

**APPROVED**

**ADAMS BOARD OF HEALTH  
MEETING MINUTES  
WEDNESDAY, MAY 20, 2020**

**CALL TO ORDER:** CHAIRMAN HOYT CALLED THE MEETING TO ORDER AT 4:00 P.M.

**NOTICE OF RECORDING:** CHAIRMAN HOYT ANNOUNCED THAT THE BOARD OF HEALTH MEETING WAS BEING RECORDED.

Chairman Hoyt began the meeting by stating that according to Governor Baker's March 12 and March 15, 2020 order suspending Open Meeting Laws and proposing strict limitations of attendees that are allowed to gather in one place, the Board of Health meeting would be conducted via remote participation with no public allowed but they are able to access the meeting.

**APPROVAL OF MINUTES:** May 6, 2020

Chairman Hoyt stated that the board members would table the minutes to their next scheduled meeting.

**MEMBERS PRESENT:** CHAIRMAN PETER HOYT, VICE-CHAIRMAN DAVID RHOADS AND MEMBER LAURA GRANDCHAMP

**PUBLIC COMMENT:**

Join Zoom meeting by video

- <https://zoom.us/j/91674647387?pwd=Mmp6c1llbHhzRi9kaVk0TUxaZGNWQT09>
- Meeting ID: 916 7464 7387
- Password: BOH0520

Join Zoom meeting by phone, dial by your location

- 1 929 436 2866 US (New York)
- Meeting ID: 916 7464 7387
- Password: 404732

**PUBLIC HEARING:**

- 10-C Murray Ave

Vice-Chairman Rhoads requested that Chairman Hoyt inform the members as to the protocol they would be following for the hearing. Chairman Hoyt stated that they would be hearing the evidence from Code Enforcer, Mark Blaisdell regarding his inspections and follow up of the property owned by Ms. Foster at 10-C Murray Avenue. He further stated that the members could direct their questions to him for further clarification. Chairman Hoyt then stated that the members would hear from Ms. Foster, noting that they could speak with her also in regard to their questions and concerns they may have with her introduction. Vice-Chairman Rhoads asked what would be the "parameters of our decision-making?"

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CLERK

Town Council, Edmund St. John III addressed the board members to clarify their responsibilities within their decision-making process. He stated that they had three options; to “uphold the decision, vacate the decision or modify or revise the decision of the code enforcement officer.”

Vice-Chairman Rhoads thanked Mr. St. John for his assistance.

Ms. Foster addressed the board members to ask them if they would be under oath at this meeting. Chairman Hoyt stated that he did not assume they would be under oath. She stated that she would hope for more professionalism at the meeting.

Code Enforcer, Mark Blaisdell began the hearing by stating that he had issued a no occupancy order to Ms. Foster on February 24, 2020, adding that this pertained to the “no secondary egress” citing. Mr. Blaisdell stated that he had obtained a court order (Exhibit H) from Western MA Housing Court since their March meeting. He stated that the housing court determined that there should be a second egress in the apartment and continued to note that the window would not qualify as this second egress. Mr. Blaisdell stated that at their first hearing in March there was some disagreement of the applicability of the building codes that were listed in the housing code. He told them that Judge Nice had stated that the building codes listed in the housing codes were outdated. Mr. Blaisdell wanted them to know that Building Commissioner, Gerald Garner provided the board with updated codes from 780 CMR which he mentioned was included in the documents of his paperwork. He explained that if this case moved forward in the court system that the housing code requirement for a secondary egress would be upheld. He stated that Ms. Foster’s appeal had referenced housing codes 410 700 for the requirements for labeling apartment units individually and noted that she omitted some important language when filing her appeal. He stated that he also cited the absence of an electrical outlet in the bathroom which Ms. Foster had stated that there was an outlet in that room. He told them that in March when he made this observation to Mr. & Mrs. Foster that they had not challenged his citing. Mr. Blaisdell stated that he asked permission to return to the property for an updated inspection to determine if there was a functional outlet but Ms. Foster had not allowed this inspection but instead provided a photograph of an outlet in a bathroom. He told them that he was not aware of any inspectors who would accept a photograph opposed to an on premise inspection. He told them that there was a court order requiring her to have a door as a second egress. Mr. Blaisdell stated that he would ask that the board vote to affirm the order.

Chairman Hoyt asked if there were any further questions from the board members. There were none.

Chairman Hoyt invited Ms. Foster to speak to the board members at this time. Ms. Foster wanted clarification as to the items to be addressed being the egress and the electrical outlet. Chairman Hoyt stated that he believed that this would be correct.

Mr. Blaisdell explained that the order stated that there was a lack of a second egress which prompted him to order a no occupancy order. He then explained that item two was a safety factor which would require the tenants apartment units to be labeled on all the doors. Mr. Blaisdell noted that it would be very confusing for emergency responders to attempt to find a particular apartment if they were not numbered and this could be a risk to health and safety of the tenants. He stated that the third item to be addressed was a only a comment to Ms. Foster emphasizing that the entire dwelling had not been inspected for lead paint and there were lead paint hazards. He told them that Ms. Foster commented at the March 2020 meeting that the tenant she would be renting the apartment to would not have young children living there. He wanted the board members to be aware that this was not a mandate for Ms. Foster to correct this but in fact a comment of his observations, as well as a reminder to landlords that they are responsible to disclose to potential occupants or current ones of these matters.

Chairman Hoyt asked Ms. Foster if she had a comment for Mr. Blaisdell.

Ms. Foster began by stating that this comment made by Mr. Blaisdell be "overruled," adding that Mr. Blaisdell was not a lead paint inspector. She further noted that she had lead paint disclosure letters that were signed by the tenant. Ms. Foster then moved to discuss the numbers required on the apartment doors for emergency responders. She stated that she has three apartments, two of which are rented by her family. She told them that there was no law or regulations required that the doors be labeled but that the building be numbered and visible from the street. She told them that she would like these two items to be "overturned."

Ms. Foster asked board members if they had any further comments that they would like to address with her.

Code Enforcer, Blaisdell responded by stating that he was a certified lead paint determinator with a MA liscence which allowed him to make these types of determinations.

He stated that according to the numbering of apartments, he was allowed to mandate that the units be appropriately marked. Mr. Blaisdell stated that this was "in the best interest of the occupant." In response, Ms. Foster stated to him that even though he was a certified lead inspector, that looking at a building would not gives the assumptions that there was lead paint. She told him that he should not have offered more "convenient and more helpful" suggestions as a requirement to the landlord.

Mr. Blaisdell stated that the code does give him the authority to require the numbering of units. He emphasized that there was only "potential lead paint hazards." Mr. Blaisdell stated that he believed there was lead paint on site and that there were no lead paint compliance letters on file with the state for this property.

Ms. Foster wanted the board to know that Mr. Blaisdell had been citing building codes which he was not qualified to do. She wanted the record to show that she was "objecting" to this.

Ms. Foster requested for records from the town's office. She told them she could not find a record of an electrical application for her outlet installation and she knew that the office had this form which she did not receive.

Mr. Blaisdell stated that he had not cited any building code regulations. He further noted that he sought the advice of Building Commissioner Garner for information regarding the second egress code and was not enforcing the building code in any way. He wanted them to be aware that the numbering of the apartments was under the housing codes which he referred to and once again stating that he was not citing the building code.

Ms. Foster stated that Building Commissioner Garner had not been to her property to perform an inspection.

She explained to the board members that Mr. Blaisdell has "used a case that the Assistant Director of the Department Of Public Health in MA sent to her to prove that an egress does not have to be a door and Mr. Blaisdell was using that to show the board members that it means something entirely different. She asked the board to view the letter she provided in Document 8 of her Exhibit from Mr. Halfmann. She stated that in the particular case of Mr. Halfmann's, the document showed that a window did not meet the requirements of a second egress as it was too small but there are qualifications of windows meeting the requirements for a second egress, noting that many first floor apartments in Adams do not have a second door. Ms. Foster continued by stating that Mr. Halfmann stated in his letter that a window could be an egress while pointing out her submitted Document 21 for the board members' review. Ms. Foster stated that she would like the board members to "overturn or reverse the no rent order."

Chairman Hoyt asked members if they had any further questions.

Ms. Foster stated that she had no problem having someone measure her windows or verify her electrical outlet in the bathroom. She stated that she would prefer that Mr. Blaisdell not be the individual conducting these inspections on her property.

Building Commissioner Garner addressed the board members to let them know that the building inspector was required to inspect apartment buildings every five years but with the interruption regarding the Coronavirus outbreak, his schedule was disrupted. He stated that whatever decision the Board of Health makes regarding the case would not have any impact on the decision made by him as building inspector. He emphasized that the requirement for Ms. Foster's second egress was determined by the building code. He explained to the members that there was a big difference in the interpretations of the meaning of exit, emergency escape and opening and a means of egress.

Building Commissioner Garner stated that "if an emergency escape and rescue opening was a means of egress, we would not have one single door in any building in any community in MA and we would be climbing windows to use the restroom." He stated that this interpretation was incorrect when used by Ms. Foster to the board members. Mr. Garner told the members that when he performs his inspection on Ms. Foster's dwelling in the weeks ahead, he would be citing her. In closing, he stated that the "board can make a decision but it would not have any impact on the building department."

Ms. Foster addressed the board stating to them that "a window can be an egress which doesn't mean an egress has to be a window, of course they would have doors in bathrooms." She told them that she thought that the Department of Public Health and the court system had more authority than the building inspector.

Mr. Garner informed the board members that he would be performing his next inspection of Ms. Foster's property by following the regulations of the MA General Law. He emphasized to the board that he had no authority to say that Ms. Foster did not have to put in a second egress, continuing to note that this was the building code.

Ms. Foster addressed Mr. Garner for clarification regarding the area in the building code that would state the explanation for a required five year inspection being completed by the building inspector. He answered by stating that under the 2015 IBC MA Amendments; 780 CMR; 110.7 the owner was required to have an inspection every five years by the building inspector and certified that the dwelling met the requirements for occupancy by law. Mr. Garner stated that if he was denied this inspection, he would then go to court to obtain an order to inspect the dwelling.

Chairman Hoyt addressed Attorney St. John to ask him if he had reviewed the documents regarding Mr. Halfmann's previous court case discussed earlier. He stated that this letter was an opinion given by someone working for the state and he did not place much merit on his decision, adding that he would like to review this matter in further detail.

Chairman Hoyt asked board members if they had any further questions. There were none.

Chairman Hoyt asked Ms. Foster if she had any further comments. She stated that this town needs affordable housing and the property owners should not feel victimized.

Chairman Hoyt asked Code Enforcer, Mark Blaisdell if he had any further comments.

Mr. Blaisdell stated that Ms. Foster stated that he made comments regarding Mr. Halfmann and he would like to clarify this with the board members. He told them that Mr. Garner had addressed the board and not himself regarding Mr. Halfmann's letter and mentioned State Inspector Gordon Bailey would be providing a letter. He told them that Ms. Foster commented that other Adams landlords are not being required to have second exits which was incorrect. He told them that when these situations occur, property owners are notified of this. Mr. Blaisdell told them that in Ms. Foster's case, she wanted to appeal this determination.

In closing, Mr. Blaisdell asked the board members to render their decision. He stated that Ms. Foster would like the "order to be vacated and I am asking for the order to be affirmed and the losing party can appeal it to the housing court for a final decision."

Ms. Foster wanted board members to know that the windows in her apartment were over 8 square feet and cited the building code requirement that an egress window be 5.7 square feet and noted that her window in her apartment was over 8 square feet in a 500' one bedroom apartment.

Chairman Hoyt asked Ms. Foster if she had documentation on her lead paint inspection. She explained that she had given her tenant a copy of a lead paint disclosure which the tenant had signed, noting that she did not have possession of it at the current time. Chairman Hoyt was also curious to know if the tenant was residing in the apartment at this time. Ms. Foster stated that they were not living in the apartment.

A motion made by Member Grandchamp to affirm the order issued by Code Enforcer Mark Blaisdell.

Further discussion by Vice-Chairman Rhoads which he stated that Ms. Foster had the right to appeal her case to the appeals board, as well the board members which could offer the owner time to settle these items while allowing the tenant the opportunity to occupy the apartment. Chairman Hoyt showed concern that if a tenant was allowed to move in and the apartment was unsafe that could be an issue.

Chairman Rhoads seconded the motion.

A roll call vote was taken with Vice-Chairman Hoyt and Member Grandchamp voting yes. Chairman Rhoads abstained from voting.

#### **CODE ENFORCEMENT OFFICER REPORT:**

#### **NEW BUSINESS:**

- The Pitchfork 85 Commercial Street (insufficient funds check)

Mr. Blaisdell reported that the Pitchfork had covered their insufficient funds fees and this could be removed from the agenda.

A motion made by Chairman Rhoads, seconded by Member Grandchamp to move the Old Stone Mill to the next topic on the agenda. A roll call vote of 3-0-0.

- Old Stone Mill Route 8

Adams Conservation Commission Chairman Jim Fassell joined the meeting to discuss the status of the Old Stone Mill. He stated to the members that a letter was submitted to the Conservation Commission Office from the owners of the Old Stone Mill with regards to water pooling in the cellar which needed to be addressed.

Mr. Fassell told them that he called Bill Lattrell, Ecological Consultant for the Commission who performed a site visit with Chairman Rhoads. He read Mr. Lattrell's correspondence to the Board of Health members. Mr. Fassell stated that the Conservation Commission issued an Emergency Certificate to the owners of the Old Stone Mill to allow the removal of silt within the drainage ditch outside and removal of silt in a culvert that was filled in. He told them that this would give the applicant 30 days to complete the work. He stated that he was advised to obtain the Board of Health's final approval of their efforts.

Chairman Hoyt addressed Vice-Chairman Rhoads to receive input from him regarding his site visit. Vice-Chairman Rhoads stated that this emergency needed to be addressed and the work should be performed to rectify the situation. He stated that the Conservation Commission had authority over the riverfront area where the Old Stone Mill was located adding that it had become a concern. He stated that standing water was not healthy and could breed insects along with the growth of mold. Vice-Chairman Rhoads stated that Chairman Fassell would keep the Board of Health updated.

Chairman Hoyt addressed Building Commissioner Gerald Garner to see if he had some input regarding the ongoing situation that revolved around this emergency situation. Mr. Garner stated that he would recuse himself from responding and continued to note that he would leave these issues to the responsibility of the Conservation Commission and Board of Health.

Chairman Rhoads thanked Chairman Fassell for his time in communicating with the Board of Health.

Chairman Fassell stated that they would have to have approval from the Conservation Commission members. Chairman Fassell stated to Mr. Garner that the process moving forward was only to remove water from the basement of this dwelling.

Chairman Rhoads made a motion to approve the decision of the Conservation Commission to submit a temporary waiver to the Old Stone Mill to remediate the water pooling in the basement with plans of progression being provided to the Board of Health, seconded by Member Grandchamp. A roll call vote was taken 3-0-0.

Chairman Hoyt thanked Chairman Fassell and he responded to let him know that he would communicate with him in the days ahead.

Chairman Fassell and Building Commissioner Garner leave the public meeting.

#### **OLD BUSINESS:**

- Hauler regulations

Vice-Chairman Rhoads stated that he would prefer to discuss these regulations at their next meeting. Board members tabled this discussion to the next scheduled meeting of June 3, 2020.

- Capping tobacco permits – draft regulation

Chairman Hoyt stated that he had made some revisions to the draft regulations.

Vice-Chairman Rhoads stated that he would address the tobacco sales clerk certification. He stated that this was vague and that the program was approved by the Board of Health. He needed clarification as to how the board would address these issues. Chairman Hoyt agreed that there should be certification associated with the clerks training. Vice-Chairman Rhoads stated that the Board of Health should remain with Tri-Town Health to assure these important aspects continue to be enforced.

Member Grandchamp agreed with the importance of the certification process following the training sessions.

Chairman Hoyt noted that he would be interested in having other quality programs that would offer certification, as well as Tri-Town Health. He stated that he would like to view other programs as well.

Vice-Chairman Rhoads stated that he would suggest that they maintain the Tobacco Awareness Program as their certification program with other possible options the Board of Health approves for testing and certification procedures.

Chairman Hoyt agreed that they would approach it in this manner, keeping their options opened.

Chairman Hoyt asked Attorney St. John if he had any further comments. He had none at this time.

Further discussion of the draft review continued with their definitions in the revisions to the fees associated with established fines under the tobacco laws with Attorney St. John.

Chairman Hoyt stated to Attorney St. John that he would submit a copy of the revisions for his records and his further review, as well as the board members for a final draft. He thanked the members.

#### **NEW BUSINESS (continued)**

- COVID-19 update

Chairman Rhoads stated that he participated in the Health Association Executive Committee Meeting with Laura Kitross and explained to them that the state was beginning to re-open certain entities. He stated that the local Board of Health was overseeing local businesses.

#### **LOCAL & COUNTY UPDATES:**

#### **FOR THE GOOD OF THE ORDER:**

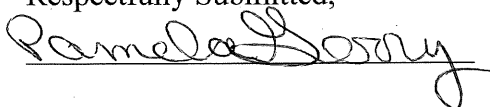
**REVIEW MAIL:** Various mail issues discussed.

#### **UPCOMING EVENTS:**

**SCHEDULE NEXT MEETING:** June 3, 2020

**ADJOURN:** Chairman Hoyt made a motion to adjourn, seconded by Member Grandchamp to adjourn the meeting. A roll call vote was taken 3-0-0.

Respectfully Submitted,



Recording Secretary

8-25-20

Date