

ANDOVER BOARD OF HEALTH
Minutes
September 29, 2014, 6:00 P.M.
CD&P First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Katherine Kellman, Vice-Chairman, Gopala K. Dwarakanath, M.D., Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Appointments & Hearings

- **6:00 p.m. – Attorney David Christiansen for 2 Dufton Road – Appeal of Orders**
Attorney David Christiansen, Counsel for U.S. Bank, N.A as Trustee for Credit Suisse First Boston, was present. Mr. Carbone informed the Board that on September 8, 2014, he, Chief Mansfield of the Andover Fire Department, the Deputy that was on duty that day, and Christopher Clemente, Inspector of Buildings, conducted an inspection of the first floor unit and the basement common area at 2 Dufton Road. The Property Manager who was handling things at the bank was there as well. Mr. Carbone had issued an ORDER on 9/11/2014 citing problems that were noted, such as lack of carbon monoxide detectors, and inadequate smoke detectors on the first floor and basement. The rear internal stairway to the second floor front door was blocked creating an unsafe means of egress, the back steps on the porch are degrading, temporary electrical cords are being run from the basement to the outdoors, and there is an odor of decomposing garbage on first floor. They had also been cited for having material impeding access to the electrical panel, the furnace, and the hot water heater in the basement. Attorney Christiansen contacted Mr. Carbone and requested an Appeal of the three items the bank feels it cannot take control of because they have no access to the areas. The three items are the electrical cords, the material blocking the furnace, electrical panel, and hot water heater and the interior stairwell that is blocking the second floor unit.

Attorney Christiansen informed the Board that the bank has a long association with this person and they have been trying since 2009 to take over the house after the owners of the property foreclosed on it. Since that time, the former owners have filed many legal motions with Housing Courts and Appeals Courts, as well as Bankruptcy Court which has delayed the Bank from taking any actions. As a result, the bank has been unable to evict them. Last week Mr. Boyer filed a motion to appeal the eviction and the bank has 60 days to bring back their possessions. The bank's position is it doesn't have control of units 4 & 6.

Dr. Dwarakanath stated that even though the bank is having issues with the tenants, the bank does own the entire property, so the bank is responsible for the property. Ms Kellman stated that as the owner of the property, no matter how difficult the person is, this should be no different than the responsibilities of any other owner. Attorney Christiansen stated that Mr. Boyer is a former owner, not a bank tenant. The bank

does not have possession of their units, and it is their property, so the bank cannot move them. Dr. Dwarakanath stated that the blocked egress is a danger and asked if there was any way the Board can get the items moved. Mr. Carbone stated that he did send an ORDER via certified mail on September 25, 2014 to Mr. Boyer. The certified mail came back unsigned, but the ORDER was also sent out via regular mail, and that has not been returned.

Ms. Kellman stated that she knows things are difficult for the bank, but the law says an egress has to be clear and it is the owner's responsibility. Her opinion was that difficulty accomplishing the goal is not enough for the Board to rescind the ORDER. If the Board rescinds the ORDER until after the eviction, then there is no longer a safety issue. Dr. Dwarakanath stated that he agreed, and that it is the responsibility of the bank because they are the owner of the property.

Motion by Ms. Kellman, seconded by Dr. Dwarakanath, to uphold the ORDERS of September 11, 2014 to Credit Suisse First Boston CSFB to correct violations at 2 Dufton Road. Unanimous approval.

- **DWRP – Variances/Local Upgrade Approval**
 - **7 Carriage Hill Road – Allow SAS to be 3.5' above SHWT, 4' Required –** Mr. Carbone explained that the Engineer, Ben Osgood, told him that raising the system an additional 6" would require a pump and a wall. Mr. Carbone recommended approval. Sewer is not available that far down the street.

Motion by Ms. Kellman, seconded by Dr. Dwarakanath, to approve the LUA to allow the SAS to be 3.5' above SHWT where 4' is required. Unanimous approval.

- **541 Lowell Street – Allow SAS to be 3' above SHWT, 4' Required –** Mr. Carbone stated that the Engineer, William DuFresne, explained to him that the addition will be a laundry and mud room, which doesn't come into play with the room count or the septic system. The LUA request is driven by esthetics and practicality, more than cost as the system will need a pump either way. Due to site conditions and wetlands, the system is being placed in the rear yard. It is sandwiched between the westerly property line, a shed to the north, an existing paved walkway to the east, and a house to the south. Even an additional foot raise in grade poses grading issues resulting in drainage toward the house, elimination of the walkway and rendering the usable rear yard less functional because it would be mounded. The Engineer's best estimate for that additional foot would be about 2 to 3 thousand dollars more. Mr. Carbone agreed with him concerning the grading down towards the house. By raising the grade a little bit, there would be more stacking and it would have to be graded to both the structures. Ms. Kellman asked why this property is different from other houses with mounds. Mr. Carbone stated that if you have the room to do the grading, you can make the yard look decent. This property does look like it has some room to grade. He stated that he could go back to

the Engineer and see if he could raise the measurement by $\frac{1}{2}$ '. The Board decided that it would like the plans to be revised to a 3.5' SAS. Mr. Carbone stated that he will go back to the Engineer and tell him what the Board wants changed.

Motion by Dr. Dwarakanath seconded by Ms. Kellman, to approve the LUA to allow the SAS to be 3.5' above SHWT (instead of the requested 3') where 4' is required. Mr. Carbone was instructed by the Board to inform the Engineer of the change and get revised plans back for review. Unanimous approval.

- **5 Nob Hill Circle – Allow SAS to be 65' to a Wetland Bordering a Surface Water Supply, 100' Required; Allow Septic Tank to be 60' to a Wetland Bordering a Surface Water Supply, 100' Required** - Mr. Carbone stated that this meets full compliance with the groundwater setback, and a pump is installed. The problem is that Fish Brook is nearby and there is a vegetative wetland adjacent to the tributary to the water surface supply, and this will not be able to be 100' away because of grading and construction. He assured that Board that there were no other choices in this case.

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the LUA to allow the SAS to be 65' to a wetland bordering a surface water supply where 100' is required; allow the septic tank to be 60' to a wetland bordering a surface water supply where 100' is required. Unanimous approval.

II. Adjournment

Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 6:59 p.m. Unanimous approval.