

**REGULAR MEETING
OF THE OAKLAND BOARD OF HEALTH**

October, 19, 2021 - 7:30 p.m.

Oakland Senior Center, 20 Lawlor Drive, Oakland, NJ

REGULAR BUSINESS

CALL TO ORDER

Mr. Tiffinger called the meeting to order at 7:31 PM.

Roll Call: Ms. Ashkenazi, Mr. Ashkenazi, Mr. LaForgia, Mr. Laterra, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger,

Absent Members

None

Others Present

Council Liaison Pasquale Pignatelli, Board of Health Attorney Thomas J. Romans, Chief REHS Laura Folco

MEETING ANNOUNCEMENT

Mr. Tiffinger read the meeting announcement: This meeting is being held in accordance with the regulations of the Public Meetings Law, notices of which were sent to The Record, Suburban Trends and any other persons requesting same.

PUBLIC COMMENT

No members of the public were present.

ADOPTION OF MINUTES

The Board reviewed the September minutes.

On motion of Mr. Provenzale, seconded by Mr. Ashkenazi, the minutes were adopted.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. Laterra, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger. Mr. LaForgia abstained.

The Board reviewed the minutes from the Special Meeting October 13th.

On motion of Mr. Provenzale, seconded by Mr. Ashkenazi, the minutes were adopted.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger. Mr. LaForgia and Mr. Laterra abstained.

REVIEW REPORTS

The Board reviewed the following reports:

- BCDHS Public Health Nursing Activity & CDRSS Reports – September
- REHS' Monthly Report & Summaries – September
- Tyco Animal Control Report – September
- Secretary's/Registrar's Report – September

Regular Meeting of the Oakland Board of Health – October 19, 2021 – Page 2

On motion of Mr. LaForgia, seconded by Mr. Talucci, the reports were accepted.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. LaForgia, Mr. Laterra, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger

PAYMENT OF BILLS

The Board reviewed the following bills:

10/19/2021 – Thomas J. Romans, Esq. (Retainer due for attending October BOH Meeting, per 2021 Contract)	\$ 243.75
10/01/2021 – Tyco Animal Control (Monthly Animal Control Services – September, per 2021 Contract)	\$ 1,325.00
10/01/2021 – Tyco Animal Control (Animal Control Emergency Responses - September, per 2021 Contract)	\$ 240.00

On motion of Mr. LaForgia, seconded by Mr. Provenzale, the bills were approved for payment.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. LaForgia, Mr. Laterra, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger

UNFINISHED BUSINESS

None.

NEW BUSINESS

DISCUSSION OF EARLIER MEETING TIME FOR 2022 MEETINGS

The Board Members determined that they would like to change the time of Board of Health Meetings to 6:30 pm, beginning with the January 18, 2022 Reorganization and Regular Meetings.

On motion of Ms. Ashkenazi, seconded by Mr. Laterra, the meeting time beginning January 2022 will be 6:30 pm.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. LaForgia, Mr. Laterra, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger

2022 MEETING SCHEDULE

On motion of Ms. Ashkenazi, seconded by Mr. Laterra, the following Meeting Schedule was adopted for 2022 and will be published in the newspapers, according to law:

January 18*
February 15th
March 15th
April 19th

Regular Meeting of the Oakland Board of Health – October 19, 2021 – Page 3

May 17th
June 21st
September 22nd
October 18th
November 15th
December 20th

***Reorganization and Regular Meeting**

Meetings are held in the Oakland Public Library, Lower Level, at 6:30 PM at 2 Municipal Plaza, Oakland, NJ

No meeting is held in July and August unless called by the Chair.

Work sessions, when required, will be held at the Call of the Chair the week immediately preceding the Regular Meeting.

Roll Call: All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. LaForgia, Mr. Lattera, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger

DISCUSSION OF SHARED SEPTIC AT 46 AND 48 RIVERSIDE DRIVE

Michael Austin, an attorney with the firm Conte, Clayton and Austin of 666 Godwin Avenue in Midland Park introduced himself as representing Ms. Patricia Vassallo who owns 46 Riverside Drive in Oakland. Although she does not occupy the home, she has made some improvements to the property and would like to sell it. The issue is that a septic plan that his client's engineer had submitted in February of 2021 was rejected by the Health Inspector due to the fact that the current septic shared by 46 and 48 Riverside Drive would have to be abandoned in order to make room for the septic on the plan to be installed on the property of 46 Riverside Drive. Doing this would leave 48 Riverside Drive without a sewage disposal system, thereby rendering the property uninhabitable. Mr. Austin came before the Board of Health asking the Board to consider overriding the Health Inspector's rejection of the plan, which he stated is permitted by NJAC 7:9A – 3.20.

Mr. Austin stated that the Health Inspector, Kristin Caperino, suggested that it would be possible for 46 Riverside Drive to replace their septic if 48 Riverside Drive obtained a TWA from the State; however, that was not done by 48 Riverside Drive and Mr. Austin did not feel that it should be the burden of his client.

Mr. Austin stated that he was aware that the Code Official for the Borough of Oakland, John Wittekind, had stated to Mr. Romans (who then notified Mr. Austin) that he had issue with 48 Riverside Drive not having obtained a proper CCO, and does not recognize Crestar Capital as the owner. He also stated that there is a lien on the property for maintenance that had to be completed by the Borough due to the owner not up-keeping the property. Another requirement that Mr. Wittekind had to agree with this plan was that he wanted to speak with the owner of 48 Riverside Drive so that he was certain that the owner understood the implications of 46 Riverside Drive replacing the septic and that 48 Riverside could not have occupants unless the septic that would have been abandoned was replaced first. Removing the shared septic and capping off the plumbing would render the property uninhabitable. Mr. Austin stated that those issues would be addressed after the current issue of getting the septic plan itself approved by the Board of Health.

Both 46 and 48 Riverside Drive have been without an occupant for some time, with Ms. Vassallo living in Pennsylvania and the owner of 48 Riverside Drive being Crestar Capital, a company who obtained ownership of the property by Final Judgment of NJ State Court through a tax foreclosure. Mr. Austin believes that the NJ Court that gave the Final Judgment of ownership of the property to Crestar Capital gave ownership rights to Crestar Capital, thereby making a CCO not necessary to determine ownership of the property. He obtained an

affidavit from an authorized party at Crestar Capital, stating that the owners are aware that if 46 Riverside Drive abandons the shared septic in order to install a conforming one on the property of 46 Riverside Drive, then it will leave 48 Riverside Drive in an uninhabitable condition, and 48 Riverside Drive would have to install a new septic within the boundaries of their property in order to allow occupancy in the future at 48 Riverside Drive's owner's expense. They waived any objections to the removal of the shared septic and its components. Mr. Austin states that this is sufficient permission for his client at 46 Riverside Drive to enter the premises of 48 Riverside Drive to the extent necessary to abandon the shared septic and cap off 48 Riverside Drive's lines from the house. Mr. Austin stated that his client would be doing so at her expense.

Robert Weissman, of Weissman Engineering Co. at 686 Godwin Avenue in Midland Park was sworn in by Thomas J. Romans, Board of Health Attorney. Mr. Weissman stated that he is a licensed professional septic engineer and surveyor in NJ. He stated that the test holes show that the soil is good, there is a Fuji system included in the plan, and that the plan was rejected only due to issues with 48 Riverside Drive, not issues with the plan itself. He stated that a holding tank would require DEP Approval and would be onerous. He states that the plan submitted on 2/16/2021 shows that all components are within the confines of 46 Riverside Drive, and that the shared system must be removed to make room for its installation. He stated that 48 Riverside Drive could then add a septic at any time prior to occupancy.

Laura Folco, Chief REHS, said that the Board cannot approve plans that are for REHS to approve and that she and Ms. Caperino would need to be confident of the actual ownership of 48 and the uninhabitability of 48 being understood by 48's owners before they would approve the plan; however, she does believe that if 48 would not have been left without sewage disposal as a consequence of installation and abandonment of the shared septic by 46, then the plan that was submitted for 46 Riverside Drive would be approved in and of itself. She also said the Building Department would have to weigh in and in the absence of Code Enforcement weighing in, a conference with the Code Official, Board of Health, Borough Attorney, and the State would need to be had for confirmation before approval by REHS.

Mr. Austin responded that NJAC 7:9A-3.02 has recourse for him to go to the County Board of Appeals for sewage disposal systems for a hearing from the Board of Health who must determine whether to affirm, alter or rescind the Health Inspector's rejection of the plan. They would have to make a determination and act within 15 days.

He stated that Ms. Steele had provided Mr. Romans with a document highlighting 9 issues that the Code Official and Health Inspector said needed to be addressed before approval. Mr. Romans forwarded that document to Mr. Austin and Mr. Austin responded on August 27th. In that response, he indicated that the ownership of the property had been determined on December 11, 2014 in a Final Judgment of the State Court during a tax foreclosure, and that the owner named was Crestar Capital LLC. He does not feel that a CCO is necessary to prove ownership, as it would not supercede the State Court's judgment.

Mr. Talucci asked if the plan would work and if the Board of Health could approve the plan conditioned on any and all other pertinent laws, ordinances, and statutes being met. Mr. Romans responded that, yes, the Board could approve the design of the plan itself, as doing so would not be issuing a permit. All other requirements would need to be met in order for a permit to be issued at a later time. Approval would still have to be granted from any necessary other departments.

Mr. Austin stated that his client would have the components on 48 removed and cap off the lines on the property. Mr. Romans asked if 48 Riverside Drive gave Mr. Austin's client permission to go onto 48 (and not be trespassing). Mr. Austin responded that the Affidavit provided by Crestar Capital LLC's representative implicitly gave permission, but that it should say "48" and not "46". He added that there also exists an agreement from 1971 that grants access to the property for purposes of handling septic issues.

Regular Meeting of the Oakland Board of Health – October 19, 2021 – Page 5

Mr. LaForgia stated that since the Borough originally allowed this to occur, and since the correct owners of 48 have committed to not having a salable property when 46 installs the new septic, and since the plan for the system would work if installed, then the plan should be approved and the rest of the requirements could be handled later on.

Ms. Folco responded that the Borough Attorney or the Board of Health Attorney would have to tell REHS that the correct owner has given permission to create an uninhabitable condition on 48 Riverside Drive or she would bump it to the State and all the parties would have to meet.

Mr. Romans said that he believes the affidavit does grant permission for the septic on 48 to be shut down. Mr. Romans asked Mr. Austin to address it with the owner of 48 to allow the owner of 46 on their property and to render 48 uninhabitable. Mr. Austin said that he will provide any necessary supplemental information. He just wants a decision on approval or denial of the plan from the Board this evening. Mr. Romans asked Mr. Austin how he would proceed if the Board approves the plan and who would pay for the work to be done to demolish the current system. Mr. Austin stated that his client would pay for it and would do so as soon as possible. Mr. Romans stated that the Board's approval would be limited to the plan and does not guarantee that the Building Department will permit or allow it. Mr. Austin requested that someone make a motion to approve the plan and abandonment and capping of 48 by 46. Mr. Romans asked what would need to be done other than removing the tank and other elements. Ms. Folco said that they would need a permit before doing the abandonment.

Mr. Romans said that he would be prepared to give the opinion that it is the Board's desire to approve the plan. Mr. Tiffinger said that the affidavit has to say permission to go on 48 Riverside Drive, not 46. Mr. Austin said that he will secure that internally and make sure his client has the necessary permissions. Mr. Romans said that he is satisfied to leave it up to 46 Riverside Drive to obtain that permission from 48 Riverside Drive.

Mr. Tiffinger asked if 48 Riverside Drive could sue the Board if 46 Riverside Drive renders 48 uninhabitable. Mr. Austin responded that 48 Riverside Drive would have to sue 46 Riverside Drive and that would not be a cause of action against the Board of Health. Mr. Tiffinger responded that he was okay with that then. Mr. LaForgia believes that according to the affidavit, 48 already understands the implications of 46 abandoning the shared septic and rendering 48 uninhabitable. He sees no problem with approving the plan. Mr. Romans said that it seems the Board could approve the plan subject to the owner of 46 Riverside Drive obtaining lawful abandonment of the shared septic at their own expense. Mr. Romans requested a motion to approve a resolution so that he can submit one for consideration of the Board of Health.

Mr. LaForgia motioned for a resolution to be written approving the septic plan, and Mr. Provenzale seconded

Roll Call: All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. LaForgia, Mr. Laterra, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger

OTHER BUSINESS

SENIOR FLU SHOT CLINIC

It was reported that a total of 33 seniors and employees were vaccinated at the October 14th clinic.

RABIES CLINIC

It was reported that the Rabies Clinic is scheduled for Saturday, November 6th from 1:30 PM – 3:30 PM at the Ramapo Valley Animal Hospital, where Dr. Duhr will be administering the vaccines.

“COTTAGE FOOD” BUSINESS NOW PERMITTED IN NJ

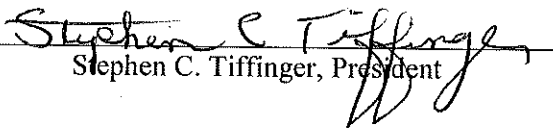
It was reported that NJ now allows the sale of certain home-baked goods, subject to permitting by the State.

ADJOURNMENT

On motion of Ms. Ashkenazi, seconded by Mr. LaForgia, the meeting was adjourned at 8:47 PM.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. LaForgia, Mr. Laterra, Mr. Provenzale, Mr. Talucci, Mr. Tiffinger,

APPROVED:


Stephen C. Tiffinger, President

ATTEST: 
Sandra Steele, Secretary

DATE: November 16, 2021