

MINUTES OF THE BOARD OF HEALTH PUBLIC HEARING

TOWN OF CHARLEMONT

January 12, 2005

Members Present:

Ruth Cannavo
Doug Telling
Peter Falandes
Alan Booth
Mary St.Germain

Others Present:

Charles Kaniecki, Dist. Health Officer
Floyd Sherman
Sheila Litchfield, advocate for Floyd
Dohn Sherman, Ruth Ann McCloud
and Scott Ripley, family to Floyd Sherman.
Mick Comstock, minister at Federated
Church in Charlemont

Ruth convened the meeting at 7:30 p.m., announced the condemnation report and turned the floor over to Charlie. Charlie introduces himself and explains briefly the issues being addressed, regarding Floyd Sherman's property. Charlie explained that this is an opportunity for property owner and family to voice opinions, before the Board of Health issues their final order. Charlie went on to say that he would briefly read the list of concerns from the family of Floyd Sherman and go point by point with it. Following is the list of questions, and Charlie's answers to each:

Questions for Charlemont Board of Health regarding Floyd Sherman's property

Questions regarding the condemning of dwelling and property:

1. The premises has been vacated and locked as of January 1, 2005. Is this sufficient for the BOH requirement to "close and secure"? **Yes**
2. Who will retain key for dwelling? **The Owner**
3. Will we have access to the dwelling whenever we need to for retrieval of personal property? **Yes**
4. Will there be a reduction in taxes due to the condemned state? **Charlie was not sure on this, they would need to go to the Assessor and file an abatement.**

The following questions pertain to the BOH statement to “have the outside area cleared of all mix refuse and other unclassified materials” by April 30, 2005:

5. What if items are frozen into the snow and can't be removed prior to April 30? **Charlie recommended to the Board of Health that cleanup of exterior be extended to June 30th, 2005, which should be enough time.**
6. To what extent is cleanup required?
 - a. Is the BOH available to walk the property with us to clarify exactly what work must be done? **Charlie is willing to assist the Board in this.**
 - b. Does this include all material on either side of the road? From what distance from the center-line of the road must the roadsides be cleared? **State law requires that the owner keep the property in a clean and sanitary manner, there are no distance requirements, it simply states “the property. This will be decided upon walk of the property.**
 - c. Do we need to move or remove from the property the cars that are visible from the road? (Move to another location on property out of site or remove from property all together? **Charlie cannot answer this until he does a walk through of the property, but said that whatever is close to the road should be the first priority.**
 - d. What about the wood pile in front of house? **The wood pile is a non-issue.**
 - e. To what areas of the property does this requirement pertain? **Pertains to the entire property.**
 - f. Is this limited to area around the residence (building A /office)? **No**
 - g. Does this encompass other buildings on property (building B, or the sugar house)? **Yes**
 - h. What about the campers across the road from the dwelling? Do they need to go? **Yes, they need to go.**
 - i. What around back of dwelling toward the brook? **Yes**
 - j. What about old Davis Mine Road and cars on both sides of this road? **Yes, this must be addressed.**
 - k. Does this include the building across the brook? (Bridge will need repair to make the cleanup work safe. Who is responsible for making this bridge safe for use during cleanup?) **Yes, the bridge repair is understandable.**
7. Is there any flexibility in meeting these dates? **Yes, as long as there is a good faith effort made on the part of the property owners.**
8. We will need access to move valuable items from inside of cars before they are moved or removed. **Charlie stated that will be up to the property owners, they can remove whatever they need to.**
9. What permits are necessary to bring dwelling into compliance? **The first thing is to get someone knowledgeable in structures, the building must be deemed structurally sound. If so, there will be a need for a building permit, a plumbing permit, and if no electricity is to be used, the property owners will need to go to the Board of Health for a variance.**
10. Are there resources available to help with cleanup of property (people, money)? **The Board suggested Honor Court and the Sheriff's Department, both of which are free. Also, Didi Cabral, of DEP.**

11. Is there a possibility of a break from the town for disposal of garbage bags? **The Board of Health suggested using a dumpster, which would be less expensive, in the long run.**
12. What company did the property cleanup for Al and Eleanor Maynard and what did this cost? **Davenport.**

(Charlie cautioned the property owners that the DEP has this file and has been in contact with him, and they have the authority to come in and levy fines of up to \$25,000 a day, or come in and clean the property up and charge triple damages. At this point they are letting it rest with the local Health Department, and as long as he sees a good faith effort shown to clean up the property, he will ask the DEP not to do anything with this.)

Questions regarding bringing the dwelling into compliance:

13. Can the dwelling be occupied without electricity? **Yes, as long as the structural issues are dealt with, and with a variance from the BOH.**
14. Is the compliance list the same list from the DPH inspection report? **We will visit this when the house is cleaned out.**
 - a. Note: Some non-compliance items on the DPH inspection list do actually exist and would be functional if the property was cleaned up.
 - b. Can we get more detail on the specific requirements for each citation to be certain we know exactly what is required to come into compliance?
15. Are there resources available to help with the cleanup of the dwelling (people, money)? **See question #10.**
16. If property is not changing hands, do Title 5 septic laws comply? **No, as long as it is working properly.**
17. Is spring fed water acceptable versus a dug well? **Yes.**
18. Is there a possibility of a break from the town for disposal of garbage bags? **See # 11**
19. Is re-inspection required to approve the repairs and lift the condemn order? Who will do this inspection? **Yes, several.**

Ruth spoke to the fact that some of the belongings in the house may be valuable to Floyd, but not necessarily to others. She would like ensure that he have as much say as possible in what gets thrown out.

Charlie stated that at this point, he would like to propose the final order of the Board of Health and take it point by point, to allow the Property owners to comment. (A complete copy of this can be found in Floyd Sherman's file)

The owner shall:

Vacate within the next 5 days. (This has already occurred)

Secure said dwelling, so that no unauthorized entry can be obtained. (Already happened)

Not allow any persons to dwell in said dwelling, until such time as BOH approves for habitation.

Shall allow the health agent, BOH member, and any agency they require, access to the entire dwelling and property at any time.

Have the exterior of property cleared of all scrap metal, abandoned vehicles and other unclassified materials no later than June 30, 2005. (Sheila spoke to the fact that this statement seems daunting, considering the work involved. Charlie again reiterated that as long as there is a good faith effort shown, there is room for flexibility in the dates.

Shall seek and secure a permit from the Building Inspector for any modifications to the building and this dwelling.

Shall have all violations of Chapter 2 of the State sanitary code, as discovered, repaired within the next 120 days. NO later than June 30, 2005.

It shall be understood that all work shall be completed no later than June 30, 2005.

Ruth Ann asked if the house was deemed structurally unsound, what then.

Charlie stated that then the house would never be habitable.

Ruth asked then what about clean up?

Charlie stated that the clean up still needed to take place because of the fact that there are food materials, combustibles and others that are hazardous to other people.

Ruth stated that by asking them to clean it up, and hire a dumpster, it was dumping this all back on their lap.

Charlie stated that the onus and responsibility is on the property owner.

There was more discussion as to the structure and what type of cleanup was required.

Charlie cautioned the owners on the result of failure to comply.

Dohn commented to the fact that the three people who are going to be responsible for the cleanup have physical difficulties, as well as the cost involved being daunting.

Ruth reminded the property owners again about Honor Court. Ruth Ann stated that she has a job and can not come out and supervise work. Ruth also mentioned that there may be some valuable items on the property that could potentially bring in some money.

Charlie stated that the reality is that this situation has been out of control for years, and that the ultimate responsibility falls to the property owners, if the property owner does not have resources, then the Town must decide what to do. The family needs to decide how to deal with this; it is not the responsibility of the Board of Health. Charlie's advice was to leave this until spring and then start cleaning up the items close to the road first.

Ruth made a motion for the Board of Health to issue the Condemnation Order, on the Floyd Sherman property, as written. Motion is moved and seconded and passes unanimously.

The Hearing part of this meeting adjourns at 8:23 p.m.

The Board discussed a FRCOG funding proposal. The proposal provides towns with a number of food, housing, and rental inspections, as well as three court hearings, for an annual fee. The Board discussed the proposal and decided that they would like to look into the numbers more, and determine the actual cost, as it depends on how many other towns join.

The Krusz property was discussed, as it is a hazard and children hang out there. The Board will write a letter in reference to the property.

After reviewing their mail, the Board adjourns at 8:56 p.m.

Respectfully Submitted,

Signed by
Board of Health

Carlene Millett
Secretary to the Boards.