

TEWKSBURY BOARD OF HEALTH

Minutes

July 15, 2004

Vice Chairman Edward Sheehan called the meeting to order at 7:05 P.M at the Town Hall Auditorium. Present at the meeting were, Clerk Philip French, Jennie McCarthy, Thomas Churchill, Director of the Board of Health Thomas Carbone and Recording Secretary Dawn Cathcart. Chairman Stephanie Wilkie was not present.

Public Hearings

Dorothy Macauley – Request to Keep 20 Fowl on the Property of 71 Washington Street and the Adjacent Easement

Robert and Dorothy Macauley appeared for a request to keep 20 fowl at 71 Washington Street.

Mr. Carbone read the public hearing notice. Mr. Carbone stated that the information that was required has been submitted and the abutters have been notified. Most of the green cards have come back with the exception of some abutters who were notified by regular mail and they signed a sheet saying they were notified. The public hearing was also noticed in the Town Crier. Mr. Carbone stated that they are also applying for seven variances. The variances would be from Section 6.6, Section 6.7, two from Section 6.16, Section 8.4, Section 10.1 and Section 12.1. Mr. Carbone stated that there is a letter from Attorney Johnson on behalf of Stonewood LLC added to the packets, which arrived the day before. Mr. Carbone stated that when considering these variances the board must consider the strict enforcement that must be just and if approved then it will not affect the health of residents. Mr. Carbone stated that the apartments were not notified. Ms. Macauley stated that 52 Washington Street is for sale, Mass Electric and the Tewksbury apartments were not notified. Ms. McCarthy stated that there should be an agent for the Tewksbury apartments in Massachusetts that should be notified.

Ms. Wilkie joined the meeting at 7:10 PM.

Ms. Wilkie stated that the board received a letter from Attorney Mark Johnson stating that Ms. Macauley can use the easement for foot traffic. Mr. Carbone replied that was correct. Ms. Macauley stated that the original agreement dated March 22, 2001 doesn't say we can't keep animals. Ms. McCarthy stated that the only easement presented in the package is the one in affect. Ms. Macauley stated that the first paragraph, last sentence says that she can "continue to enjoy".

Ms. McCarthy stated that she was contacted by a representative from Stonewood LLC and they stated that the easement was for foot use only. Ms. McCarthy stated that the question is does this board have the authority to grant variances and permits for property not owned by the applicant.

Mr. Carbone stated that the board should look at paragraph B which states "other structures". Ms. Wilkie stated that the structures were there before the easement was granted.

Ms. McCarthy asked if the plan was to keep the fowl and horses on the easement. Ms. Macauley replied that she doesn't have a horse now, but she plans on keeping the animals there. Ms. McCarthy stated that the board requested that the land owner clarify the easements and they have. Ms. Macauley stated that she is not in violation of the easement and the primary reason for the easement was the animals. Ms. Wilkie stated that the letter from the land owner states that there was no intent to keep animals there. Ms. McCarthy added that the grantor has rights, not the grantee. Ms. Wilkie stated that the easement says by foot, so you can walk, run and skip on the property but not ride a horse. Ms. McCarthy stated that the easement states that the grantor reserves the rights.

Ms. McCarthy stated that her biggest issue is whether the Board has the authority to issue permits on this property.

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Mr. Churchill stated that the animals should have been spelled out on the easement.

Mr. Carbone stated that the board shouldn't vote tonight because new material has been received tonight.

Ray Scott of 5 Court Street – Mr. Scott stated that he started this. Mr. Scott stated that he talked with Maureen DiPalma and she did not know about the animals when the easement was granted. Mr. Scott stated his main concern is noise and smell especially in the summer. The animals are too close to his property. Mr. Scott stated that he has a shed on Stonewood LLC property and if it falls down he can't rebuild. Ms. Wilkie stated that is not germane. Mr. Scott stated that the animals do not belong there.

Paul Curran of 62 Washington Street – Mr. Curran stated that he doesn't want a horse on site and there are rodents and flies. Ms. Wilkie asked how long Mr. Curran lived at his house. Mr. Curran replied about 33 years and at one time there were two horses but there are no horses now.

Ms. Macauley stated that Ray Scott lives in Chicago, not at 5 Court Street. Ms. Macauley stated that Mr. Carbone, Mr. Treachis and Ms. Gorrasi have all said the conditions for the animals were good.

Ms. McCarthy stated that the permit application before the Board is for chicken, geese, ducks and roosters. Mr. Carbone stated that it is a general fowl permit. Ms. Macauley stated that she wants a permit for one horse too. Ms. McCarthy asked if that is an official request for a horse. Ms. Macauley replied yes. Mr. Carbone stated that the animal permit needs to list the type and number of animals allowed. The official request is for 20 fowl. The request for the horse would require an amendment to add a horse to the permit in writing.

Ms. Wilkie stated that a horse would require the paddock size, barn size and it should be separate. Mr. Carbone stated that he doesn't disagree and suggested dealing with the fowl first. Ms. Macauley stated that she will put her request in for a horse later.

Ray Scott of 5 Court Street – Mr. Scott stated that he is temporarily living in Chicago but he is still a homeowner. There are 5 members of his family living at this address. Mr. Scott stated that the corral is on Christine Livingston's property.

Ms. McCarthy stated that Section 12.1 and Section 5 are in conflict. In Section 12.1 it says that roosters shall be prohibited in Tewksbury. Mr. Carbone stated that the board should go with the strictest regulations. Ms. McCarthy asked how many roosters are requested. Ms. Macauley replied two.

Ms. Wilkie stated that they need to get guidance from legal counsel about the location of the animals on an easement which the land owner says are not allowed. Can the Board of Health grant permission to keep animals on this easement and what does the easement mean? Mr. Carbone stated that Attorney Zaroulis cannot rule on this because it is a civil issue between parties.

Ms. Wilkie asked what back up plan Ms. Macauley has. Ms. Macauley replied nothing. Ms. Wilkie stated this should be tabled due to the new material received tonight and suggested that Ms. Macauley come up with a backup plan if this is not approved. Ms. Macauley stated that she was never told there was a problem with the animals.

MOTION - Ms. Wilkie made a motion to table the public hearing for 71 Washington Street until August 12, 2004 at 7:00 PM. The motion was seconded by Mr. Sheehan and unanimously voted 5-0.

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Appointment with Chief Donovan, Chief Mackey, and Emergency Management Director Sitar to Discuss Emergency Preparedness

Ms. Wilkie thanked the emergency personnel in this Town and what a great job they do. Ms. Wilkie stated that the reason for this meeting is disaster preparedness and if the town would act in concert if something happens. Chief Mackey stated that the Fire Department has worked closely with the Police Department and Mr. Carbone.

Chief Donovan stated that the Police Department houses the combined dispatch and all departments have worked well together. Chief Donovan added that there are plans and procedures already together for certain instances.

Capt. Sitar stated that there is a Comprehensive Emergency Management Plan. All department heads have reviewed it and have had input to it. This is reviewed every three years. Capt. Sitar stated that he will provide copies to the Board of Health members if they want it.

Ms. Wilkie stated that they rely on Mr. Carbone so heavily that if a disaster hits, Mr. Carbone may not be in Town. Chief Donovan stated that the Dispatch has a list of contact personnel and this includes the Board of Health. Ms. Wilkie asked if there is anything that the Board of Health needs to do to help in communication. Chief Donovan stated that the Emergency Management needs a lot of attention due to the terrorism threats.

Mr. Carbone stated that the Health Department is not completely up to speed with procedures but is working towards it. There are two new Chiefs and new Captains and even so, he is still the newest guy on the team. These departments have worked very well together.

Ms. Wilkie stated that she would like a copy of the Emergency Management Plan and would like to sit down with the Chiefs privately.

Ms. McCarthy stated that it was good to see representatives from the Fire and Police Departments attending the Massachusetts Department of Public Health meetings.

Discussion

Goal Setting

Ms. Wilkie stated that it is important for the board to set goals. Ms. Wilkie asked that the board members come to the next meeting with a list of goals for the board. Mr. French stated that he relies on Mr. Carbone for a lot of the goals. Mr. Sheehan would like the beavers addressed. Ms. McCarthy stated that she would like to look at Nail Salons and how to detain people in an epidemic.

Training – Public Hearing

Mr. Carbone stated that he is going to present a power point presentation at the end of the meeting.

Public Health Video (28 Minutes)

Mr. Carbone stated that he will show a 28 minute public health video.

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Approval of Minutes – May 20, 2004 and June 3, 2004

MOTION - Ms. McCarthy made a motion to approve the Board of Health Minutes of May 20, 2004. The motion was seconded by Mr. French and unanimously voted 5-0.

MOTION - Ms. McCarthy made a motion to approve the Board of Health Minutes of June 3, 2004. The motion was seconded by Mr. Sheehan and unanimously voted 5-0.

Director's Report

Mr. Carbone stated that the next meeting will be August 12, 2004 at 7:00 PM. The location will be determined.

Ms. McCarthy stated that she has received another complaint about the port-a-potty at the playground. They complained about the location of it and that there was no hand sanitizer. Ms. McCarthy wants to put in a formal request to the Recreation Department to move the port-a-potty so the door doesn't open to the street.

MOTION - Ms. McCarthy made a motion to request the Recreation Director move the port-a-potty so the door doesn't open toward the street and to have hand sanitizer added to it. The motion was seconded by Mr. Sheehan and unanimously voted 5-0.

Ms. McCarthy stated that she received a call regarding a report of bad milk and cream at Dunkin Donuts and the caller wanted to notify her that the staff responded quickly to fix the problem.

Ms. McCarthy stated that the ZBA is requesting comments from the Board of Health on Shawsheen Woods and Roberts Reach which are both Chapter 40B projects.

Ms. Wilkie asked if the board issues massage licenses for a person or an establishment. Mr. Carbone stated that the board licenses the facility and they also license individuals to work in licensed facilities. The individual needs to come to the office so it could be added to their facility.

Training – Public Hearing

Mr. Carbone presented the public hearing slide show. This presentation covered topics of posting, executive session, quorum, deliberations and decisions at an open meeting, minutes, conflict of interest, keeping order at a public hearing and how to conduct yourself at a public hearing.

MOTION - Ms. Wilkie made a motion to adjourn at 8:35 PM. The motion was seconded by Ms. McCarthy and unanimously voted 5-0.

Approved: _____

Philip French, Clerk