

REGULAR MEETING AND PUBLIC HEARING
OF THE FAIRHAVEN BOARD OF HEALTH
November 13, 2012

A Regular Meeting of the Board of Health was held at the Town Hall on Wednesday, November 13, 2012, at 6:30 PM. The meeting was duly posted. Board members present: Barbara Acksen, Jeannine Lopes and Peter DeTerra. Also present: Patricia Fowle, Health Agent.

The Chairman called the meeting to order at 6:30 PM and asked that the minutes of the meeting of October 15, 2012, be amended or approved.

Ms. Acksen motioned to approve the minutes. Ms. Lopes seconded. The vote was unanimous.

Appearing before the Board were Jeffrey Tallman of SITEC Engineering, Dartmouth, Mr. Antone Dias, designer, Fall River, and Mr. DaCunha owner of property at 8 Windward Way to request the use of an attic space in an addition that is currently being constructed to the existing dwelling. The dwelling is served by a septic system and therefore the construction is under the review of the Board. Mr. Tallman met with the Board of Health in November 2011 regarding the initial construction proposal which was then approved by the Board of Health and did not require a septic system upgrade. Since that time the plans for the addition have changed and now include additional habitable space. The Board reviewed plans presented by Mr. Tallman and Mr. Dias. The dwelling has no basement storage space because the Building Department has required the dwelling to be raised to the new flood zone height requirements which eliminated the use of the basement. Mr. DaCunha stated he and his wife are doctors and need office space. The proposed attic space would never be used by them as bedroom space. The view of the bay from the proposed third floor is beautiful and would increase the value of the house. Mr. DeTerra stated that the Board in November 2011 was very generous in allowing the initial proposal on the existing septic system. The present request exceeds the limits of Title 5 and requires a septic system upgrade. Additionally groundwater table information for the area as observed by new soil evaluations for new septic systems to the immediate east of the property indicate a new leaching facility for this property would necessitate a mounded system. Mr. Tallman stated the likelihood of placing a leaching facility per current code requirements on the property, given the size limitations of available upland property, is highly unlikely. Mr. Dias asked if the proposed third floor deck could be allowed with an exterior access. Mr. DeTerra stated yes. Mr. Dias then asked if he could place a stairway into the new attic instead of a pull-down hatch because hatches break easily. There was no response. Ms. Acksen stated the property is in a vulnerable environmental site located in a flood zone with limited upland to place a new leaching facility. She stated the environmental code is there for a reason and must be followed. Mr. DeTerra stated the Board generously allowed the initial proposal in November, 2011 but this request is too excessive. Mr. Dias asked what alternative there might be and was told to see if a municipal sewer connection could be made through the Board of Public Works. There being no further discussion on the matter, the parties left the meeting.

The Health Agent reported on the following:

The new Tobacco Control Regulation inspection for all 16 vendors has been completed and all are in compliance as of November 9.

2013 food and tobacco permit renewals are progressing well.

A petition for the keeping of 12 chickens at 46 Gilbert Street was received. Further review will be done by the health agent and Animal Control Officer prior to setting a date for the required public hearing before the Board on the request. No zoning by-law action is required by the Board of Appeals.

Wind turbine complaints were discussed. There were a number of complaints received the weekend of November 9 through November 12 which were forwarded to Laurel Carlson, Massachusetts Department of Environmental Protection (DEP). She is investigating possible wind inversion between ground level winds and hub height winds. Ms. Acksen stated that while recently attending the Massachusetts Association of Health Boards (MAHB) Board of Health Certification program she had an opportunity to speak with Attorney Cheryl Sbarra of MAHB regarding options for the Board in handling complaint resolution. She believes a public hearing could be held where individuals could give testimony to their home conditions due to the turbines. Medical information could be given but would have to be presented in a HIPPA compliant manner. The information would then be forwarded to Massachusetts Department of Public Health for review and input. Based on the information received in this manner, the Board may have the authority to require the turbines to be shut down at night as they present a public health nuisance. Mr. DeTerra said he has spoken to Laurel Carlson many times regarding this matter. She has stated the sound study should be completed and reviewed before any action is taken. To do so may incur a legal situation of immense consequences for the town and its residents. Ms. Lopes stated at the outset it was the Board's intention to have the sound study done, completed and presented before any other action would be taken. She does not want to change course now. Ms. Acksen spoke of the new study by Dr. Nissenbaum indicating turbines can affect people living 4,500 feet away and can cause sleep deprivation which brings on a number of physical and psychological ailments. Mr. DeTerra said he read about the study in a local newspaper but would like to read the actual study before commenting. Ms. Acksen said she would provide the study.

The recent Massachusetts voter approved use of medical marijuana was considered and how it may affect Boards of Health in regards to distribution and use in the workplace, in public settings or as a food additive. More information will be forthcoming from the MDPH.

Invoices and payroll were reviewed and signed by the Board.

There being no other business before the Board, Ms. Lopes motioned to adjourn the meeting at 7:30 PM Ms. Acksen seconded. Vote was unanimous.

Patricia Fowle, Health Agent