if the house has gutters leading rain water away from the foundation; the tenants stated yes, extending about 3 feet. The tenant attempted to show pictures on his camera from the previous night's rain storm. Ms. Peterson would not accept them as evidence unless they were printed out. Ms. Spencer addressed Ms. Furtek, asking why, when they had been notified of all other house visits, they were not notified of the June 8 inspection with Mr. Maynard. Ms. Furtek and Ms. Peterson both reiterated that Mr. Maynard was authorized to ask for the inspection as the contractor in charge had the key and the tenant was not residing at the property. Ms. Spencer stated that issues that were cleared that day were the sump pump and dehumidifier, both of which need electricity to work and there was no power to the house at that point. Ms. Furtek stated that she inspected the pump and dehumidifier, which were new. She also stated that she told the tenants at a subsequent inspection that if they had any problems with them not working to call the office, leaving the door open for the tenants to communicate with the Inspector directly, at any time. Ms. Furtek stated that she had no problem with the tenants calling her at any time for another inspection when she can document issues that need fixing, rather than requesting a special hearing in front of the Board and adding more issues that haven't been documented. Mr. Uitti and Mr. Barlow planned to make a site visit Friday, August 5 to the property, with the tenant present. Ms. Peterson asked for all communication regarding Health issues only to come into the office to be stamped with date and time of receipt. If

the tenant calls the Bank with issues that directly relate to BOH matters, Ms. Peterson requested that Ms. Willard forward that information to the BOH so that it stays on record. Ms. Peterson addressed Ms. Willard with the following requests to be done by the September 14 BOH meeting: 1) fix the screen in bedroom 2; 2) get an exterminator to give a written report and take care of the squirrel issue as well as repairing any visible access holes; 3) get a storm window; 4) outside chipping paint; 5) re-secure the sump pump. Ms. Peterson said as far as the cellar goes, pictures needed to be printed with a time/date stamp and submitted to the BOH, showing the current issues in the cellar. The matter would be continued again to the September 14 meeting agenda. Ms. Willard agreed that she would take the above concerns to her client, and explain to them their obligations. Mr. Uitti asked about the access points for the rodents in the attic, but Ms. Peterson reminded him that this was the BOH, and could only deal with the health issues, not issues that may fall under the Building inspector's code.

Ms. Peterson and Ms. Willard both expressed interest in a property walk-through before the September 14 meeting.

Ms. Coffin wanted to clarify that storm windows are not required by housing code, but rather that the window be weather tight. She cited *code 410.501: weathertight elements: a window shall be considered weathertight only if :... (4) one of the following conditions is met: a) a storm window is affixed to the prime window frame...; b) weatherstripping is applied such that the space between the window and the sash and the prime window frame is no larger than 1/16 inch...; c) the window sash is sufficiently well-fitted such that, without weatherstripping, the space between the window sash and the prime window frame is no larger than 1/16th inch....*

Ms. Peterson stated that there seems to be an issue with appointment making, so she said that, when the contractor was ready, she wanted the office informed of the day and time; there must be a minimum of 24 hours notice. In that 24 hours notice, if the tenant is not available to the contractor, the BOH will fine the tenant. Ms. Willard assured the Board that since she and her office have become re-involved, appointment scheduling issues and most of the miscommunication have, in her opinion, been fairly well resolved.

Ms. Spencer stated that the hired contractor was currently in Afghanistan. Ms. Peterson dismissed the statement as hearsay, and not an issue to be brought to the BOH.

Ms. Peterson asked the tenants if there was anything else from previous demand letters and requests to the office. Ms. Spencer stated that, when she was allowed to speak to the property management company, she sent pictures twice of the entrance through the side door (off the driveway) June 13, July 3. She says there is mold on either side of the door and the header behind the threshold is soaking wet. She claims that she pointed this out to Ms. Furtek and that nothing was cited or done about it. The second issue that she brought up was an electrical wiring issue in the basement. Ms. Coffin stated that she didn't cite the issue because she is not an electrical inspector and it was a type of wire that she wasn't familiar with, and wasn't sure if it was in violation. Ms. Furtek said it was recommended to have an electrical inspector go out and check it.

Ms. Willard stated that she and her client have been in contact with the Board of Health, and they have done work that has been asked of them. It is their position that they have done a lot of work on the property; they have been cleared on work they do. The contractors go looking only for those citations, and those are the only issues they are authorized to fix. If an issue hasn't been cited, the contractor will not look for extra issues, and her client must be afforded the opportunity to address them properly. Ms. Peterson requested that the tenants get a letter to the BOH office this week requesting an inspection so issues can be cited.

Mr. Barlow and Mr. Uitti agreed to a 9am Friday, August 05 walk-through of the property. Ms. Peterson stated to the tenant that the BOH members were not allowed to ask questions of the tenants, nor were they allowed to answer any questions. There will be no discussion of findings with the tenants, and the BOH members do not need to be accompanied by BOH agent or inspector. Ms. Peterson said the other Board members and a Bank representative would do another walk-through before the September 14 meeting.

Ms. Spencer agreed to get a letter to the office with the issues she'd like looked at. Ms. Peterson stated that the proper handling of it would be to get the letter to Ms. Furtek, allow her time to do the inspection and draft a letter of citation of any new issues to the Bank, which would be mailed by the BOH.

Mr. Uitti made a motion to continue to September 14. Mr. Barlow seconded the motion. The motion passed unanimously.

Mr. Barlow made a motion to end the meeting. Mr. Uitti seconded the motion. The meeting ended at 8:05 pm.

Respectfully submitted

Melissa A. Chase
Secretary

Kathleen Peterson_____

Stanley Andrews_____

Galon Barlow_____

Don Uitti_____

Carol Tinkham_____

cc Board of Selectmen/Town Clerk