

Board of Health

May 26, 2010 Meeting Minutes

Members present: Robert Barrell, Alan Harris, Mary-Isabel Luddy and Beverly Salate
Members absent: Celia Hartigan

Chairman Barrell convened the meeting at 7:00 p.m.

Meeting Minutes Two sets of Meeting Minutes we approved as follows:

- After discussion and upon motion of Mrs. Luddy and second of Dr. Harris it was voted all in favor to approve the minute of the May 12, 2010 Board meeting.
- After discussion and upon motion of Mrs. Salate and second of Mrs. Luddy it was voted all in favor to approve the minutes of the May 19, 2010 Board meeting which included executive session minutes from the combined Selectmen's and Board of Health meeting. The executive session minutes were provided by Nancy E. Lucier, Municipal Assistant.

Septic System at 154 North Main Street Discussion Mr. Steven Sears of Ross Associates sent an email to the Board of Health office on May 7, 2010 stating that Vincent Vignaly of the DCR had called him and said that because the house at 154 North Main Street was listed as 2 bedrooms on the Assessor's field card and the replacement system is 4 bedroom, DCR is going to start legal action against the homeowner for a Watershed Violation. One of the options Mr. Vignaly offered was DCR may accept an official letter from Ross Associates and the Board of Health certifying that there are indeed four bedrooms.

Mr. John Scannell of the DCR sent a Notice of Noncompliance to Mrs. Tarkiainen, owner of the property, on May 10, 2010. The letter states that on April 7, 2010 the DCR sent her an Applicability Decision stating that her project to install a septic system to serve a four bedroom dwelling was prohibited based on the an existing two bedroom house. He further stated that the four bedroom septic system that was constructed is not in compliance with the Watershed Protection Act. Also, if she is able to prove the house is currently documented/classified as a four bedroom house, that information should be submitted for DCR consideration.

Mr. Sears of Ross Associates sent a letter to Mr. Vignaly on May 10, 2010, informing him that he did a walkthrough of the existing home after talking with the Assessor's office to learn that they will not update their project card until the two bedrooms on the second floor are heated. He

found the existing house to have four bedrooms that meet the regulations of Title 5, which does not require heat.

May 19, 2010, Building Inspector Mark Brodeur and Board of Health Inspector Barbara Mard did a site walk of the entire house at 154 North Main Street. The house clearly has four bedrooms which it has had since it was built in the 1930/1940 timeframe. The two bedrooms on the second floor have been blocked by a hatch at the top of the finished staircase to keep the heat on the first floor since the bedrooms are not currently in use. The second floor bedrooms are greater than 70 square feet, have a window for ventilation, ceiling height of at least 7 feet and electricity including wall switches. These conditions meet Title 5 definition of bedrooms.

Chairman Robert J. Barrell sent a letter to John Scannell, Regional Director of the DCR on May 24, 2010 summarizing the activities to date relating to the septic system. Mr. Barrell asked Mr. Scannell to advise the Board the basis by which he determined that the dwelling has two bedrooms. He also asked the DCR to suspend any actions regarding this property until the size of the dwelling has been properly determined and expressed the feeling of the Board that it is unfortunate that the DCR used such a heavy handed approach in this matter. Since Mr. Vignaly is assigned by the DCR as its representative to the Board, Mr. Barrell suggested that perhaps he should attend the next Board of Health meeting to establish clear communications between the two agencies and explain the DCR's position regarding this matter. The Board of Health is the approving authority for Septic Systems and to date the DCR has not addressed their concerns to the Board.

John Scannell responded to Mr. Barrell's letter on May 25, 2010. In this letter, Mr. Scannell offered an explanation of the Watershed Protection Act regulations 350 CRM 11.00 relative to the septic density threshold which was the reason for the "prohibited" decision. According to Section 11.04(3)2p of the regulations, "the construction of any dwelling, which exceeds a density of two bedrooms per acre or any use of which may generate more than 220 gallons of sanitary sewage per acre per day" is prohibited. Mr. Scannell further states that it is the standard practice of the DCR to use Assessors information to determine number of bedrooms. An inspection was conducted by the Assessor's office which did not result in a change in the number of bedrooms from two to four by their standards which are not the same as Title 5. In addition, Mr. Scannell said it is not necessary for Mr. Vignaly to attend the Board of Health meeting as was requested because he believes the DCR position in this matter is clear.

Harold M. Scheid, Regional Tax Assessor responded to Mr. Barrell's letter on June 1, 2010, with an explanation of the Assessors criteria for defining a bedroom and that it differs from the Board of Health/Title 5 criteria. Section e. of Mr. Scheid's letter states the space must be heated or have a floor grate providing access to heat from a room below. Mr. Scheid further states that his colleague, David Manzello recently inspected the subject house. He found two
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bedrooms on the first floor, and two rooms upstairs that in an earlier age served as bedrooms. These rooms would meet Assessors criteria save the fact that they are unheated.

Nothing further has come to the Board of Health office since Mr. Scheid's letter was faxed to Mr. Scannell on June 1, 2010. The Board of Health will continue to monitor the situation and continue to support the resident, Mrs. Tarkiainen in this matter.

Sewer Connection at Wachusett Country Club The Board will send a letter to Wachusett Country Club instructing them to either connect to the sewer or apply for a deferment.

Kona Ice Mobile Food Permit Discussion Mr. Patrick Inderwish, Chairman of the Parks Commissioners sent an email message to the Board regarding a request from Shawn H. Smith to be a mobile vendor in West Boylston. This vendor will travel to the various parks in West Boylston when sports are being played. Mr. Smith appears to be going through the process correctly and the issue will be addressed when he applies for a permit from the Board.

Mass in Motion Leadership Luncheon A letter from John Auerbach, Commissioner of the Department of Public Health was read. The Commissioner is inviting Health Agents to join the MA Dept of Public Health at a meeting on Wednesday, June 16, 2010 at the DCU center to recognize the efforts of local elected officials, municipal department and community stakeholders incorporating health concerns in a variety of municipal policy decisions. Mrs. Luddy and Mrs. Mard may attend.

With no further business to come before the Board it was unanimously voted to adjourn at 8:15 p.m.

Barbara A. Mard

Robert J. Barrell, MPA, Chairman

N. Alan Harris, MD, MPH, Vice Chairman

Celia F. Hartigan, RN, MPH

Mary-Isabel Luddy, RS

Beverly A. Salate, RN, BSN