

**Board of Health
Meeting Minutes
October 6, 2014**

Members Present:

Bea Brunkhorst, Co-Chair
Sarah Thompson
Caroline Donnelly

Staff Present:

Heidi Porter, Director
Faye Andrews, Health Agent
Mary Firestone, Recording Secretary

Members Absent:

Tom Kinzer, Co-Chair
Anita Raj

Also Attending:

Bobbie Ennis, Council on Aging
Carlene Mazon, Hanscom Air Force Base, student observer
Maureen Levine, 378 Great Road
Kelly Giaquinto and child Julia, 384 Great Road
Caroline and Richard Fedele, 27 Gray Terrace
Linda, Norm and Diana Johnson, 25 Houlton Road
Alexander Paton, 6 Sibley Drive
Margaret Watro, 5 Sibley Drive
Renee Nichols, 3 Labo Lane
Patrick Connell, 32 Houlton Road
Ted Papadopoulos and Carolyn Turner, Ashton Law PC
representing Heritage at Bedford Springs
Brian Loomer, Heritage at Bedford Springs
Nathan Lopez, Bozzuto Management Company,
representing the Village at Taylor Pond
Nick Schmal, Doben Co.

The meeting was called to order at 7:05 P.M. Dr. Brunkhorst chaired.

Hearing --- Keeping of Animals Permit:

Ms. Porter introduced the case; she said that a permit is required for more than 4 chickens and for any number of pigs. The application is for up to 10 chickens and one pig. A variance is required due to lack of pen distance from abutters per the regulation. Ms. Andrews said that there have been 3 documented complaints about odor coming from the Fedele yard. She had worked with Caroline Fedele on management of animal waste and the odor issue has been mitigated. The variance is requested due to the lack of 100 feet distance between the animal housing and 15 feet from the abutting property line. Illustrations were provided.

Ms. Thompson moved to open the public hearing; Ms. Donnelly seconded the motion. Vote count: 3-0
Ms. Fedele gave a history of her family's animal keeping. Her daughter won a piglet at a Fair in 2013; the pig is now fully grown. They will never get an additional pig. They have attempted to affect the odor by moving the waste to another area. If they cannot keep the odor under control, they will give the pig away, but the odor is now under control. They have never had a rooster; they currently have 4 chickens and want to increase the number of chickens up to ten if and when the pig is gone. They previously had ducks which are now gone.

A neighbor said that the chickens are too loud and she is not keen on having more. Another near neighbor said that he had had a rooster and got rid of it. A neighbor asked, What if it is still a problem? What guarantee is there in case there are more problems when the weather is warmer? Ms. Porter said that she will investigate; if the situation is not correctable, there will be another hearing which may result in suspension or revocation of the permit. Mr. Connell asked, What if it is still a problem is and not dealt with within 2 or 3 days.

Dr. Brunkhorst explained that there is a large movement in this country to have animals for sustainable living and the Board of Health wanted to have a compromise and be reasonable. Each time a permit has been applied for, there has been a resolution. We feel strongly that there is a right to keep animals, but within reason. A man said, Not within a thickly settled area. Ms. Levine said that she is concerned about predators drawn to the area by the animals, and possible rabies. Ms. Fedele said that she can remove the increase in chickens from her request if people think it is a problem; she said that she is looking to be fair. Ms. Andrews said that household animals also draw predators; as an example she mentioned that a skunk had gone after a housecat. A woman asked why it took 3 months to get it under control. Ms. Nichols, a former resident in the neighborhood, said that the smell really affected her family's quality of life; her children were unable to go outside and were gagging at the dinner table. Someone raised the question of the effect on the sale price of properties within the affected area. Ms. Fedele said that she didn't know about the problem and in hindsight she feels horrible about it; she said that she will not let anybody else go through that again. Ms. Porter said to Ms. Fedele that she knew about the problem after the BOH office contacted her. A neighbor said that a regulation is fine but if a bunch of people in the neighborhood object, there should be no variance. Ms. Fedele said that the complaints are about what happened in the past and that she has learned through it. Another neighbor said that he lived next door and did not smell the odor. Ms. Fedele said that she would not have allowed it if she knew about it; she is now removing the pig's waste and using fresh wood chips; the situation has changed drastically. Ms. Giaquinta said that if you'd gone to the Fedele property you would have smelled the odor.

Ms. Nichols said that her neighbor had told her that he had spoken to the Fedeles; she said that the situation is disturbing and disruptive. Ms. Nichols said that she is from an Iowa farm background and understands about animals. Ms. Fedele said that there are other animal-keeping households in Bedford who have variances. A neighbor said he had been told that Chip-In Farm was taking the pig. However, at a later time, the people at Chip-In said that they couldn't take it in winter. Ms. Fedele said that she would rethink the issue of requesting a permit for more chickens, but does want eggs.

Dr. Brunkhorst said that everyone has been heard; the Board may or may not do anything tonight. Ms. Fedele said that chickens don't make noise or smell. A neighbor said that this doesn't work anymore; the town has outgrown this "cutesy" thing. There is damage to property values and people are at the mercy of the Board. Dr. Brunkhorst said that the Board is out to be neutral. Someone said that the Board is biased in favor of the animal owners. Ms. Nichols asked, Shouldn't a permit process happen before the animal arrives? Dr. Brunkhorst said that responses will be received until October 13. Ms. Fedele said that she had called Mr. Reed on the way back from the Fair to ask about regulations but didn't hear anything to act on. Dr. Brunkhorst summarized what she had heard about property sizes, wind, etc. She assured the group that the Board hears them loud and clear. There is concern that the Board did not act fast enough. Ms. Fedele said that she is now pro-actively checking on the situation and that it will not be a long term process. Ms. Porter said that the Board is acting under a nuisance complaint which is broader and allows a period to respond and mitigate a situation. The office only received complaints from 3 residents and once the office spoke with Ms. Fedele about mitigation, follow-up calls to the complainants indicated that the odor had dissipated. A neighbor asked about fees. Ms. Porter said that there is a fee per animal unit; a group of fewer than 5 chickens does not require a permit.

Ms. Thompson moved to close the hearing; Ms. Connolly seconded the motion. Vote count: 3-0
The Board did not vote on the application for the animal permit at this meeting.

Variance Requests from the Pool Code – walkways and decks:

Ms. Porter said that if pools do not meet the Code and if someone asks for a variance, in order for the Board to consider the variance, they must consider whether a forced closing of the facility would be a *manifest injustice*. This has not previously been considered by the Board. All four pools under consideration have the same issue – a lack of a continuous 4 foot walkway around all sides of the pools.

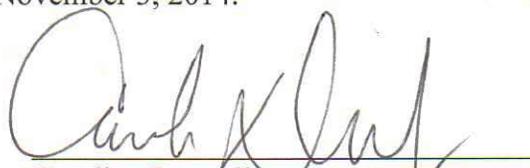
Ms. Andrews spoke about the pool locate at the Village at Taylor Pond. She said that all the housing units are rentals. The pool and connected spa were constructed in 2008. A separation of 4 feet is required by the Code between pool and spa. They are currently only separated by a 1 foot wall. Tiled signs will be installed. There are no cameras. The pool is closed for the winter and is scheduled to open on Memorial Day in May 2015; all work and inspection or variance must be done before the opening. Ms. Porter said that pools must be designed by a certified engineer and plans must be submitted to the Board. Ms. Porter is reaching out to other communities to learn how this issue has been handled elsewhere. Mr. Lopez asked, at what point is it the responsibility of the town for not enforcing the Code at the time of creation of the pool? Ms. Thompson asked whether, if a variance is issued, the variance is good forever? Ms. Porter responded, yes as long as they maintain compliance with the terms of the variance and all is in order during the annual permitting process. Mr. Lopez asked, If the process is drawn out, will the pool be able to be opened? Ms. Porter responded that the questions will be answered in the short term. Ms. Porter said that additional information is needed from the state and the Board is not prepared to discuss the issue tonight. Mr. Papadopoulos asked whether the variance request will be considered at this meeting. Ms. Porter said that she just found out about the manifest injustice issue at the last minute. He asked whether another meeting will be required. Dr. Brunkhorst said that fact-finding helps inform the Board of ways of resolving the issue. He asked, Is another meeting inevitable. Ms. Porter and Dr. Brunkhorst said, Yes. Dr. Brunkhorst asked. How old is the pool? It was constructed in 2006. Ms. Andrews said that there is a 2' wading pool; it also has a 4' separation requirement but has only a 1' brick wall on one side, then mulch. The owners are proposing the installation of non-slip material on the stairs and deck leading to the pool. The pool closed Sept. 2 and is scheduled to open on Memorial Day. Ms. Turner said that there has been additional training of the staff and cameras are present. Even if they are required to have video monitoring, there would not be Good Samaritan coverage. Lifeguards are not required; a sign is needed to inform users that there is no lifeguard.

Ms. Porter said that she is trying to find out exactly what the State is willing to accept; they do not like variances. There is not enough information at present. Over the next few weeks she will gather more information. Ms. Andrews said that there are different requirements for "special purpose pools", e.g., spas, wading pools. Ms. Porter said that the state did not have to approve the pool installation, which is approved by the building inspector and health department staff --- there are limited documents or plans for each of the pools. Dr. Brunkhorst asked Ms. Porter to check with the building inspector. Ms. Thompson asked whether Huckins Farm has plans on file. Dr. Brunkhorst said, keep us informed. We may need to meet again in 2 weeks. She said that she wants to have all 5 Board members present as the situation needs a stronger decision. A condition of approval could be more frequent inspections and conditional approval. Dr. Brunkhorst asked Ms. Andrews to document the past approval process in order to educate everybody.

Ms. Donnelly moved to adjourn the meeting; Ms. Thompson seconded the motion. Vote count: 3-0. The meeting was adjourned at 9:45 P.M.

The next meeting of the Board will take place on November 3, 2014.


Bea Brunkhorst, Co-Chair


Caroline Donnelly

Tom Kinzer, Co-Chair

Anita Raj


Sarah Thompson