

HAMILTON BOARD OF HEALTH

MINUTES OF MEETING

May 15, 2019

Members Present: Giselle Perez, PhD., Walter Row, and David Smith (Chairman)

Health Agent: Leslie Whelan

This meeting was called to order at 7:00 pm in the Memorial Room, Hamilton Town Hall by David Smith.

**Public Hearing: Adopt and Sign the Regulation Prohibiting Tobacco Products in Schools.**

David Smith made motion to adopt the Town of Hamilton Regulation prohibiting tobacco products in schools with an effective date of the Regulation being August 1, 2019. The copy of the Regulation was the subject of the public hearing of March 13, 2019 with May 15, 2019 being the proposed adoption date.

Dr. Perez seconded.

Vote: Unanimous in favor.

**417 Asbury St. (Canter Brook) building permit for two bedroom Senior Housing.**

Larry Smith (owner) was present. Leslie Whelan said the septic system had been designed for 2-bedroom senior housing units. Typically two bedrooms would be designed for 110 gallons of wastewater per bedroom per day but DEP Regulations for Title 5 indicated that 2-bedroom senior housing units could be designed for 150 gallons per day per dwelling unit rather than 220 gpd. Whelan reviewed the plans as part of the building permit process to discover that technically, the units were two bedrooms but also had a library, an office, a loft, and a family room with a full bathroom for a total of nine rooms, which required a larger septic system. Having nine rooms triggered a larger septic design. Ms. Whelan wondered if the Board would consider the proposal a two bedroom senior unit when 9 rooms require a 4-bedroom septic. Ms. Whelan was uncomfortable signing off on the building permit given the situation. Ms. Whelan said the Board could sign off if they believed it would not overburden the septic system.

Larry Smith responded that the age restriction protected the system many times over. The Planning Board had approved a layout similar to what was proposed four years ago. The Declaration of Trust (condo documents) specifically stated the unit could only be two bedrooms. A child under 18 could not live there for more than 30 days in any given year. Larry Smith said high end homes had to have other rooms and that the loft and bedroom only had one bath with a master bath on the first floor. Leslie Whelan said the plan also included a full bathroom in the basement next to the family room. Larry Smith responded that the extra space was optional. Larry Smith suggested adding a penalty to the condo documents if a third bedroom was constructed. Larry Smith thought only two to three units would have a finished basement and he would modify the drawings to include the word "optional." If the basement was not finished, the unit would only have seven rooms with two and a half baths and two bedrooms. Larry Smith

said buyers required a library and office. Dr. Perez thought it was a luxury considering the demographic.

Leslie Whelan questioned whether a room could be considered a bedroom even if it were labeled an office. Larry Smith said the Planning Board had approved similar layouts and was disheartened by the eleventh hour concern. One person had to be 55 or over to own the unit. Middle units would have 1,800 to 1,900 sf while end units would have 2,300 to 2,400 sf excluding the basement, which was 800 to 900 sf.

Discussion ensued regarding limiting overnight use of the driveway as no restriction was currently in place. There were six guest spots on site. David Smith was concerned about the Board of Health limiting parking when it was not their purview. In response to Dr. Perez's question about potential oversight of individuals creating bedrooms, Larry Smith responded that the Trustees would ensure the rules were followed. Residents moved to these developments because of the rules and didn't want their values degraded. Larry Smith added that a building permit would be required to finish the basement. Walter Row added that residents would know if someone were housing more people than allowed. The communal septic system would be overtaxed from overpopulation and no one would want to spend the money for repairs, according to Larry Smith.

Dr. Perez noted that the units were two bedrooms but were not limited to two people. Larry Smith said he had not seen two couples live in any of the units of previous developments. Dr. Perez was not comfortable with the plans. Walter Row said the DEP allowance of 150 gallons per day was for two bedrooms not implied to be a number of people. Leslie Whelan noted the 150 gallons per day was for senior housing otherwise the requirement would be 220 gallons per day. David Smith recalled that his family of two living in a three bedroom home used 100 gallons a day.

Larry Smith said the 18 year old restriction was part of the Planning Board Decision and Federal law. Larry Smith added that 30% of the residents typically go south for the winter. Technically the units could be rented but the tenant would need to be 55 years old or older. Leslie Whelan explained that if there were more than eight rooms, every room would be counted and divided by two then rounded down. In this case, a four bedroom system would be required if the basement were to be finished as that would bring total room count to 9. According to Ms. Whelan, each Town interpreted the Regulations differently. For example, Rockport would count an office, family room, or library as a bedroom. Larry Smith suggested taking the office out of the optional finished basement, which would lower the room count to eight. Once the count was at eight rooms, the actual bedrooms would be counted, which would help with Title 5 compliance.

David Smith made motion to approve the plans subject to the following changes: 1) elimination of the wall as showed on the plan and 2) subject to deletion of that exception in condo documents

that begins with “without expressed written permission of the declarant and the trustees,” and 3) subject to the limitation that no more than eight rooms.

Walter Row seconded.

Dr. Perez suggested adding fines. Larry Smith offered \$100 per day. Leslie Whelan noted that every quarter the department received a flow report on how much water had been through the system as part of the operation and maintenance report. Larry Smith added that every two units shared a holding tank for solids with an alarm and if there were excess people who produced excessive solids, the alarm would go off prematurely and create another warning flag.

Leslie Whelan said if the basement were only one room, the total within the unit would be eight rooms and the two bedrooms could be counted. Larry Smith said most homeowners didn't want the wall in the basement with a second room. The language in the trust document allowing an exception to the two bedrooms would be deleted and a fine of \$100 per day would be added. The plans would be changed as part of the building permit application for the reduction of two basement rooms to one. The Building Inspector would review construction for compliance.

David Smith moved that the Board of Health accept the plans as presented subject to the incorporation of three changes, 1) deleting the phrase in the trust document that allowed the exception to the two bedrooms, 2) adding a sentence in the trust documents that provides the trustees the ability to levy a fine of \$100 a day for violating the two bedroom limit, and 3) deleting the finished basement wall that would otherwise result in a count of two rooms and now without the wall, one room.

Walter Row seconded.

Vote: Unanimous in favor.

#### **Brick Ends Farm. Planning for tour on June 1, 2019.**

Walter Row wanted to ask Peter Britton who had jurisdiction over the farm and what would happen if the proposed bill were to pass. Currently the Board acted as bystanders but the bill would have them placed in the center. Leslie Whelan said if another facility wanted to be placed in the town, it would need to apply like a marijuana facility and meeting Zoning Regulations. Peter Britton would be asked how helpful Sean Bowen had been on providing guidance of best practices. Board member questions would be sent to Mr. Britton ahead of time. Dr. Perez noted that she could smell the compost from her home near Cutler School, which she believed was getting progressively worse.

#### **Discussion with Tim Olson (DPW Director) on public concerns regarding Town water quality.**

David Smith recalled when concerns regarding the water supply were posted on the Hamilton Wenham Community Facebook page. Mr. Smith was concerned about the absence of factual information on the post. Tim Olson said he had received no calls on the issue. Another post had discussed why a water ban had been in place after the recent rains. Mr. Smith proposed to have the DPW and Board of Health develop a statement on the subject of water quality and quantity

and posting it on the Hamilton Wenham Facebook page, printing it in the Chronicle and Patch, and producing flyers on the topic, which would be mailed with the water bill.

According to David Smith, the water quality was good and the water ban was a reflection of the State law, which regulated how much water could be withdrawn in towns where the water supply was from a groundwater aquifer. Town fathers 20 years ago neglected the Town's water treatment plant, which had deteriorated to half capacity. The DPW was solving the problem to get the plant back to its operating design level. Leslie Whelan agreed the Board of Health could offer assistance to address the confusion. Two Selectmen had made water a top priority.

**Health Agent Update.**

Leslie Whelan had returned from vacation to find huge stacks of plans to be approved. Walter Row was concerned about recycling information.

**Unanticipated Items/Announcements.**

Dr. Perez was concerned about the nutritional value of the food service at the Hamilton Wenham schools. Leslie Whelan said the Board had the authority to impart their knowledge, make a recommendation, and encourage the School to offer a more nutritious meal plan. Ms. Whelan suggested that Dr. Perez contact the food service director of the Schools.

**Review April 17, 2019 Minutes.**

Motion made by David Smith to approve the minutes of April 17, 2019.

Seconded by Giselle Perez.

Vote: Unanimous in favor.

**List of documents and exhibits reviewed.**

Draft Minutes of April 17, 2019.

**Adjournment**

Motion made by David Smith to adjourn at 8:37 pm.

Seconded by Walter Row.

Vote: Unanimous in favor.

Prepared by: Marcie Ricker