



TOWN OF GROTON
Board of Health
173 Main Street
Groton, Massachusetts 01450

MEETING MINUTES
November 21, 2011

Board of Health Members Present:

Robert Fleischer, Chairman
Jason Weber, Member
Dr. Susan Horowitz, Member

Others Present:

Nashoba Associated Board of Health Agent, Ira Grossman
Land Use Assistant, Dawn Dunbar

Meeting Called to Order:

Chairman Fleischer called the meeting to order at 7:00 pm in the Town Hall.

Well Regulations

Member Horowitz made a motion to accept the newly revised Well Regulations as written and updated on November 21, 2011.

Member Weber seconded the motion. All were in favor with a unanimous vote.

Member Weber made a motion to close the hearing on Well Regulations.

Member Horowitz seconded the motion. All were in favor with a unanimous vote.

65 Lost Lake Drive

Present: A relative of the property owner

Mr. Grossman explained that the homeowner was looking to finish their basement turning it into a large play area. He said that the home was on a four (4) bedroom septic system and that if the Board considered the laundry room as a room, the total number of rooms would be nine (9) thus requiring that a deed restriction be placed on the property record in order to finish the basement.

There was a brief discussion between the members about the size of the laundry room.

Member Horowitz moved that the home at 65 Lost Lake Drive was a nine (9) room home; that they did not consider the laundry room as a room and that a deed restriction was not required in order for the homeowners to finish their basement.

Member Weber seconded the motion. All were in favor with a unanimous vote.

148 Lost Lake Drive

No one was present

Mr. Grossman explained that he asked for this property to be on the agenda so as to provide an update and ask for the Board's guidance on a next step for this property as this system had been in failure April 2009. Mr. Grossman said that he had sent letters to Mr. Coviello in March, April and October 2011 stating that the system had been in failure since April 2009 and that to date no forward progress had been made on repairing the system and he had had no response to his letters.

Member Horowitz asked what Mr. Grossman looked for them to suggest. Mr. Grossman replied that he would like to see Mr. Coviello taken to housing court as it's a rental property with tenants. Member Horowitz asked if the tenants had received notice. Mr. Grossman said that the tenants had been copied on all the letters sent.

Member Horowitz made a motion to authorize Mr. Grossman to file a claim with housing court for the property located at 148 Lost Lake Drive.

Member Weber seconded the motion and all were in favor with a unanimous vote.

Clover Farm Market

Present: David Melpianano, Janice Hurst, Charlie Faucher, Donald Ross, Fran Stanley, Shannon Zich, Kenneth Reilly, Stuart Schulman, Anna Eliot, Peter Cunningham, Fran Dillon, Nancy Bodett

It was announced at the start of the hearing that Nancy Bodett was video recording the meeting.

Mr. Grossman explained how he had concerns about the operations at Clover Farm for some time now. He said that he stopped by Clover Farm and had a brief discussion with Ms. Hurst about her Memorandum of Understanding (MOU) and chairs vs. seats and was surprised by her reaction. He said that he was directed by Ms. Hurst to speak with Town Manager Mark Haddad. He said that he was asking the Board that night to release the 2012 Food Service Permit that reflected zero (0) seats.

Member Weber asked if the discussion was being continued to the next meeting. Mr. Grossman said "no" and added that Ms. Hurst had requested to be placed on the next meeting agenda so she could have an attorney present but she was told that the Board was still discussing the release of food service permit at that night's meeting.

Ms. Hurst said that her food service permit from 2011 said that she had 12 seats on it. She asked what happened to her seats. She said that she talked to Town Manager Haddad and thought that Mr. Grossman's frequent visits were too much. She said that she was confused if it was coffee business or official business.

Ms. Hurst said that one year her permit said she had 12 chairs and the next year it said she had 12 seats. She said that she was worried about the frequent visits and because she had no violations of chairs or seats why she was not granted 12 seats.

Chairman Fleischer asked if the previous permit was for 12 seats. Mr. Grossman replied "no."

Member Weber asked Mr. Grossman to see the documents so that they could address the question of seats that night.

Member Weber said that the permit for 2012 stated that Clover Farm Market had zero (0) seats midway down the page on the left side.

Member Weber said that the 2011 permit stated that she had 12 seats. He added that on the application for 2011 that was submitted halfway down the page the restriction section stated zero (0) seats. He said that the seating info in typing said "0" and in pen, the "0" was crossed out and "12 per Town of Groton" was handwritten in. He said that what caused the confusion was there is no review step. What had been crossed out and handwritten in by someone, and not the town was typed up the way it was written.

Ms. Hurst asked what she was supposed to think when she had an MOU and received her permit stating something differently. She said that in her mind it had been amended.

David Melpianano introduced himself as Ms. Hurst's partner and said that they were confused and not clear what they were operating under, the MOU or the food service permit. He asked why the permit was all of a sudden being changed and added that there had been no violations and no SDS failure. He asked if the change was due to an error in typing. Chairman Fleischer confirmed that it was because of an error in typing. Member Horowitz said that they wanted to make sure the food service permit was consistent with the MOU.

Ms. Hurst asked if it was a mistake and why Mr. Grossman said he was taking away seats. Mr. Grossman replied that he did not say that and that Ms. Hurst's MOU stated that she had zero (0) seats. He added that she did not want to discuss this with him that day he stopped in. Member Horowitz reiterated that the food service permit should reflect the MOU.

Mr. Grossman said that the 12 chairs allowed are supposed to be moved away from the table after a customer leaves.

Ken Reilly said that as a customer, he had never received table service.

Chairman Fleischer said that they don't usually distinguish between seats and chairs and asked why that wording had to be on their food service permit. Member Horowitz said that the MOU was eloquently designed to distinguish between seats vs. chairs. She said that if Ms. Hurst would like to request to amend, delete or change something in the MOU that it could be done and submitted to the Board of Health. She asked Ms. Hurst to come to the Board of Health with any issues or questions and not the Board of Selectmen in the future.

David Melpianano read a prepared letter into the record.

Member Horowitz said that any issues Ms. Hurst had could be taken up at their next meeting when Ms. Hurst's attorney was able to be present. She said that as of tonight, Ms. Hurst needed to take and operate under her food service permit as written.

Member Horowitz told Ms. Hurst that if a board member were to show up at her market it would be as a customer and not to harass her. Member Weber told Ms. Hurst that they were not doing all this to harm her business it was to help her. He said that they were fully investigating all legal avenues but so far have been challenged with finding the right one.

Member Weber said that they had legal obligations to adhere to Title 5. He said that he was a big fan of Groton and didn't want to see anything fail. He said that bringing in a room full of people did nothing

for their argument and that any feelings, emotions and/or personal opinions didn't belong here. Mr. Reilly said that they were present in support of community value.

Member Horowitz said that the MOU was crafted in such a way that Title 5 regulations were taken into consideration. Member Weber said that only a foolish person would think that Clover Farm didn't add value to the town but said that as board members they had to follow the law and adhere to Title 5.

128 Main Street

Mr. Grossman said that since their last meeting he had provided Mr. Pergantis with an updated list of code violations. He said that the Board asked Mr. Pergantis at their last meeting to come in with a list of any limitations he had. He said that he inspected with Jim Garreffo the Friday before and there were still items outstanding. He said that he also conducted an inspection that morning and items were still outstanding such as rubbish in the yard, lead paint issue, repairs to the foundation wall, and moldy sheetrock. He said that Mr. Pergantis had made progress but that to date he had not completed everything.

Don Ross introduced himself to the Board as the agent for Mr. Pergantis and told the Board that he attended the inspection with Mr. Grossman today.

Member Weber told Mr. Ross that when the Board last met they determined that if remediation was not completed by November 21st, they would begin fining Mr. Pergantis. Michelle Collette said that since that meeting, she learned that they could not impose a non-criminal disposition fine. She said that the Board must rely on the State Sanitary Code and those fines and penalties.

Chairman Fleischer asked if Member Weber's motion on November 7th included any fines. Dawn Dunbar re-read the motion and confirmed that it did not include any specified fines. Mr. Grossman added that Mr. Pergantis came to Town Hall prior to the deadline.

Mr. Ross said that he met with Mr. Grossman and went over the final list to be completed and those items were completed that day. He said that the oil permit would be done the next day and that would leave the lead paint as the only outstanding item. Mr. Pergantis said that he had a contract for the de-leading.

Member Horowitz said that she could assume that since the items were not completed earlier that day when Mr. Grossman conducted his inspection that Mr. Grossman would not be aware that they had been completed since. Mr. Grossman confirmed.

Chairman Fleischer said that it would be his inclination to delay the fines for a day. Member Weber said that it was a valid approach but that he was not inclined to delay the fines.

Member Weber asked Mr. Pergantis if his contract for de-leading had a signature and any license requirements listed on it. Mr. Pergantis handed the contract to Mr. Grossman. Member Horowitz asked if it offered a timeline. Mr. Grossman said that it gave a start date of 11/26/11 but that it had not been signed by Mr. Pergantis.

Member Weber made a motion to commence an applicable daily fine due to lack of completion of the outstanding violations. Member Horowitz seconded the motion.

Member Weber asked what their options were assigning fines. Mr. Grossman said that it could be as little as \$10/day and as much as \$500/day. Member Weber asked if there was an historical data for

assessing fines. Mr. Grossman said that at their last meeting the Board had mentioned assigning a fine of \$100/day.

Member Weber retracted his original motion. Member Weber made a new motion to impose a fine of \$100/day until all the original violations are completed and/or under a signed contract beginning on November 21, 2011.

Member Horowitz seconded the motion.

Chairman Fleischer stated that if everything else had been completed the contract for the de-leading would be the only outstanding item. Mr. Grossman told Mr. Pergantis that he could stop by the next day for another inspection.

Member Weber told Mr. Pergantis that a valid contract would be one that obtains an offer, an acceptance and a monetary consideration. He said that he would expect that Mr. Grossman would like to see all three (3) of those items. Mr. Grossman said that he would like to see the contract signed and have contact information for the contractor so that he could get in touch with the contractor. Member Horowitz asked how long the de-leading should take. Mr. Grossman said about a week or less.

Mr. Pergantis said that Building 2 had no lead present and that he was going to be installing vinyl siding. Chairman Fleischer asked if that was required or if he was bringing up another issue. Mr. Grossman said that he was talking about covering up the clapboards and that because if he was in the Historic District he would need permission from the HDC.

Member Weber told Mr. Pergantis that as the property owner was required to meet compliance. Mr. Pergantis said that he had two (2) apartments empty and that he would like to rent them out and that there was not lead in these apartments. Member Horowitz said that he was not allowed to re-rent until he complied with all requirements.

All were in favor of Member Weber's earlier motion to impose fines with a unanimous vote.

Mr. Pergantis said that he was confused about the fine. Mr. Ross explained that to Mr. Pergantis that he was being fined \$100/day to comply. He said that the Board was pushing him to complete all the outstanding violation items.

Mr. Grossman reiterated that there could be no new tenants until compliance had been met. He said that moving from one (1) apartment to another did not satisfy the lead violation. Mr. Grossman added that the lease agreement needed to be updated to reflect the lead law and its requirements.

Fran Stanley asked if Mr. Pergantis could rent to those with no children. Mr. Grossman said that he could not. Member Weber said that he could not discriminate against children.

Member Weber made a motion that no currently vacant apartments could be rented until property is in full compliance.

Member Horowitz seconded the motion and all were in favor with a unanimous vote.

Chairman Fleischer said that he didn't think they were prepared to discuss the Carriage House that night. Michelle Collette said that they had a meeting with Mr. Pergantis and Mr. Ross earlier that day and that they had been provided all the necessary materials and steps for opening a restaurant.

Mr. Grossman said that they were not ready to discuss the Carriage House and that a food service permit could not be issued because a function hall cannot exist without a base for operations. Mr. Ross said that it could be a debatable thing. Mr. Grossman said that it was not debatable and that all necessary requirements must be met. Mr. Grossman reminded Mr. Pergantis that he needed to submit his intent to Bridgette Braley for feedback.

Old/Other Business

Mr. Grossman said that it would be prudent to come up with a plan for dealing with non-compliant properties. Member Horowitz suggested having them in for a meeting one at a time beginning in 2012. Mr. Grossman said that he would start with the most environmentally egregious.

Michelle Collette said that budgets were due to the Town Manager by December 1st and that she and Dawn Dunbar had sat down earlier that day to go over the numbers. She said that she and Mark Haddad had met with Jim Garreffo the week before to discuss an increase in NABH fees. She said that they had not increased their fees in years and that Town Manager Haddad said that an increase in fees was reasonable.

Member Horowitz made a motion to accept the FY 2012 budget as presented. Member Weber seconded the motion and all were in favor with a unanimous vote.

Member Horowitz made a motion to adjourn at 9:00pm. Member Weber seconded the motion and all were in favor with a unanimous vote.

Respectfully Submitted,

Dawn Dunbar
Land Use Assistant