

Appeal Board Meeting Summary  
November 8, 2018

Members present: Cathy Blake, Norman Casas, Bob deGroff, Lowell Freiman, Traci Hoffman, James Kearney, Dorothy Sainio, Bob Temple, Peter Drum-Town Attorney, Brian Alves-Town Health Officer Public: Arlene Condon, Denis Culley

Lowell Freiman called the meeting to order with roll call at 7:0PM.

**Dorothy Sainio moved to accept the 07/12/18 summary as written, Cathy Blake seconded, all in favor.**

Old Business

None

New Business

Lowell Freiman stated the new business is the pre-application for Appeal of Notice of Violation dated September 12, 2018. The Board will go through the Ordinance and By-Laws to address all that needs to be addressed and that this is a proper place for this hearing to take place then determine a hearing date that works to everyone's best interest.

Lowell stated the Board needs to determine that there is something in the ordinance that gives us the authority to hear an Administrative Appeal of this nature. Lowell read Section 4.1 of the Board of Appeals Ordinance – Administrative Appeal. Norman Casas asked if this Notice of Violation comes under the Administrative Appeal. Lowell stated it did and Peter Drum agreed. James Kearney asked what they are appealing – what they consider an illegal visit by the Health Officer and the Code Enforcement Officer or the violations. James stated that seems to be a situation for District or Superior Court. Peter Drum stated their appeal can go forward on the basis on whether or not there was a warrant. They have not, to his knowledge, appealed any of the facts other than the bedrooms; most of their arguments are based on whether or not they are attempting to remedy the violations. Peter has no problem with the Board hearing their position about the properness of the warrant. In the pre-application we are trying to give them a chance to add to the record, compile the record, then at the next meeting we can vote on the record. Peter asked that any additions to the record be sent in before the next meeting. Lowell stated submissions should be sent least ten business days before the next meeting so the Board has a chance to review the documents.

Denis Culley, Condon Attorney, asked if this meeting was noticed. Peter Drum explained that it is a regularly scheduled meeting and he was notified because he is present. Bob Temple sent Denis an email. There was discussion regarding how notice is given regarding meetings. Peter asked Denis how he would like to be noticed and would he like to table this meeting and re-notice it for next month. Peter explained that this is a pre-application meeting not a hearing. Peter gave Denis the packet to review before the next meeting. Lowell asked Denis how he would like to proceed. Denis stated his preference is that this poverty stricken, elderly woman be

allowed to come into compliance with the town ordinance. He was told, through emails, from the town attorney, that there would be a tolling agreement; we would dismiss the appeal, with the right to try again in six months to get her into compliance and out of trouble. Lowell Freiman stated that may be the ultimate outcome but it's not the responsibility of the board to get ahead of the fact and have that discussion now until we go through the steps that bring us to that point. Norman Casas stated that the Board has certain rules and guidelines for a pre-hearing conference; which he reiterated. Peter Drum stated at this point the meeting should be tabled to the next regular meeting to give Denis a chance to review the pre-hearing conference outline, review the documents and the next time we can set what the issues are for appeal based on his written appeal. Peter Drum stated, as regards to Standing – one of the issues, in this case, is that the Heirs of Condon appear to be the people who own the property. There's been a recording that says there is a life lease but it is not notarized. Peter Drum doesn't know whether or not that constitutes a valid conveyance or not. We will need, from Denis Culley, a title opinion that says that gives her a valid interest in the land. James Kearney confirmed we would go back to a pre-hearing conference meeting. Lowell Freiman asked if there was a way to go back to dismissing the appeal and come up with an agreement. Peter stated he would need to speak with the Selectmen. Denis stated he had documents to submit. Peter said he could submit them tonight or at the next meeting.

Denis Culley said "his only goal is to get her out of trouble and if 'you' want to drive her out of her home you probably can. If you don't want to he is very willing to work with her and get her into compliance". Lowell Freiman stated, as Chairman of the Board, "I don't think we have any agenda to pursue other than to see that the ordinances are adhered to fairly and that people's rights and due process are respected; expect that from this Board as we go forward. Quite frankly, if you can find some way to work this out shy of there being a hearing, I think that would be a wonderful outcome so long as it works for the town and for your client". Peter Drum stated he is happy to review any proposed consent agreement by the appellant.

**James Kearney moved to continue this meeting to a mutually agreeable date in December, Norman Casas seconded, all in favor.**

The next meeting will be held on December 6, 2018 at 7PM. All future meetings and hearings shall be noticed to Mr. Culley Ms. Condon by first class mail.

Denis Culley stated, to Chairman, Lowell Freiman, he had six documents he wanted to submit but at a deference to the Board and in hopes of reaching some agreement with Attorney Drum and the Selectmen, he'll wait. Peter said he could submit them to give the Board more time to review them. Denis said the documents need to be attested to. Peter said to wait until the next meeting.

Norman Casas moved to adjourn the meeting at 7:33pm.

Respectfully submitted,

Mary Anderson

