



*approved  
2/18/2020*

## Town of Carver, Board of Health

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Posted in accordance with the Provisions of M.G.L. Chapter 30A, Section 20B

Board of Health meeting minutes for January 21, 2020, Carver Town Hall, Meeting Room 4

Attendees: Arthur Borden, Chairman; Eric Mueller, Member; Barry Callis, Member

Also Present: Kevin Forgue, Health Agent; Michael Milanoski, Town Administrator

Absent: ·

Meeting called to order, by Mr. Borden, at 6:07 PM

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### Public Hearings:

Notice of Public Hearing read to the audience by Mr. Borden.

- Open forum discussion of proposed Nuisance/Blight Regulation –

Mr. Forgue - The Board of Health currently has no ability to address some of the complaints received. A neighbor may come in with concern over an abutting property; I don't have any ability to address such issues right now. In a recent issue, there was a property overrun with rats which overflowed to two abutting properties. This is not intended to make us the nuisance police; it is in my view, intended to deal with complaints that come into my office. This will give me the authority to address complaints. The initial proposal was brought to us by a previous Planning Director. I researched Southbridge, Gardner and Hamilton. I took their regulations and used a combination to better fit our community.

Administrative enforcements – This section discusses fines, but also talks about other tools – discussion, etc. which would always be my first choice. If someone is not making movement toward improving the situation, then we could move toward fines. Lastly, we could move toward court action. This is not something that is going to solve all the problems but will hopefully serve as incentive to clean up.

Mr. Borden – The purpose of this hearing is to receive public input. We have worked on a draft for a while now and Town Counsel has reviewed it.

Mr. Milanoski – I want to clarify some of the online confusion. We don't currently have the ability to go out and deal with issues. This would give them a tool to address the issues with the landowner. It is not designed to do anything with farmers and equipment. This is more for health and safety issues. This does not give the ability to take property. The Town has the ability to do an eminent domain taking, with Town Meeting approval only. If there is a tax taking, that also has to go back to Town Meeting to determine what to do with that property. What you are reading on social media is not necessarily true. Mr. Belbin – Are you saying that the cranberry growers are exempt? Mr. Milanoski – This document does not say that they would be exempt; you can discuss this with the Board.

Audience member – Why is property value listed then? Mr. Milanoski – That is a valid point which this Board can address.

Audience member – The Board was explaining it very well, now we have your opinion which has caused concern with the residents here tonight.

Alan Dunham, 11 Rickard Street – I do understand what you are trying to accomplish – Kevin, you aren't going to be here forever – it could be abused later on. The fines should be going to Town Meeting as it affects the whole Town; it should not be decided by a 3-person board. I think you should table it and let the residents have a say at Town Meeting.

Alan Germaine, 24 Pine Street – I agree with Mr. Dunham. I have a problem with the term Blight – It is an opinion. I want the Board of Health, the Building Commissioner and the Fire Department to be able to act on fire/structural issues. If there are fines, they could become a lien on the property. This needs to be a bylaw but approved by Town Meeting.

Donna Forand, 27-8 South Meadow Village – I work in the background of Social Service – I go in to hoarding situations. This is a medical condition. You should have medical staff to deal with that. I posted a picture of a tractor to get opinion on blight; it was 50/50. I am working in homes with financial needs; the elderly cannot afford to pay those fines; then there would be a lien on the property. We need to think about all of our population. Safety issues are important. The cranberry growers are not listed as "omitted" from this law; not that I think they should be omitted. They do, however, have a lot of older equipment that is still useful for their business.

Sarah Hewins, 52 Forest Street – Read the Public Notice and then referred to Mass General Law Chapter 111 section 22. This law refers to the "public health", infection, contagion, sickness. It does not refer to property values, blight. Last April, the Board of Selectmen voted 4-0, not to put a Nuisance Blight by-Law on the town warrant. Who decides what houses are blighted? What if I can't afford to repaint my house? Farmers use old equipment for spare parts. This is too big. It's vague and need more work. If it does go out there, it needs to go before Town Meeting. I am grateful that this Board decided to do a Public Hearing, as you are not required to do so.

Bill Duggan, 285 Meadow Street – This is open to abuse. Neighbor disputes could cause abusive complaints.

Gail Nauen, – If that property you referred to was not taken over by the bank, would you have still been able to get rid of the rats? Mr. Forgue – Yes, but with difficulty. Ms. Nauen – So you are just trying to beef up the regulations?

Mr. Forgue – I hear what everyone is saying; this is just a draft. I am just looking for a way to deal with issues that arise. Right now, I can only go to the house and tell them that we received a complaint. From what I am hearing tonight, we have more work to do.

Scott Diogenes, 27 Johns Pond Rd – People are saying "burden on the whole town". We need to consider the neighbors that have to pay out of pocket to clean up the situation. Where there is an existing situation, that would have to be considered. What we are trying to do is no different than what other towns have tried to do. If we are going to make it mostly complaint driven, it should be completely complaint driven. It should only be complaints from an abutter not someone driving around.

Helen Marrone, 8 Harvest View Way – I am very concerned; I do have a neighbor that concerns me. I look at the economical situation. I suggest that "blight" is removed. If you choose not to do that, we should be able to find a grant program to assist and/or work with the lenders on these properties. Who in town determines who can afford to fix their property? The lenders are the best solutions for this. Cranberry growers should be exempt. Who determines the impact on the value? We need to have a process; do we have a draft process?

Kim Shea, 148 Plymouth Street – I feel these regulations have good intentions and I fully support your need to have ability to do your job. My biggest problem is with the term blight. MGL 111 does not talk about blight. They do talk about nuisance, which I am fully on board with. The term blight is abused and could be opening the door for eminent domain. I find it to be a threat to every person who owns property in this community. Blight should be removed; it should be strictly nuisance. As written, property owners would need to worry about everything on their property.

Charles Card, 253 Tremont Street – I agree with most of the people here. This town is not ready for this regulation. It's so big that it leaves so many things open. It should go to Town Meeting.

Carl Legrand, 63 Main Street – I agree with everyone else. Blight is way too vague. I appreciate you bringing it to a Public Hearing. I thought the Board of Selectmen voted it down already. You could have just passed it through but you didn't. My definition of blight could be very different from yours.

Joe Mix – I agree as well. The wording is ambiguous. You need to put this through Town Meeting.

James Fletcher, 149 Plymouth Street – I have a property that is affecting my neighbors. 149 Plymouth Street – I was told I needed a 50-foot setback; now they tell me I don't. It is fenced in. I am not a hazard to anyone. My neighbors don't want to see it like this; I don't want them to see this either.

Chris, 35 Quaker Road – I agree with the blight issue. I have a boat in my yard when it's off season. Nuisance issues needs to be addressed by you but blight is too vague.

David Eldridge, 12 Meadow Street – 8.2 in by-Law, in regard to unregistered motor vehicles. Has the town done anything on this? I dealt with an issue between two parties that was ultimately dismissed. If this were to go through, you would have to deal with everyone exactly the same or you could have lawsuits. Town Counsel vetted this? What do they think of blight? There has to be another way of dealing with issues. What happens if that person can't afford to fix it? What if it's a roof issue or a foundation issue? What if it's an issue at Pine Tree Village where home values are lower? Would they become homeless if they can't afford to fix it? Is there anyone on the Board of Health that is trained on construction? Mr. Mueller – That would fall to the Building Inspector. Mr. Eldridge – If the Town says they want it then you live with it. I don't think that a small group of people should be making these decisions.

Cornelius Shea, 148 Plymouth Street – Thank you everyone for showing up tonight. This is more about fear and the future. A lot of issues would be solved by removing blight. This does not fall under your purview. #5 under nuisance is quite a list. Junk, what is your Junk? What is mine? Who decides? I have an outdoor kitchen that is exposed to the elements, every day. I understand that you want to deal with the worst cases; I am surrounded by the worst cases. This should be more of a building enforcement issue. This was turned down by the Town Meeting and the Selectmen. This is ripe for abuse. Most of the people in Carver do not want to be part of a Homeowners Association.

Mr. Milanoski – This has been great to hear what you have to say. When I started my presentation, I referred to mattresses, etc. Blight becoming eminent domain is not the intent. This Board could remove Blight and farmers/ growers could be protected. I would suggest you go back and focus on the nuisance piece.

Cranberry growers – There are a lot of aging cranberry growers that may be contemplating their next step. This could impact them.

Scott Diogenes, 27 Johns Pond Road – If we don't solve this locally, the Town can start actions with abandoned properties by going through the State. Place home in receivership, which could result in the receiver taking the home.

Kim Shea, 148 Plymouth Street – If you remove Blight and stick with nuisance, I don't think there is a need to exempt growers but you cannot create different classes; it should be all farmers.

Mike Palimeri, Plymouth Street – I don't have an issue with blight; I am one of the abutters infested by rats. I live in an historic district and have about 10 abandoned properties close to my home. I don't think this is about bothering your neighbor. If it would help this move forward, remove blight and include exemption for registered farmers.

Sarah Hewins, 52 Forest Street – The way the law reads, they have to get rid of all nuisances that are bad for the public health. Under #4, overgrown vegetation; I grow wildflowers and my neighbors may prefer a perfect lawn. In addition to removing blight, it should stick with the language in the MGL – remove adversely affect property value.

Bill Duggan – When people move into a rural community, they may not appreciate the rural ways.

Mr. Forgue – One of the biggest tasks is defining what we are trying to address. We are not trying to address someone's outdoor cooking equipment. We are talking about 3 unregistered cars, two refrigerators, etc. Some people have brought complaints that I review and it is just a messy property, nothing I can do. Some properties need to be addressed due to health concerns.

Mike Palimeri – I sympathize with the concern over cost but what about the abutter's costs? There are two sides to all issues. I would have preferred that the Select Board dealt with it or that it went to Town Meeting the first time. But it needs to move forward.

Mr. Forgue – I would like to suggest that we incorporate all of your comments and try to come up with something new. We can then re-advertise and invite everyone back for another meeting.

Mr. Shea, 148 Plymouth Street – What is your biggest obstacle? Mr. Mueller – There are no regulations. Mr. Shea – The State addresses this in the MGL. Mr. Mueller – Cost is a concern as well. Mr. Forgue – Every case is either with a landowner or a bank. If a bank is involved, they will not do anything until that have full control over the property. I have had banks tell me that they cannot remove bags of trash on the property. Mr. Shea – The laws are pretty straight forward. Mr. Forgue – It's a lot easier to have local rules to go by, then to go through the state. Mr. Shea – The MGL says that the Board of Health has access to all of their laws. Maybe we can clarify them and bring them forward to inform the community.

Gail Nauen – Maybe we can reach the middle ground – Is the intention of the Board to be an intermediary to talk before it becomes a bigger issue?

Bob Emmit, South Meadow Village – What Gail described is more a nuisance than blight. The Board of Health needs the ability to do their job.

Barry Callis – Thank you for coming out tonight. I want to acknowledge that the words hazard, blight or acts on our part that attempt to impact property values noted in the current draft, are not part of our scope per MGL sect 122.

*Motion to close the Public Hearing: Mr. Mueller*

*Second: Mr. Callis*

*Approved: Unanimous (3-0)*

Discussion:

- Unregistered cars – 62 Silva Street

Mr. Mueller – It looks like he has more now? Mr. Forgue – I got a call; the owner stated that he had an agreement to buy Autogator. I told him that he received a letter from the Building Commissioner and he needs to meet with him.

- Results of recent water testing for private residences on Plymouth Street.

Mr. Forgue – The last round of testing was done just before the holidays. There was no detection of the 1,4 Dioxane. One home was under the standard and the other two had none. The issue related to going to DEP, they are making the claim that 165 did not receive bottled water. The report stated that he was receiving it. The DEP made a formal request for information. 165 did not participate for the first 3 rounds of testing (They didn't respond to the letter). On the 4<sup>th</sup> testing date, the person collecting the samples went to 165 and collected a sample which came back below standard. At that point he should have been bottled water and he wasn't. I spoke with Bruce Haskell and in his opinion is that they fined as they want the water line run to that area. A new chemical PFOS has been identified for testing. The engineer indicated that it will cost about \$10K to test each year. In my opinion, the water line is the best way to go.

Mr. Callis – All of the folks have adequate water supply? Mr. Forgue – Yes, when they are getting to the end of their stipend, they call.

Other Business:

Minutes – December 17, 2019

*Motion to approve the meeting minutes for December 17, 2019, as written: Mr. Mueller*

*Second: Mr. Callis*

*Approved: Unanimous (3-0)*

Correspondence:

Next meeting date:

Our next meeting will be Tuesday, February 18, 2020 at 5:00 P.M.□

Adjournment –

*Motion to adjourn at 7:39 PM: Mr. Mueller*

*Second: Mr. Callis*

*Approved: □ Unanimous (3-0)*