



Town of Oak Bluffs
Board of Health
P.O. Box 1327
Oak Bluffs, MA 02557
508-693-3554 Ext. 127

William White
Chair

James Butterick
Thomas Zinno
Board Members

Garrett Albiston
Health Agent

Alexa Arieta
Assistant Health Agent

BOARD OF HEALTH MEETING MINUTES

October 31, 2023 – 10:00 AM

In accordance with Governor Healey's extension of the temporary provisions of the Open Meeting Law, this meeting was held virtually.

Members Present: William White, James Butterick, Thomas Zinno

Others Present: Garrett Albiston, Alexa Arieta, Lorna Welch, Joe Sollitto, Rose Cogliano, Joe Cogliano

Mr. White opens the meeting at 10:00 AM.

APPOINTMENTS

- **Brush, Flanders & Moriarty on behalf of Rose Cogliano – 6 Pitch Pine Lane, M 28 P 2.62**
 - Request to address the board regarding building permit application and bedroom count by the BOH – Continued from September 26th meeting.

Mr. Sollitto presented on behalf of the owner, Rose Cogliano. This is a three-bedroom house, assessed as three bedrooms. Mr. Sollitto indicates that the basement was constructed in 1993 as a playroom (now used as the third bedroom), with a full bath down the hallway and a storage room. He states that they have put in a building permit for a 2-car garage with an apartment above that is 512 SF. Mr. Sollitto reads the BOH Regulation 19.0 that was modified in June 2023, that discusses the full bathroom in a basement. He states that this regulation cannot be retroactive to this building permit.

Mr. Albiston states that regulation does not come into play here and that the Title V regulation is applied here. Mr. Albiston states that the BOH has determined that there are four bedrooms currently in the home, and that the BOH cannot sign off on a fifth bedroom until the current residence comes into compliance. He states that we are applying Title V, not the local BOH regulation 19.0. Mr. Sollitto states that there is no discussion of bedrooms in Title V.

Ms. Arieta reads section 15.002 of 310 CMR (Title V), the definition of a bedroom.

Mr. Sollitto suggests that Title V was put in place in 1995, two years after the construction of this home, and that the Board cannot apply Title V regulations after the fact. He offers to move the people in the basement up to the first floor, and deed restrict the basement.

Ms. Arieta states that the building permit on file with the Town is for a two-bedroom home, with an unfinished basement. No other permits are on file.

Mr. Sollitto states that when the building permit was issued, the assessors went in to do an inspection and assessed it as a three-bedroom bedroom home in 1993. He states that he knows this, because he was an assessor for the Town of Oak Bluffs in 1993. Chair White asks Mr. Sollitto if he signed off on this particular property. Mr. Sollitto states that yes, he would have signed off on this as the Board of Assessors.

Mr. Albiston states that the Board of Health does not go by the assessors' records.

Ms. Arieta states that other property owners have complied with this regulation. Recently a homeowner asked to finish her basement but had two bedrooms with a one-bedroom septic system. The homeowner complied and removed a bedroom wall in order to obtain her building permit for her finished basement space, which was to be deed restricted.

The Chair asks Ms. Arieta her opinion. Ms. Arieta states that she feels the board needs to stay consistent with how to treat and act on these building permits, and that her recommendation is that the homeowner must come into compliance before further expansion is permitted.

Mr. Sollitto states that they cannot remove a wall because the house was built 30 years ago and that they are structural walls. Mr. Albiston asks if they have an engineer that has confirmed that. Mr. Sollitto says no. Mr. Zinno states that Ms. Cogliano had come to the board about this and agreed to remove a wall and deed restrict the basement. He states that if there is a structural issue with creating a nine-foot opening, which is something that could be brought to Garrett for consideration.

Mr. Sollitto offers to open the storage room up to five feet and that is the compromise they are willing to make. Mr. Albiston believes a wall at the “playroom” can be opened larger than five feet. Ms. Arieta offers to bring in the building official to make this determination if he would agree to that.

The board agrees to have a walkthrough with the building official.

APPROVAL OF MINUTES

- October 17, 2023
 - Mr. Butterick makes a motion to approve the minutes. Mr. Zinno seconds.
Approved 3-0.

AGENT UPDATE

Mr. White asks Ms. Arieta’s opinion on the previous agenda item.

Ms. Arieta states that it is a slippery slope to consider something preexisting, when there is no proof of permitting and it should not be allowed. It should especially not be allowed for a town employee, when many applicants have been denied over the years, and others have come into compliance and spent money to do so. She explains that she reached out to DEP and they have stated that a home would need to come into compliance prior to allowing further expansion.

She reminds the board that our job, as the Board of Health, is to enforce the regulations of the State, including Title V.

Mr. Zinno reminds the board that 90% of what we do is give variances for septic systems and provide flexibility. We now use tools, such as deed restrictions, and count on them.

Mr. Zinno asks Mr. Albiston for an update of the turf field. Mr. Albiston states that he thinks the Planning Board may allow the school board to install the turf field in another location not in Zone II. Mr. Albiston states that it is his understanding that the Board of Health feels that the turf field should not be installed anywhere, based on it being installed over the aquifer. Mr. Zinno asks that we put it on the next agenda for discussion. Mr. White will be away Nov 13-22. Discussion scheduled for Nov 14th at the BOH regular meeting. Chair White feels that he has already made his case known, and he is in favor of the moratorium. Mr. Zinno makes a motion to hold a special meeting. Mr. Butterick seconds. Motion approved 3-0. A special meeting to vote on the moratorium scheduled for Nov 28th.

Mr. Zinno asks that the draft moratorium being amended to include the updated information in regards new information, and certain companies that have stopped making products because of PFAS, specifically 3M.

Mr. Butterick makes a motion to adjourn the meeting. Mr. Zinno seconds. Adjourned 3-0. At 11:04AM

Respectfully submitted by Alexa Arieta, Assistant Health Agent