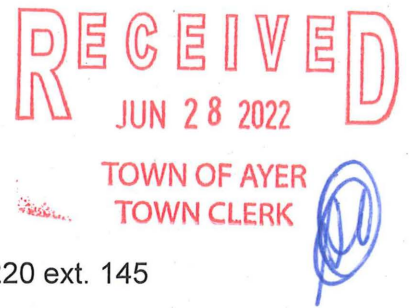


TOWN OF AYER
BOARD OF HEALTH

TOWN HALL – 1 MAIN STREET – AYER, MASS. 01432 (978) 772-8220 ext. 145



Minutes of the June 6, 2022 – Ayer Board of Health Meeting

Location: 1st Floor Meeting Room, Ayer Town Hall

Meeting was recorded and broadcast by APAC and a Zoom link was provided for the public

Members Present: Steve Slarsky, Chair; Pamela Papineau; Patricia Peters

Also Present: Bridgette Braley, Health Agent, Nashoba Boards of Health
Police Chief Brian P. Gill
Fire Chief Tim Johnston
Charlie Shultz, Building Commissioner
Robert A. Pontbriand, Town Manager

Reconvene in Open Session:

S. Slarsky reconvened the Board of Health in Open Session from Executive Session at 5:42pm.

Public Input:

There was no public input.

Discussion, COVID-19 (B. Braley):

B. Braley provided the Board with an update on the status of COVID-19. She advised that the numbers of positive cases may be coming down.

S. Slarsky stated that Ayer's positive cases are below the county and state for the last month.

P. Papineau stated that she recently read that Massachusetts is low in terms of the number of people getting the second booster.

B. Braley stated that Ayer is doing very well in terms of vaccination rates and booster rates.

Discussion, Nashoba Update:

S. Slarsky advised the Board that there has been a deceased body at the Nashoba Valley Medical Center for several months and that there is no next of kin to the deceased. The person died in April 2022. The Board of Health does have the legal authority to declare the disposition of the body. He would like this matter forwarded to Town Counsel to review and advise on next steps. He would also recommend that the Board vote to authorize the Chair to sign the document to declare the disposition of the body subject to Town Counsel review and approval.

Motion: A motion was made by P. Papineau and seconded by P. Peters to authorize the Chair to sign the disposition document subject to review and approval by Town Counsel. **Motion Passed 3-0.**

R. Pontbriand stated that he will forward the matter to Town Counsel to review and advise back.

Review and Approve Meeting Minutes of May 23, 2022:

The Board reviewed the meeting minutes from May 23, 2022 and there were no changes or edits.

Motion: A motion was made by P. Papineau and seconded by P. Peters to approve the Board of Health Meeting Minutes from May 23, 2022. **Motion Passed 3-0.**

Administrative Matters:

B. Braley advised the Board on a complaint that was received regarding noise and dust from the "Bake N Joy" parking lot and loading dock on Westford Road. The Police Department did monitor the location at various hours on various dates and did not observe any noise or dust issues.

S. Slarsky stated that he has gone by that location many times and though there has been an increase in intermodal traffic, he did not observe any specific issues.

B. Braley advised the Board of a complaint that was received regarding an RV unit parked on Amandrey Way. The complaint has been followed up on and there appears to be no issue at this time.

S. Slarsky recognized a Mr. Gilbert in the audience and asked if he would like to speak now or under the Public Hearing. *(Mr. Gilbert stated that he would wait and speak under the Public Hearing).*

P. Peters stated that the only action item from the last meeting was to follow up with PACE.

S. Slarsky advised that he had chicken permits for the following locations: 47 Highland; 17 Sandy Pond; 18 Wright Road; 9 Victor Drive; 4 Moore Drive; 6 Whitcomb.

Motion: A motion was made by P. Papineau and seconded by P. Peters to approve the chicken permits as presented by S. Slarsky. **Motion Passed 3-0.**

Motion: A motion was made by P. Papineau and seconded by P. Peters for the Board of Health to recess until 6pm at which time the Board will reconvene in Open Session to conduct the Public Hearing for the motel license for Mimi's Place, LLC, 96 East Main Street, Ayer. **Motion Passed 3-0.**

[The Board of Health recessed until 6pm]

Public Hearing: Motel License for Mimi's Place, LLC, 96 East Main Street, Ayer:

Members Present: Steve Slarsky, Chair; Pamela Papineau; Patricia Peters

Also Present: Bridgette Braley, Health Agent, Nashoba Boards of Health
Police Chief Brian P. Gill
Fire Chief Tim Johnston
Charlie Shultz, Building Commissioner
Attorney Janelle Austin, Town Counsel (via Zoom)

Robert A. Pontbriand, Town Manager
Attorney Chris Lilly (representing Steve Wentzell)
Steve Wentzell (license applicant and owner of Mimi's Place)
Patricia Walsh, Ayer resident
Matt Crothers, Ayer resident
Frank Maxant, Ayer resident
Jason Gilbert, Clear Path for Veterans
Ruth Maxant, Ayer resident
Gloria Robson, Ayer resident
Steven Larose, Ayer resident
Pauline Conley, Ayer resident (via Zoom)
Chad Branon, Ayer resident (via Zoom)

S. Slarsky reconvened the Board of Health in Open Session at 6pm from their recess and called the Public Hearing to order.

P. Peters read the Public Hearing Notice into the record.

S. Slarsky outlined how the Public Hearing would be conducted. The Board will first take testimony from officials of the Town of Ayer. The Board will then take testimony from the applicant and his counsel. The Board Members will then have an opportunity to ask any questions. Finally, the public will have any opportunity to offer any comments. Comments will be limited to 2 minutes per person, and this is not a question/answer period. He asked that everyone be civil in their comments and conduct.

S. Slarsky asked the Police Chief, Brian Gill to appear before the Board.

S. Slarsky asked the Police Chief about any recent, significant police activity at Mimi's Place and for an update.

Chief Gill advised that he went through the past three years of call data (2018; 2019. 2020). He further advised that from 2019-2020 there were 14 calls for service; from 2020-2021 there were 45 calls for service; and for the past nine (9) months to date there were 14 calls. We are seeing a downward trend in terms of calls.

S. Slarsky asked what types of calls these are.

Chief Gill advised that these are calls that negatively impact the neighborhood.

P. Peters asked if there has been an "uptick" in calls due to the season, it now being warmer out.

Chief Gill advised that there has been a remarkable uptick with the weather improving and windows open.

Fire Chief Tim Johnston appeared before the Board.

S. Slarsky referenced the April 14, 2022 inspection of "Mimi's Place" and asked the Fire Chief for an update.

Chief Johnston advised that because of the April 14, 2022 inspection there was nothing too significant from the Fire Department's perspective. The smoke detectors were up to date. We were unable to get into the unit off the Office. There was an uncharged fire extinguisher in the Office.

Building Commissioner Charlie Shultz appeared before the Board.

S. Slarsky identified the specific rooms the Board is looking at this evening with respect to the application for a motel license.

Commissioner Shultz advised that some of the jealousy windows on the property were missing.

Commissioner Shultz also stated that the three buildings of Mimi's Place are connected and that if a motel license were to be granted for the six units what about the rest of units/property?

Attorney Austin advised that in her opinion the Board of Health may decide to issue a motel license for a portion of the property. Per the pending order from last October, the Applicant was seeking a motel license for Units 6,7,8,9, and 10. Currently there is no license. The remaining portion of the property must comply with all codes.

Commissioner Shultz stated that if a motel license was granted for 6 units, what about the other 4 units? A person cannot just do whatever they want. What use group/classification am I to use in the building and zoning code(s)? I am in a real quandary here with respect to the remaining portion of the property in terms of the fire and building codes.

Attorney Austin stated that it is the responsibility of the Applicant to clarify.

Commissioner Shultz asked how can the Applicant just say that they are apartments? All the units and buildings are physically connected. To grant a motel license for 6 units is problematic when the rest of the connected property is not clearly defined in terms of use. This property has always been licensed as a motel with twenty (20) units. The proposed "apartments" do not meet the standards for apartments under the code.

Bridgette Braley, Health Agent for the Board of Health from the Nashoba Boards of Health appeared before the Board.

B. Braley referenced the April 14, 2022 inspection of "Mimi's Place" by the Building Commissioner, Fire Department, and herself. She advised of the following findings:

- Condition of the wall by Unit 11
- Floor with plywood exposed
- No Lead Paint Certificate
- It is unclear that the "motel" portion is short-term stay
- There are now children living there
- Unit 11 had evidence of dead bugs and dirty bedding
- Evidence of marijuana usage in terms of paraphernalia and odor
- Must and mildew odor
- Smell of cigarette smoke in Unit 7 and Unit 8
- Inconsistent signage
- Some linens were not properly stored
- The pool gate was not secured
- There was standing water
- Pool is still not licensed

P. Papineau asked if the rooms were unoccupied at the time of the inspection?

B. Braley stated yes.

S. Slarsky stated that he attended the inspection and confirmed the strong odor of cigarette smoke and that is concerning from a public health perspective.

B. Braley noted that some of the smoke detectors were located on the unit walls.

Chief Johnston advised that the smoke detectors should be put on the ceilings. He also advised that the egress needs to be cleaned out and the Exit Sign needs to be illuminated. Also, the Unit #1 Fire Extinguisher needs to be recharged.

The Applicant, Mr. Steve Wentzell and his Attorney Chris Lilly appeared before the Board.

Attorney Lilly referenced the November 2021 Board decision and that all rooms had been vacated at the time of inspection. He stated that he did not have a copy of the April 14, 2022 inspection report and he had previously asked for a list of issues from the inspection. He never received the list in order to address.

S. Slarsky stated that you were given 30-days notice in advance for the inspection and that you requested the inspections. When the inspection took place on April 14, 2022, the units should have been in rental condition.

Attorney Lilly agreed with S. Slarsky and asked about requesting a continuation for the inspection. He also stated that they plan to outline the plan for the six units. He also stated that Clear Path for Veterans approached Steve Wentzell about allowing up to 90 days for Veterans in need to stay there. Clear Path inspected the units, and it was within their guidelines. Attorney Lilly references a letter from Clear Path and advised that they had inspected the units prior to April 14, 2022.

S. Slarsky stated that this is a public hearing regarding whether or not the Board of Health will issue a motel license as you applied for. You need to be in compliance. This has nothing to do with Veterans. The Board and the Town is supportive of Veterans, and I am a Veteran.

S. Slarsky further stated that when we met in November 2021, the license was turned down as you were not in compliance. Since November to now, are you in compliance?

Attorney Lilly stated that with respect to compliance issues one of the major issues was onsite management/oversight. Mr. Wentzell has secured two residents: Tara Manchester and Stephen Larose to oversee property issues. Mr. Wentzell has a contract with "People's Linen" and a contract with "Waltham Pest Control." Mr. Wentzell will be posting the rates for the rooms.

S. Slarsky stated that the postings at the property were inconsistent and dated. The premises was to be vacated by April 1 and the Board took into consideration the winter months and gave you time for this to happen and it did not. Part of the Board's previous order was that the property was to be vacated by April 1, 2022. What is your plan to bring the property into compliance?

Attorney Lilly stated that he attended that meeting.

S. Slarsky stated that the license application at that time was for the complete facility (all of Mimi's Place).

Attorney Lilly stated that the order was limited to six units.

S. Slarsky stated that our letter clearly stated that the property was to be vacated by April 1, 2022. He further stated that with respect to the April 14, 2022 inspection report he will get you a copy.

[B. Braley handed Attorney Lilly a copy of the April 14, 2022 Inspection Report]

S. Slarsky stated that the Court remanded the original license. We held a public hearing to consider the license and denied the 6-unit application at the time.

Attorney Austin stated that the intent of the Board of Health per the Court Order was to act on the 2021 license as well as review the application for the 6 units. There was to be a cease until full compliance and the property was to be vacated by April 1, 2022. The Board of Health denied the 2021 license. The 2022 License as modified for the 6 units was denied and the Board of Health ordered the premises be vacated by April 1, 2022.

Attorney Lilly stated that he viewed the video of that hearing and completely missed that?

P. Papineau asked Attorney Lilly if his position was that you misunderstood.

Attorney Lilly stated that we were never allowed to discuss the back section of the property and what we planned to do at the last public hearing.

S. Slarsky stated that at the last public hearing the Board of Health took two votes. The first was for the 2021 motel license for the whole property which the Board voted down. The second vote was for the 2022 motel license for 6 units which the Board voted down.

Steven Wentzell (the Applicant) addressed the Board of Health.

S. Wentzell thanked the Police Chief for his numbers and appreciated the recognition that things had improved in terms of calls to the property. He further stated to the Fire Chief that the fire extinguisher will be repaired/replaced. He thanked the Building Commissioner for the suggestion on repairing the jealousy windows.

Attorney Lilly stated that the three building are not connected and that it is the roof that overhangs.

Commissioner Shultz stated that all three buildings are physically connected by the roof and there is a concern and need for the property fire protection.

S. Slarsky opened the Public Hearing up to any members of the public who wish to address the Board of Health.

Chief Johnston stated that he concurred with the Building Commissioner that all three buildings are physically connected by the roof and that this does have an impact in terms of fire and life safety. If a fire were to break out under the roof it could spread quickly to all the buildings. Everyone was supposed to be out by April 1, 2022. This needs to be resolved as it is a life-safety issue.

Trish Walsh (Resident) stated that she is a neighbor and abutter to the property. She asked why were people still living there if they were to be out by April 1, 2022? There has been some improvement but there are still issues and she is a frustrated taxpayer.

Matt Crothers (Resident) stated that the activity has improved by there is still a lot of activity down there and I have young children. Steve Wentzell has not done anything new with the property. Something must change. It cannot just keep going on.

Steven Larose (Resident) stated that Steve Wentzell asked him to oversee the property. He lives there and it is getting better. No one gave us a list of things to fix. I cannot afford to move. I have bad credit and make \$30 an hour.

Ruth Maxant Schulz (Resident) stated that she is a landlord and has properties and our hands are often tied. It is very difficult to make people comply. There is no fast solution. I am still trying to get someone out after 2 ½ years.

There was no further public input.

S. Slarsky advised that the Board of Health will now deliberate.

P. Peters stated that she had heard some positives tonight. It would perhaps be fair to give some time for repairs, but this has been dragged out and dragged out and thus it would need to be a short amount of time.

P. Papineau stated that looking at the list of issues, the Applicant had ample time from the time he submitted the applications and requested a scheduled inspection. Common sense would prevail that you would be in a position of compliance by this evening. Do you believe that this property is a motel? The current conditions are not of a hotel/motel. You are still not operating a hotel/motel. The issue is whether or not to issue a motel license. This is not a motel. I am offended by the current conditions when you had months and requested a pre-scheduled inspection.

P. Peters concurred with P. Papineau that the Applicant knew the Board of Health was coming to inspect and everything should have been done and clean.

P. Papineau stated that in her opinion it is not just the issue and conditions of the inspection but that the Applicant and his Attorney have been disingenuous to state that there was a "misunderstanding." There is a pattern here by the Applicant to do the absolute minimum and to drag this out. He has done nothing to operate this as a motel. The facts speak for themselves.

S. Slarsky stated that he does not disagree with P. Papineau. Based on the inspection report he would be willing to consider a thirty (30) day period for reinspection. He asked the Applicant and his Attorney; do you intend to run this as a hotel/motel under Massachusetts State Law?

Attorney Lilly stated that the Applicant plans to run the 6 units as a hotel/motel and intends to comply. I would suggest that I actually admitted I made a mistake. We have vacated 6 units; we did not have them cleaned up for the inspection.

P. Papineau stated that the inspection was part of it.

P. Peters stated that the Applicant should have put his best foot forward in terms of the conditions.

P. Papineau stated that this is not a motel/hotel. There has not been full compliance after months of time to do so. The Applicant did not comply with the previous Order of the Board of Health to vacate the property by April 1, 2022. This is not a motel and should not be granted a motel license.

Motion: A motion was made by P. Papineau and seconded by P. Peters to deny the motel license application for the six (6) units of "Mimi's Place" as submitted to the Board of Health. **Motion Passed 3-0.**

B. Braley stated that with respect to the April 14, 2022 Inspection Report that Counsel had advised her not to release the Report until the Public Hearing this evening.

Motion: A motion was made by P. Papineau and seconded by P. Peters to close the Public Hearing and adjourn for the evening. **Motion Passed 3-0.**

The Public Hearing and meeting adjourned at 7:13pm.



Steve Slarsky, Chair

Minutes recorded and submitted by Robert A. Pontbriand, Town Manager