

**BOARD OF HEALTH
MINUTES
MAY 5, 2008**

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

MEMBERS ABSENT: Ann Greenbaum, RN

OTHERS: Bruce G. Murphy, MPH, Health Director
Harry Miller, owner, Cavalier Motel, 881 Route 28, South Yarmouth
Julie Molloy, attorney, Cavalier Motel, 881 Route 28, South Yarmouth
Chief Michael Almonte, Yarmouth Police Department
Rick Presbey, Housing Assistance Corporation
Marlene Weir, Salvation Army
Alan Burt, homeless advocate
Mark Halstead, Homeless Not Helpless
Mary Ann Hakenson, Homeless Not Helpless
Richard Murphy, homeless advocate
Tom Naples, homeless advocate
Ann Rebello, homeless advocate
David Lacontour, homeless advocate
Diane Pratt, abutter, 6 Nantucket Avenue, South Yarmouth
Peggy Rose, Board Secretary

I. Hearing – Revocation of Motel License – Knotty Pine Motel, 24 Vineyard Street, South Yarmouth

The Health Director advised that this is a 5 unit motel which is not in compliance with the motel bylaw because of long term rentals. The decision of the Board of Appeals at their meeting of April 24, 2008 was to allow apartments at the site for for a period of 5 years.

The Vice Chair asked if the establishment would loose their room count under the motel cap. The Health Director stated he thought that if the establishment wanted to return to motel status, the owner would have to go back to the Board of Appeals.

The Health Director did not think a vote of the Board was necessary because of the decision of the Board of Appeals. The Vice Chair thought that if the license fee had been paid, the license would need to be revoked. The Health Director will find out if the fee has been paid.

II. Hearing – 2008 Motel Licenses – Cavalier Motel, Seagull Beach Motel, West Yarmouth Lodgings, West Yarmouth Guest House

Owner Harry Miller advised that he had been grappling with the situation at the Cavalier. Any solution will involve time, effort and financing. He stated that it was not a secret that there were long term rentals at the motel as there were before he purchased the property. The letter that he received from the Building Commissioner stated that there were no restrictions on long term stays. Mr. Miller stated that he is providing affordable housing.

Mr. Miller's attorney, Julie Molloy, advised him that she thought a 40B project would be the best use of the property in the long run. Units would have cooking facilities. Mr. Miller was advised by Mass. Housing not to go before the Board of Appeals. He stated that he needs more time to file the 40B project. Ms. Hayes asked him how much time was needed. Mr. Miller said that the application has to be in to Mass. Housing within 90 days. It is not an easy or quick process.

Dr. Brown asked how the property would fit into a 40B project. Mr. Miller said that studio units with kitchen facilities would be located on the property.

The Vice Chair asked Mr. Miller what were the dates that he acquired the properties. He replied that the Cavalier was purchased in 2005, Seagull Beach in 1996 and West Yarmouth Lodgings in 1998.

Ms. Hayes stated that under 40B projects, 25 percent of the units must be affordable. Mr. Miller stated that all of them would be.

Attorney Julie Molloy advised that the plans for Seagull Beach Motel will be filed with the Board of Appeals today. Mr. Miller seeks to have the decision of the Building Commissioner overturned as the use of the property was in existence before the bylaw was passed. She stated that in a suit brought against the City of Boston, the 1980 decision stated that the Board of Health could not deny a permit based on issues that did not relate to the Board of Health.

The Vice Chair asked about the status of the guest house. Mr. Miller advised that he had hired an onsite manager today which is one of the requirements of a lodging license. The Health Director stated that a lodging license would be issued as the establishment is in compliance with health regulations.

The Vice Chair stated that the motel bylaw had been approved in September, 2006 and the Board had issued guidelines for motel permits in September, 2007. He thought the licenses should be suspended and not revoked. He said that Mr. Miller knows he has to comply with the bylaw and the guidelines. The 40B process will take 2 years. The Yarmouth Police Department has responded to 55 calls which have resulted in 13 arrests.

Police Chief Michael Almonte stated that town departments and Mr. Miller all need to work together to resolve any problems so that the Cavalier can be a good neighbor. He emphasized that the police department has no authority to evict anyone. The Chair asked him if he thought there were public safety issues at the motel. Chief Almonte responded that he thought there were but the department has also responded to calls of a similar nature at other motels. Attorney Molloy asked if the Yarmouth Police Department would be providing data on calls from all motels in Yarmouth for the Board to review.

There were several housing advocates at the meeting who spoke in opposition to the prospect of the Board suspending the license of the Cavalier. The Vice Chair stated that the Board cannot ignore the policy of the Board of Selectmen which is to have everyone comply with the motel bylaw and state statute for motel occupancy. Marlene Weir from the Salvation Army stated that she thought the Board was in an unenviable position.

Attorney Molloy stated that the Building Inspector should be enforcing the motel bylaw and not the Board of Health. The motel bylaw is a zoning issue. Any hearing which would result in suspension of a license must be published first. The Health Director replied that it wasn't the intent of the Board to do so at this meeting. He thought that Mr. Miller would just be providing an update to the Board.

The Chair stated that the motel license is still in effect. The Vice Chair recommended scheduling a hearing for the May 19th regarding the possible suspension of the license and publishing a legal notice advertising the hearing.

III. Other

The Chair read a statement for the record and a copy of the statement will be attached to the minutes. It was regarding the issue of Board members making statements which are in conflict with positions taken by the Board.

With regard to motel permits for 2009, all permit applications, whether the motel operates year round or seasonal, must be returned to the Health Department by December 31. The Health Director advised that 34 licenses have been issued and 15 are still under review by the Building Inspector as there is a discrepancy

between the number of motel units allowed by septic design and the number of units stated on the Building Department inspection certificate. The Health Director, Chair and Vice Chair will meet with Town Counsel about the Board's authority to suspend licenses.

IV. Adjourn

There being no further business, the Chair adjourned the meeting at 5:10 PM.

Respectfully submitted,

Robert Brown, Ph.D, Clerk

Minutes Taken by Peggy Rose