

## **Board of Health Meeting Minutes February 25, 2015**

The Lakeville Board of Health held a meeting on **February 25, 2015** in the Lakeville Town Office Building. Present at this meeting were Board Members, Robert Poillucci, Terrence Flynn and Derek Maxim. Health Agent Lawrence Perry, Health Inspector Kevin Bernardo and Administrative Assistant Jo Lima were also present.

Chairman Poillucci called the meeting to order at 6:00 p.m. and noted that this meeting was being recorded by the Board of Health and LakeCAM, to be televised at a later date.

### **26 Plymouth St. (051-001-001)**

Engineer Jamie Bissonnette was present on behalf of his clients Frederick and Sharon Lally requesting several local upgrade approvals from the Board of Health in a revised letter and associated plans dated February 14, 2015. He is proposing an AdvanTex Treatment Tank with a pump system to a bottomless sand filter for this two bedroom dwelling. Abutter cards were submitted. Jamie began the discussion by saying the property is a small two bedroom house with a failing septic and a shared well on an adjacent site. Originally the client just wanted to upgrade the septic, but when a water analysis was done the results came back with some issues so they are also proposing to put in a new deep drilled well on the same lot. Currently the well is shared by 22, 24 & 26 Plymouth St. Chairman Poillucci said that a email was received from Charles Kennedy the Assistant Superintendent for the City of New Bedford Water Division stating that he was not comfortable with how close the septic system will be to Long Pond and that it seemed to him that a tight tank would be the way to go. Jamie said he didn't believe Mr. Kennedy had seen the plans. Agent Perry said he spoke to him prior to the email and informed him it was advanced treatment and answered all the questions that he had. Agent Perry had provided some information to board members that showed there was a proposed design for a tight tank approximately 20 years ago. A lengthy discussion ensued. Agent Perry was encouraging that the best fix would be for #22 and #26 share a new deep well and a new raised advanced treatment system. Jamie said he understands where Agent Perry is coming from but he does not look at it the same way. He said the Lally's (#26) want to upgrade their septic and they also want to have control over their water, and Father Rita (#22) would like to have control over his well and his own septic. Jamie reviewed and discussed the plans with the board. Michael Murphy an abutter from 24 Plymouth St. voiced some of his concerns, one where Jamie was going to put the new septic wall. He was concerned that it would compromise the structural integrity of the existing retaining wall that separates his property from #26. Jamie doesn't anticipate that will happen. Mr. Murphy asked if the current retaining wall which is already leaning happens to go over and the land behind it washes down, who would be accountable. Jamie said it would depend on why the existing wall fell over. If the contractor breaks it, it would be the contractor. Mr. Murphy mentioned a deeded right of way (which is not shown on plan) to the Pond which Jamie said there would be no impedance on. He asked why he wasn't advised on the contaminated well that he is tied into. Jamie said he wasn't aware that he was sharing it because there were no records showing that. Agent Perry said he could provide him with a copy of the water analysis. Steven Couto an abutter from 11 Bristol St. was present and said he has a shallow well on his property and wanted to know the distance from his well to the property line at 26. Jamie said he is over the 100' requirement. Members agreed that what Jamie was proposing was the best solution. Member Flynn asked about the maintenance. Jamie said the first year the water gets tested twice after that it's once a year. They are required to turn in a two year O & M contract. When the

system is installed, the maintenance operator goes out before the system is turned on. They activate the system with Jamie and Health Agent present. They have to be (a maintenance operator) certified in waste water treatment. Member Maxim said he would just like to see some type of stipulation on the retaining wall where if it does fall over something is done to stabilize the bank without damage to the abutter's property. Jamie agreed. Agent Perry recommended that board members also stipulate the wall be concrete.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To approve the 14 variance requests on the February 14, 2015 letter. Confirmation of the structural stability of the existing retaining wall and that the new septic retaining wall for the bottomless sand filter is concrete. Unanimous vote in favor.

**71 Highland Road (032-004-004C)** – Tabled from last meeting

Jon Pink from Azor Land Sciences, Inc. was present for discussion. He began the discussion by saying that the abutter notifications that were sent out for the last meeting had an incorrect meeting date listed and had since notified them with the correct information. Abutter cards were submitted. A preliminary discussion was held at the February 4, 2015 Board of Health Meeting where Mr. Pink submitted a revised variance letter dated January 20, 2015 along with associated revised septic plans dated January 23, 2015. The following three state variances were requested on behalf of his client ATOMIC LLC:

1. Reduction of the separation of a soil absorption system from a tributary to a surface water supply from 200' to 132'. Variance of 310CMR 15.211(1).
2. Reduction of the separation of a reserve area from a tributary to a surface water supply from 200' to 115'. Variance of 310CMR 15.211(1).
3. Reduction of the separation of a septic tank from at tributary to a surface water supply from 200' to 120'. Variance of 310CMR 15.211(1).

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To approve the three state variances as listed on the January 20, 2015 letter. Unanimous vote in favor.

**24 Hickory Lane (043-009-013)** – Tabled from last meeting

Engineer Nyles Zager from Outback Engineering, Inc. was present to continue discussion on the status of the existing house and septic system and how the Board would like them to move forward with it. Homeowner Steven Maguire was also present. He stated he has been to the site and that he is very comfortable that he can fit a tight tank with a new well on the property with the only variance for the local regulation being well under 20,000 sq. ft and the use of a tight tank. Nyles said no official survey has been done yet. Chairman Poillucci said that Agent Perry researched the property and that in 1962 the owners at that time applied for a permit to put a bathroom in, but as far as anyone knows nothing was ever done. He said this is why the state requires a walk through because you never really know what's inside the house. Health Agent Perry had noted as an option an incinerator toilet because it wouldn't require a Board of

Health permit; it could be done under a plumbing permit. Chairman Poillucci said he'd rather see a tight tank and well. Nyles said there are no other properties from the research he has been doing that would be affected. Member Maxim said in speaking to Agent Perry, Title V says that if an inspector finds a privy, it's a failure, but it needs to be documented as such. Mr. Maguire said they lived with a tight tank year round at 4 Beechtree. Agent Perry said if it was his primary residence he would want to have a year round leaching system and there may be a way to use both lots and put a well on one and upgrade the septic on the other to have one viable year round system instead of pumping it weekly or monthly. Mr. Maquire said he was happy with the tight tank and that it is two separate properties. Chairman Poillucci said Agent Perry is speaking to the law. Member Flynn asked what happens when they sell their property would it fail a Title V because they are year round with a tight tank. Agent Perry said it's not a failure criteria but they need to have a valid contract for quarterly inspections. Nyles said in order to move forward they would do a full blown survey. He said this property is not meant to be used year round. Board Members agreed and feel that the tight tank with a deeded two bedroom seasonal restriction was the best option. Nyles just wanted to know what direction to go in before spending thousands of dollars.

#### **Not on Agenda – Proposed Gas Station @ 7 Main St.**

Chairman Poillucci said that a proposed gas station was going in on the corner of 79 and Main St. across from CVS. Applicant Marcus Baptiste and Attorney Robert Mather were present and were asked to get some preliminary input from other departments before they begin the whole process. Some discussion was held regarding special permits that need to be obtained for the service station, a fast food restaurant and a drive thru. Engineer Jaime Bissonnette who was also present reiterated that the reason they were all present was just to check in with the majority of the boards to get their input because they were asked to do so by the Zoning Board of Appeals. Agent Perry asked if they had researched the wells in the area. Jamie said they have researched the public and they have locations on the private wells. Agent Perry just wanted to make sure they were aware of the local Board of Health Regulation setback that states a gas tank must be 400' from a well.

#### **Board of Appeals Petition – 9 Charbonneau Ave.**

Board Members reviewed the petition submitted by the Board of Appeals on February 19, 2015. Petitioner was seeking to build a deck and shed.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To send a letter to the Zoning Board of Appeals stating that they saw no health issues involved to recommend or deny this petition. Unanimous vote in favor.

#### **Housing Inspector Training Program**

Health Agent Perry requested to attend a 3-day training program on housing inspections to be held at Westford Town Hall on May 6, 7 & 12, 2015. Chairman Poillucci was concerned about office coverage during that time, but said that we do need training in this area.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To approve Health Agent Perry's attendance at this training program. Unanimous vote in favor.

### **New Body Art Practitioner's License Approval**

Applicant David G. Shultz submitted an application for a body art practitioner's license to operate @ Inspiration Body Art Studio, 54 Main Street. Administrative Assistant Jo Lima advised the board that the only document that was holding up the issuance of the license was his liability insurance.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To approve the license pending proof of liability insurance coverage. Unanimous vote in favor.

### **Discussion regarding Loon Pond Lodge Licensing**

A memo dated February 24, 2015 was received to the Board of Health from Daniel Hopkins, Chairman of the Park Commission, requesting that board members waive the \$400 Food Establishment Fee. Chairman Poillucci said that the bartending company that will be issued the license is a "for profit" company. He said they are private business just like the business at the old library and he doesn't feel the board has any grounds to waive the fee. Member Flynn said he looks at it as though they are somewhat paying a fee by giving a percentage of their proceeds to the Park Dept. and feels the fee should be waived. Member Maxim asked if this fee was only being paid once or annually. Chairman Poillucci said it was a yearly fee. Member Maxim then asked if it was the Park Dept that pays the fee. Chairman Poillucci said yes, but it should be paid by the business owner (bartending service). Board members agreed to waive the fee for 2015 only.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To advise the Park Dept. that the \$400 Food Establishment Permit fee will be waived for 2015 only. Unanimous vote in favor.

### **2 Morrison Way (040-004-008)**

Health Agent Perry was scheduled to do a walk thru to determine the number of bedrooms. A water analysis was also supposed to be submitted. The homeowner called and cancelled the appointment because she did not want Health Agent Perry to conduct the walk-thru. He had told the homeowner that her Engineer Rick Charon could do it. Agent Perry stated it was done earlier today and Rick confirmed that the dwelling is a three bedroom. A passing water test was also submitted. Agent Perry stated that the Board of Health deadline to install the septic was 1½ years ago and that two year state deadline is approaching. He said that she should not have even moved in under the conditions and said he would not recommend an extension should one be requested. He stated it has taken the homeowner a year and a half to do a walk thru and have a water analysis done. It was mentioned that she wanted to apply for a betterment loan, but that no paperwork has been submitted to the Board of Health Office as of yet. Chairman Poillucci recommended sending her a letter letting her know that time is running out and to let her know that fines are going to start after next two months. Board Members agreed.

### **Tobacco Discussion**

Inspector Bernardo began the discussion by saying that the last time the board met on September 17, 2014, they had reviewed a 17 question checklist for the Restriction on

the Sale of Tobacco and Nicotine Delivery Products. Question #8 was whether or not to ban the sale of blunt wraps in Lakeville. Board Members said at that meeting that they wanted to wait until a new board member was appointed before they decided on this question. Member Maxim said he was not in favor of banning them and Member Flynn agreed because they can just go to another town and purchase them. Inspector Bernardo then explained that his main objective was to expand nicotine delivery products to include e-cigarettes. He said at some point the state will do that but right now a minor could go to any Lakeville store and purchase them legally and that one could be vaped anywhere because the harmful effects are not yet known. Board members agreed to incorporate the expansion that bans the use of electronic cigarettes wherever the state law applies. He asked if the members wanted to review the 17 questions again. Member Maxim said he was fine with whatever the other members agreed on. Inspector Bernardo expressed that July 1, 2015 would be a reasonable effective date providing a hearing is held before. He then began a discussion on The Local Environmental Tobacco Smoke Regulation Checklist of 11 questions that make the local regulation stricter than state law. The questions to board members is if they wanted to ban smoking locally in; 1) Smoking Bars, 2) Retail tobacco stores, 3) Buffer zones around municipal building entrances, 4) Municipal-owned parks and playgrounds, 5) Municipal-owned athletic fields, 6) Municipal-owned beaches and other swimming areas, 7) Membership Associations, 8) Nursing Homes, 9) Hotels, motels, bed & breakfasts and lodging homes, 10) All outdoor areas of restaurants, bars, taverns where food and/or beverages are sold, served or otherwise consumed or carried, and 11) Public transportation, bus and taxi waiting areas. Board members agreed that the answer to all 11 questions was "no" but they did want to incorporate the expansion that bans the use of electronic cigarettes wherever the state law applies.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To forward the answers from these checklists to MHOA Tobacco Control Director Sarah McColgan. Unanimous vote in favor.

**Discussion with Animal Inspector Jared Darling with regard to Farm/Stable issues**

No discussion held. To be discussed at a future meeting

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

**VOTED:** To adjourn the meeting at 7:37p.m. Unanimous vote in favor.

ACCEPTED AS TYPED 3-18-15JL
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