



Acton Board of Health

Meeting Minutes

June 27, 2023

7:30 PM.

Hybrid, Memorial Library Meeting Room and Zoom

Present:

Members Present: Mark Conoby and William McInnis.

Virtual Associate Members Present: Michael Kreuzer, Dr. William Taylor and Dr. Rekha Singh

Staff Present: Sheryl Ball-Health Director, Matthew Dow and Felix Garcia, Public Health Inspector

Others Present: Alissa Nicol, Select Board Liaison, Chris Couture, Nayantara Bhat, Jon Crandall and Dan McLaughlin

Others Present Virtually: Terra Friedrichs and Michele Holland

1. Opening

Chairman – Mark Conoby opened the meeting at 7:43 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

None

Health Director Update

Ms. Ball stated that Dr. Singh was reappointed to the Board and will need to be sworn in and complete the necessary paperwork prior to the Board's next meeting in July.

Ms. Ball stated that we took 115 residents of Littleton, Boxborough and Acton to Kimball Farms today as part of a grant to promote social connectiveness amongst the senior population. Ms. Ball stated that she is thrilled that the event helped to get residents that previously didn't know each other connected.



Appeal of BOH Order of Condemnation by Tenants (William and Jean Thompson)– 92B Willow Street

The Board stated that this is a continuation of the appeal as the tenants were not present at the Board of Health meeting scheduled on June 20, 2023 when this appeal was first scheduled. The Board also stated that there was no additional information received prior to the deadline by the tenants for inclusion in the Board packet. The Board conducted a hearing on April 18, 2023, and both the tenant and the owners were both provided opportunities to present their case as to why the property should not be condemned and all agreed that the cited code violation was correct. The Board further stated that they do not appreciate the allegations that are being spread around town and it is imperative to recognize that the condemnation happened due to the violation cited. The Board asked that everyone present be respectful and that tonight's discussion will be limited to information concerning the appeal. In addition, both parties will have an opportunity to present information for the Board to consider whether the condemnation should be affirmed, withdrawn or modified.

The Board reopened the appeal hearing. The Board stated that Ms. Ball indicated that the applicant is seeking an appeal of the vacate date which was unclear at the time of the request to appeal. Attorney Pickering-Cooke, Town Counsel stated as she has been assisting Ms. Ball through this process, specifically with the appeal received from the tenants. Atty. Pickering-Cooke stated the Board has jurisdiction over the process for appeals, condemnation and order to vacate under the Massachusetts State Sanitary Code and that tonight is about the appeal. Atty. Pickering-Cooke further stated that if the tenants are not satisfied with the outcome this evening then they will need to appeal to the court system. Mr. Thompson presented the Board with a packet of information that the Board did not enter into discussion as Board members participating virtually were not able to review as well as any public attending virtually. Mrs. Thompson stated that there are other violations besides the violation that ultimately condemned the unit and Ms. Ball had indicated to her that the Health Division was advised not to reinspect as the unit had been condemned. Ms. Thompson specifically mentioned that these other violations have not been corrected and questioned the Health Divisions lack of enforcement and wondered why she could not speak to those this evening. Atty. Pickering-Cooke stated that tonight is about the appeal of the Board's condemnation order and from a practical point the Board could consider that the Health Division with limited resources, could conduct a reinspection while this unit is occupied, however, we are not going to require the owner to spend a lot of money to bring a condemned unit up to code. Atty. Pickering-Cooke also clarified that the tenants have already received an extension to the Board's order to vacate due to a procedural error by the Health Division. The Board asked that this hearing be restricted to the appeal which has been requested to allow more time to vacate. The Board also stated that the condemnation hearing has already taken place where both parties were allowed to present their cases. The tenants stated that they didn't expect this appeal hearing to happen so quickly and that they were hoping that they found alternate housing prior to this hearing. The Board asked Atty. Pickering-Cooke to explain next steps. Atty. Pickering Cooke explained that the Board could require a status check-in in order to be more informed prior to enforcing removal after the vacate date has expired. The Board asked about that process. Atty. Pickering Cooke explained that a formal hearing by the Board would not be necessary but all parties should be invited to that meeting,



similar to the court process when they check-in on status negotiations. The tenants also questioned what would happen once the vacate date is reached and the Board explained that the housing code directs that the tenants be removed. The tenants also stated that a condemnation placard was not on the home as required by the code and Atty. Pickering-Cooke explained that the house does currently have a placard on-site that was placed on the home by a constable.

The tenants again expressed their concerns with the other violations not being re-inspected. The Board again reiterated that a status check-in will happen at all Board of Health meetings prior to the vacate date. The Chair asked the Board if they had any questions and it was asked how long it would take to find another residence. The tenants stated that they are low income, disabled and have applied for Housing assistance through the CHAMP website and have not heard back. The Board asked the tenants if they are currently renting a low-income home and it was stated that they are paying \$1,800/month. Atty. Pickering-Cooke advised the tenants to reach out to Laura Ducharme, Community Service Coordinator for the Town for assistance. The tenants stated that they had spoken with Ms. Ducharme and were only given a list of local apartment complexes to call. The Board also stated that they did not hear any new information this evening to change their minds on their original decision to condemn this unit and their order to vacate.

Atty. Burrell, representing the owner, stated that he is prepared tonight to discuss the appeal of the vacate order. Atty. Burrell stated that the tenants have stated that they believe that the Health Departments order favors the landlord but the code is written to protect the health safety and well being of the tenants. Atty. Burrell stated that health department's job is to enforce the code to protect the occupants and the Health Department was only doing their job by conducting an inspection and cited the violation that ultimately condemned this property. Atty. Burrell further stated that the tenant has claimed she was injured by existing violations, however, this is why the condemnation and vacate order was issued by the Board to protect their safety. Atty. Burrell stated that this vacate order should not to be taking lightly and any liability issues may be due to the tenants not vacating and again cited that the vacate order is to protect their health and safety. Atty. Burrell stated that we need to remember that they were asked by the landlord to vacate on February 2022 and then again with the Board's order on April 18, 2023. It was also noted that it has been 16 months since they were asked to vacate and the tenants have already received extensions to vacate, starting from the landlord's order to vacate and the Board's order to vacate plus the inadvertent error by the Health Department that extended the vacate order from June 18, 2023 to August 7, 2023. Atty. Burrell stated that nothing stated by the tenants tonight should extend it again and that we need to focus on the appeal not the other issues and requests that the vacate date remain for August 7th.

The tenants again stated that the other violations have not been addressed and also questioned why this appeal happened so quickly as they stated that they would like the time to let the current court case to play out. The Board stated that the court case is a separate issue. Sam Bajwa, the landlord wants to emphasize that these tenants have been given a long time to find alternate housing and they had a great relationship with the tenant prior to their notice to vacate.

Mr. McInnis stated he has not heard anything tonight to change the previous order to condemn and vacate but stated that status updates are a good idea to keep the Board updated. The Board agreed that all status updates should happen.



Call in User, Terra Friedrichs stated it takes years to find affordable housing and has been looking for a pro bono lawyer to assist these tenants and suggested that the Board continue this hearing until August and recommended that the landlord fix the most egregious violations for the tenant's health and safety. Alissa Nicol, who is a current Select board member, but is commenting tonight as a private citizen agrees with revisiting this issue closer to the vacate date. Ms. Nicol also believes that these other violations should be addressed and corrected. Ms. Nicol stated the letter in the Board packet this evening stated that the Board did not find this below grade violation to be a health and safety violation and believes this was a typo. Ms. Nicol also stated that a year and ½ is not that long to find affordable housing and believes that the other violations were not corrected because this property is slated to be demolished and they should be addressed.

Mr. Marsh, owners representative of the property stated they did try to correct these violations but the tenants have called the police on them and they were not allowed to correct the violations. The Board asked Mr. Marsh if any violations were corrected and he stated yes and further stated that they are willing to correct these other violations, however, the tenants have not allowed access.

The Board asked the tenants if they would allow access and they stated yes.

On a motion made by Mr. McInnis, seconded by Dr. Taylor, the Board unanimously voted to affirm the Board's order of April 18, 2023 to condemn the property located at 92B Willow Street and vacate order of August 7, 2023 and deny the appeal received by Mr. and Mrs. Thompson. The Chair took roll call and all were in favor.

Additional discussion ensued including:

1. Future Updates on Board agendas
2. Tenants are encouraged to attend the Board's meetings
3. Tenants were advised that they should send any information for inclusion on future agendas one week prior to scheduled Board meetings.
4. Status of other violations being corrected
5. Does this condemnation help the tenants with priority affordable housing.

Minutes – June 6 and 20, 2023

On a motion made by Mr. McInnis, seconded by Mr. Kreuze, the Board unanimously voted to accept the minutes of June 6, 2023.

The Chair took roll call and the vote was 4-0-1(abstention).

On a motion made by Dr. Taylor, seconded by Mr. Kreuze, the Board unanimously voted to accept the minutes of June 20, 2023 as amended.

The Chair took roll call and the vote was 4-0-1(abstention).

Adjournment



On a motion made by Mr. McInnis, seconded by Dr. Taylor, the Board unanimously voted to adjourn at 9:30 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
- 92B Willow Street – Appeal request and town of Acton supporting documents, Notification of BOH Meeting, Letter from Bajwa attorney
- Extra Information – MDPH Weekly MMWR report
- Minutes from 6-6-2023 and 6-20-23

Respectfully Submitted,

Sheryl Ball
Acton Board of Health

Mark Conoby, Chairman
Acton Board of Health