

**BOARD OF HEALTH
MINUTES
JUNE 9, 2008**

MEMBERS PRESENT: Helen Shah, DNSc, Chair
Charles Kelliher, Vice Chair
Robert Brown, Ph.D, Clerk
Ann Greenbaum, RN
Evelyn P. Hayes

OTHERS: Bruce G. Murphy, MPH, Health Director.
Michael Healy, owner, Captain Gladcliff
Keiran Healy, Captain Gladcliff
Paul Tardiff, attorney, Captain Gladcliff
Jim Brandolini, Yarmouth Building Commissioner
Carl Lawson, Hazardous Waste Inspector
Peggy Rose, Board Secretary

I. Hearing – Revoke, Suspend or Modify 2008 Motel License – Captain Gladcliff, 881 Route 28, South Yarmouth

The Chair read the legal notice of the hearing that was published in the Cape Cod Times on May 24, 2008. She asked if the Captain Gladcliff did or did not rent to transient guests. She was told that they did not.

Attorney Paul Tardiff stated that he is requesting a motel license for part of the Captain Gladcliff. The establishment is in a unique situation as it has 2 legal apartments and also all the remaining rooms have full kitchens which are also legal. It is operated under condominium ownership with Mr. Healy being the sole owner.

Mr. Tardiff said that Mr. Healy is seeking relief under Section 404 of the zoning bylaw from the Planning Board. He has had positive meetings with both the Design Review Committee and Site Plan Review Committee and will be filing with the Planning Board. There are 26 units now at the property and the owner would like to maintain that number. As a matter of right under zoning, 20 to 21 units are allowed on the lots. A special permit is needed for the remaining units. The owner would like to have 16 apartments and 10 motel units.

Attorney Tardiff informed the Board that Town Counsel has determined there is no difference between the Board revoking or suspending a motel license.

The establishment has no current license and will lose the room number as the total rooms in the town is over the room cap number. He requested the permit be allowed until the end of the year as the owner is moving forward with plans to change the use of the property.

Attorney Tardiff stated that the owner has been following the motel guidelines issued by the Board last year. Those guidelines cannot be used by the Board to determine if a motel license can or cannot be issued as they included items that the Board does not have the authority to enforce. The number of the room cap is 3,553 and Mr. Healy would like to keep the motel units until he has a decision from the Planning Board. He has met several times with the Building Commissioner.

The Chair asked how the kitchens could be legal. Building Commissioner Jim Brandolini explained that his research into the property found that it was constructed in 1959 and there was an addition to the property in 1969. It was converted to condominiums in 1981 and predates the town's condominium conversion bylaw that took effect in 1982. From the information gathered, Mr. Brandolini has determined that the kitchens are a preexisting nonconforming use.

Ms. Hayes stated that the owner has shown a good faith effort to meet the Board's guidelines. Mr. Tardiff responded that the Board has concrete evidence that the owner is moving forward.

MOTION: (Mr. Kelliher) To continue the motel license for the Captain Gladcliff until December 1, 2008. It will then be determined whether or not to issue a license for 2009.

Seconded: Ms. Hayes

Discussion: None

Vote: Motion carried by a 4 – 1 vote with Dr. Shah voting in the negative. She stated that she could not vote for the motion as the owner was not presently renting to transient guests.

The Chair asked what would be the result if the owner did not have a motel license. Mr. Tardiff stated that since the total number of motel rooms in the town is over the cap number, there would be no rooms available to the owner.

The Health Director asked about the onsite management of the property. Keiran Healy stated that there is a person working on the property during the day and another person staffing the office from 4:00 to 8:00 PM. As these are residences, there is no need for staff all the time.

II. Hearing – Variance Request – 23/25 New Hampshire Avenue, West Yarmouth

The Health Director advised that after a month of working with septic designer, Ron Cadillac, the department and Mr. Cadillac were able to agree on a design of the system which all septic system components are located at least 70 feet from the wetlands. It is also within the guidelines for variances to be reviewed and approved by the Health Department staff.

III. Update – Anniversary Park, South Yarmouth

The Health Director advised that this property was purchased by the town in 1989. There had previously been a gas station on the site. In 1997, a plume was discovered originating from the property when the Exxon station across the street was having its underground gas tanks removed. So far, the town has expended \$467,000. in clean-up costs. The clean-up is now complete and the town's consultant, Horsely & Witten, has issued a site closure report. The department budget for FY09 will now be reduced by \$12,500. because of the completion of the project.

Hazardous Waste Inspector Carl Lawson advised that the testing protocol in 1988 for such sites was not what they are now. If the town was to purchase the property today, the plume might have been discovered at that point.

IV. Update – Restaurants

The Health Director stated that the spreadsheet was the first draft. The number of seats is typed on the establishment's foodservice license. Seating should match up with the number of seats noted on the certificate of inspection issued by the Building Department. Outdoor seating is limited to paper service with no waitress service. He stated that there is no clarification in Title V between indoor and outdoor seating and he has called DEP to ask if he could have a clarification from them.

The Health Director was asked about the seating at Red Rose Inn. He stated that the owners have closed 5 guest rooms on the second floor because there is no second means of egress as required by the building code. For every guest room not in use, they can add 3 seats.

The Chair mentioned that the Board still needs to review the restaurant regulations at a future meeting. She asked about the trans fat issue. The Health Director stated that the vast majority, if not all, of the restaurant owners are not using oil containing trans fat for deep frying but he is not sure about its use in other methods of cooking.

V. Discussion/Decision – Special Town Meeting, June 24, 2008 – Article 5, Charge of the Board of Health

Several members of the Board stated that the department already does several of the items mentioned in the article. The Health Director stated that if it is approved, there would be a cost for the department to undertake any additional duties or perform any environmental or public health studies that fall under the new charge.

The Vice Chair thought the Board should defer to the Board of Selectmen in regard to supporting or not supporting the article because of the possibility of additional funding needed. The Chair thought the Board should take a position on the article.

The Chair asked the Health Director to contact the author of the article and ask if he could attend the next Board meeting on June 16.

VI. Discussion/Decision – Letter of May 29, 2008 from Contos/Gagnon

The Chair stated that there was no promise made of a report to the Board regarding the oral health report. She had reviewed the report again and stated that the report stopped short of recommending statewide fluoridation of the drinking water.

VII. Approval of Minutes of Board of Health Meetings

A. Meeting of May 5, 2008

MOTION: (Mr. Kelliher) To approve the minutes of May 5, 2008 as written.

Seconded: Ms. Greenbaum

Discussion: Ms Hayes stated that she would not vote to approve the minutes because of the Chair's statement attached to the minutes. She did not think that the statement correctly reflected the concerns she expressed at the April 28, 2008 meeting.

Vote: Motion carried by a 4 – 1 vote. Ms. Hayes voted in the negative.

B. Meeting of May 19, 2008

Under I. Hearing – 2008 Motel Licenses – Cavalier Motel, Seagull Beach Motel, West Yarmouth Lodgings, page 3, C. West Yarmouth Lodgings, the following is inserted as paragraph 2: **The owner was not seeking a motel permit so the hearing was continued to a mutually convenient date to allow for additional legal advise for the Board from Town Counsel.**

MOTION: (Mr. Kelliher) To approve the minutes of May 19, 2008 with the addition.

Seconded: Ms. Greenbaum

Discussion: None

Vote: Unanimous

VIII. Other

West Yarmouth Lodgings (Guest House)

The Health Director reported that he and the Chair and Vice Chair had met with Town Counsel. The establishment meets the criteria for a lodging house permit. It will be issued and it will not be necessary to hold a meeting with the owner and his attorney.

IX. Adjourn

There being no further business, the Chair adjourned the meeting at 4:17 PM. The Board then went into executive session in order to complete the annual review of the Health Director. The Board would not be returning to the public session of the meeting.

Respectfully submitted,

Robert Brown, Ph.D, Clerk

Minutes Taken by Peggy Rose