



## **Acton Board of Health**

Meeting Minutes

April 18, 2023

7:30 PM.

ROOM 204 and VIRTUAL PARTICIPANTS VIA ZOOM

### **Present:**

Members Present: Mark Conoby and Dr. William Taylor.

Virtual Members Present: William McInnis, Dr. Rekha Singh and Michael Kreuze.

Virtual Associate Members Present: None

Staff Present: Sheryl Ball-Health Director and Matthew Dow, Senior Health Inspector

Others Present: Himaja Nagireddy, Select Board Liaison, Steve Marsh, Mark Burrell, Esq., Jim D'Agostine, Jean and William Thompson and Sam and Komal Bajwa.

### **1. Opening**

Chairman – Mark Conoby opened the meeting at 7:35 P.M. A script was read that was provided by the Town and this meeting of the Board of Health was called to order.

### **2. Regular Business**

#### **Board Member Future Agenda Items**

Mr. Kreuze stated that the Board should look at their regulations for geo-thermal wells. Ms. Ball stated that the Board has allowed staff to issue these permits without the need to go before the Board if they can meet the conditions as outlined in Acton Board of Health Rules and Regulations- Article 9 which can be found online. The Board also asked how many geothermal wells we have in town. Ms. Ball stated she would get that information.

Mr. Conoby spoke about the Human Services Committee and the new national number that anyone can call 24/7 to speak to a live crisis worker for any behavior health crisis the caller may be experiencing. That number is 988.

#### **Health Director Update**

Ms. Ball stated that there will be a volunteer appreciation reception to honor all Boards and Committees dedicated service on April 26, 2023 from 5:30 – 7:00 PM in the large meeting room of the Acton Memorial Library. An RSVP is required.

Ms. Ball stated that we have recently been approved for obtaining NARCAN at no cost from the State and that we are in the process of ordering a kit that will contain resource information, face



shield, Naloxone and a refrigerator magnet. The program also requires us to log on a spreadsheet to keep track of distribution.

Ms. Ball mentioned that the office is busy with hazardous materials and sealer permit renewals, camp applications, NARA pond water testing and spring septic repairs and replacements.

Ms. Ball asked the Board if they would consider meeting at 7PM instead of 7:30PM. The chair polled the Board and it was decided that in person meetings will continue to be held at 7:30 PM and if there is a light agenda we will meet virtual only and at 7 PM.

WR. Grace – Administrative Hold – Ms. Ball updated the Board and spoke to the groundwater contamination that was the result of the W.R. Grace site. This groundwater plume is slowly moving and the Board currently has an Administrative Hold for any private wells within 500 feet of the plume. Ms. Ball stated that she recently set up a meeting with the EPA, DEP and the Town of Concord which will be held on May 10 at 9 AM to discuss this area. Ms. Ball further stated that she will be asking the Board to update their vote on the administrative hold at the next available meeting.

### **Nursing – Update**

Unfortunately, both Ms. York and Ms. Salamon were unable to attend this evening to provide an update.

### **Minutes – April 4, 2023**

On a motion made by Dr. Taylor, seconded by Mr. Kreuze, the Board unanimously voted to accept the minutes of April 4, 2023. The Chair took roll call and all were in favor.

### **Emergency Beaver Trapping Permit – 4 Duston Lane**

The Health Division has received a request for an emergency permit for beaver trapping due to beaver activity with severe flooding occurring on 4 Duston Lane. The Health Department conducted an inspection of these areas along with the Conservation Agent and has confirmed that in accordance with the Rules and Regulations that a threat to Human Health and Safety by beaver or muskrat-caused flooding of a residential septic system exists.

On a motion made by William McInnis, seconded by Dr. Taylor, the Board unanimously voted to grant an emergency beaver trapping permit to the property located at 4 Duston Lane beginning April 13, 2023 giving the licensed trapper and its agent the right to use restricted traps and breach the dams or dikes for a period of 10 days. In addition, the Board also approved a 10-day extension if needed. The Chair took roll call and all were in favor.



## Condemnation Hearing – 92 B Willow Street, Acton, MA 01720

Mr. Conoby opened the hearing.

Ms. Ball stated that in accordance with 105CMR 410.831(C) a public hearing was scheduled for this evening for the Board to determine whether the dwelling or portion of the property located at 92B Willow Street, Acton is unfit for human habitation and should the Board condemn this property. Ms. Ball outlined the timeline of violations noted at two inspections along with uncorrected violations and subsequent fines for noncompliance. One of the violations resulted in this hearing. This violation of 105 CMR 410.402 states:

“No room or area in a dwelling may be used for habitation if more than  $\frac{1}{2}$  of the floor to ceiling height is below the average grade of the adjoining ground and is subject to chronic dampness”

Ms. Ball confirmed that the unit is more than  $\frac{1}{2}$  below grade and signs of mildew were evident which makes the unit subject to chronic dampness. The Board questioned whether the building could be remedied to make it habitable. That’s a question for the owner but there would still be issues with the chronic dampness. Attorney Mark Burrell and Steve Marsh, both representing the owner, Mr. Sukhjinder Bajwa, stated that the code was properly cited by the Health Division and they do not oppose the order to condemn and have the tenants vacate the home. Attorney Burrell further stated that this property is scheduled to be demolished and approval has been obtained from the Planning Board under a site plan special permit. Mr. Marsh stated that excavation to bring this unit above grade is too risky as the foundation is very old, the condition is unknown, re-grading could result in further water issues and lastly stated that it would not be cost effective as this building is slated for demolition. Mr. Marsh further stated that the tenants do not have a lease and their month to month tenancy was terminated when the notice to quit was served. Attorney Burrell further stated that eviction proceedings are currently within the Massachusetts Court system with a trial scheduled for August of 2023.

The tenants, William and Jean Thompson stated they have been working hard to find another home but stated it is difficult in the current market and they have been renting this unit for 10 years. The tenants further stated that they have asked the owners throughout the years to fix some issues but stated that those items were not fixed. They also stated that they’ve been placed in a terrible position and they were holding out for the court date in August and hoped they’d be able to secure another apartment by then. The tenants also raised concerns over other violations including no secondary egress, illegal wiring, no heat in the “great” room, and the pellet stove that was never serviced which the tenants believe attributed towards an illness. The Board asked if the tenants were provided a copy of the inspection reports and they stated yes. The tenants also stated that none of the violations were followed through on but the Board asked the tenants if they have also seen two fine letters from the Town for non-compliance of those violations and they confirmed they had. The Board asked the tenants if the Health Department conducted two inspections and whether new violations were noted on the second inspection and the tenants confirmed that was the case. The Board asked the tenants if they disagreed with the Health



Department findings and they stated no but mentioned other violations that did not make the list. It was noted that a third inspection was scheduled but was cancelled by the tenants.

The Board asked the tenants if they wish to do the repair and deduct option as outlined in a letter from the owner's attorney and the tenants stated no. The Board asked both parties if they were amenable to having some of the emergency violations corrected and both parties agreed.

The Board stated that the public hearing tonight is to determine if the building should be condemned due to uninhabitability and questioned if health and safety violations could be corrected in the interim. The Board discussed some options to correct violations including adding a dehumidifier to help with the mildew caused from the chronic dampness. The Board also asked the Health Department if the dehumidifiers would help with the chronic dampness and Mr. Dow stated that he believes it would give them some time. The Chair stated that both parties have had the opportunity to present their case and asked the Board if they have any questions. The Chair further stated that both parties have concurred that the inspection reports are accurate and that criteria for condemnation has been met. The Board questioned the next step(s). The Chair stated that the criteria for condemnation has been met and the Board needs to decide how long to give the tenants to vacate. The Health Department recommended 30 days, however, the Board discussed allowing them to stay for 60 days. The Board also discussed whether this decision could be reconsidered and/or appealed. The Board stated that were unsure if an appeal could be granted but if new information was brought back before this Board there may be a process for reconsideration. The Board stated that sufficient and documented evidence showing why this condemnation should be reconsidered or rescinded would need to be presented to the Board for reconsideration.

The tenants spoke to the difficulty of finding alternate housing and how they have applied for assistance to help with that. The tenants also stated that their hope is to move up the list to obtain housing. The tenants also brought up previously discussed violations and how nothing was done. The Board asked the tenants to not discuss landlord/tenant disputes.

Himaja Nagireddy, Select Board liaison stated she spoke with the Town Manager who informed her we have staff working with the tenants to assist. The Board further stated that the assistance with alternate housing locations was included in the Board packet for this evening. Mr. Thompson stated that his wife did speak to the tenant advocate who did nothing to assist them but have received nothing else from the town. The Board asked if they received documentation from the Town to attend this evening? The tenants stated they meant nothing else. Ms. Ball stated that the Town is required per the State Housing Code to provide the tenants a list of alternative housing which was done via the tenant advocate. The Board asked Ms. Ball to resend the tenants that list. The tenants further stated that both Laura Ducharme and Ms. Ball were aware that this was an illegal apartment three years ago. The Board stated the Health Department was not involved until February of 2023. The Board also stated that the condemnation would further bump the tenants up the list for housing as they would now be classified under an emergency need for housing. The Board also discussed how they take offense to the comment from the tenants stating the town is not doing anything and stated that



the Town does its best to help all of our residents. The Board also stated that if the tenants are experiencing illness living there(as stated by the tenants) and questioned whether it is in their best interest to continue living there? The Board also stated that the owner should repair some of the health and safety violations in the 60 days to provide temporary amelioration.

On a motion made by Mr. McInnis, seconded by Dr. Taylor, the Board unanimously voted to condemn the unit located at 92B Willow Street and give the tenants 60 days to vacate the dwelling and further instructed the owners, within those 60 days, to fix the critical and safety violations, provide a dehumidifier to help alleviate chronic dampness and the tenants provide access to the unit to conduct those repairs. If at the end of the 60 days, there is reasonable cause the Board may consider an extension. Ms. Ball stated that the owners or representative must give the tenants 48 hours' notice to enter into the unit to fix those violations and if the tenant does not allow access, the tenants could be cited by the Health Department through the housing code. The owners Attorney stated that they were given a notice to quit on February 18, 2022 and it has been over one year since they were given the notice to vacate so to consider this if the tenants ask for an extension.

The Chair took roll call and all were in favor.

The owner of the property also is seeking to appeal the fines levied against the property. The Board asked the owners if they are willing to table that appeal and it was stated yes.

#### **4. Adjournment**

On a motion made by Mr. Kreuze, seconded by Dr. Singh, the Board unanimously voted to adjourn at 9:24 PM. The Chair took roll call and all were in favor.

#### **Documents and Exhibits Used During this Meeting;**

- Town of Acton script for boards and committees opening meeting
- Board of Health agenda
- Public Hearing – 92B Willow Street, timeline, backup documentation/correspondence, Health recommendations, appeal of housing code violation fines
- Emergency Beaver Trapping Permit – 4 Duston Lane, Health recommendations, application and impoundment location.
- Minutes from 4-4-23
- Extra Information-Site Plan approval for 100 Discovery Way

Respectfully Submitted,

Sheryl Ball  
Acton Board of Health

Mark Conoby, Chairman  
Acton Board of Health