

**MINUTES
BOARD OF HEALTH
TOWNSHIP OF CHATHAM
AUGUST 11, 2009**

President Jim Brown called the regular meeting of the Board of Health to order at 7:33 P.M.

Answering present to the roll call were Dr. Marano, Mr. Tubbs, Mr. Nachtigal and Mr. Brown. Mr. Newby arrived a few minutes after roll call. Attorney Taormina was present.

Adequate notice of this meeting of the Board of Health was given as required by the Open Public Meetings Act as follows: Notice was given to both the Chatham Courier and the Morris County Daily Record on January 14, 2009; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 14, 2009; and notice was filed with the Township Clerk on January 14, 2009.

Approval of Minutes

Before approving the minutes of July 14, 2009, Mr. Brown suggested adding the words “to be” before the word “raised” in the last paragraph. Mr. Nachtigal also addressed the section in the minutes regarding the distance required to hook up to the sewer and noted the difference in the definitions between the state code and the Board of Health ordinance. The state code references “property” whereas the Board of Health ordinance references “dwelling”. Mr. Tubbs referred to the definition in the Township Code book. The Board decided to address this discrepancy when the Ordinance BH-1-09 was considered for adoption.

Mr. Tubbs moved approval of the minutes from July 14, 2009 as amended. Mr. Brown seconded the motion and it carried unanimously.

Reports

Registered Environmental Health Specialist

Registered Environmental Health Specialist Ben Samara reported that all the retail food establishment inspections were satisfactory during the month of July. Mr. Samara conducted second inspections of the pools. Mr. Samara also did septic inspections of the large septic system being installed at the Farm in Green Village. The Hickory Plaza parking lot continues to be monitored for litter and dumpster maintenance. Mr. Samara is reminding some of the retail food establishments that they will need to have at least one employee trained in the Serving Safe Food Courses by next year. Mr. Samara advised the Board who provides the courses.

Registrar of Vital Statistics-

Mrs. Wiley reported the following licenses were issued in July:

2 Marriage Licenses	\$56
5 Certified copies of Marriage Licenses	<u>\$35</u>
Total	\$91

Secretary- Mrs. Wiley reported there was no new correspondence.

Mr. Brown moved to accept the reports. Mr. Newby seconded the motion and it carried unanimously.

Meeting Open to the Public

Mr. Brown opened the meeting to the public.

Frances Hoffman, Green Village Road resident, was present to explain she is preparing to list her house for sale and has discovered the town’s Board of Health records from 1991 state the septic system for her house was designed for two bedrooms. Ms. Hoffman relayed a conversation she had with Peach Brothers when she purchased her house in 2002 and that they had commented the

field was very large. Ms. Hoffman asked the Board if the system would have sufficient capacity to support three bedrooms. REHS Ben Samara and the Board reviewed the approved Board of Health plans from 1991. Mr. Brown noted that Chatham Township's standards in 1991 were stricter than the state's standards and that the Township's requirements changed in 2001. The Board suggested that Ms. Hoffman ask Murphy & Hollows, the engineer who designed the septic system plans, to recalculate using today's standards to see whether the design supports a three bedroom house. If it does, Mr. Murphy would need to send a letter documenting this to the Board. Mr. Samara also advised he would investigate the situation.

Mr. Brown closed the meeting to the public.

Public Hearing/Final Adoption of Ordinances

The Board discussed amending Ordinance BH-1-09 to be consistent with the wording in the Township Code that references the 100 feet requirement to connect to the sewer. The Board suggested omitting Section (a) (1) and (2) and changing it to read, "Any owner of property located within one hundred (100) feet of any public sewer shall connect ..." Also reference to the word "building" at the end of the first paragraph was changed to refer to "property."

ORDINANCE BH-1-09

TOWNSHIP OF CHATHAM BOARD OF HEALTH AN ORDINANCE COMBINING ORDINANCES BH-2-02 AND BH-1-03 REQUIRING CONNECTION TO THE PUBLIC SEWER; REPEAL ORDINANCE BH-4-67

BE IT ORDAINED by the Board of Health of the Township of Chatham, in the County of Morris and State of New Jersey, as follows:

- (a) Any owner of property located within one hundred (100) feet of any public sewer shall connect the building sewer of such building to the public sewer within a period of ninety (90) days after notice from the Board of Health or its authorized agent to do so. The point of connection shall be designated by the engineer representing the municipal sewerage authority or by the Township Engineer, as the case may be. The distance shall be measured in a horizontal straight line from a point directly above the center of the designated point of connection to a point directly above the nearest portion of the property.
- (b) The Board of Health, after written application therefore, hearing thereon and good cause shown, shall, by formal resolution, grant exemptions from the requirement for connection to the public sewer provided for under Paragraph (a) above, if, due to physical conditions upon the property, including but not limited to subsurface formations or topography, connection to the public sewer would be impracticable and result in substantial hardship to the owner, provided, however, that the conditions set forth in Paragraph (d), below shall have been met.
- (c) The Board of Health may, after written application therefore, hearing thereon and good cause shown, by formal resolution, grant deferrals of the requirement for connection to the public sewer provided for under Paragraph (a) above, provided, that the conditions set forth in Paragraph (d), below, shall have been met and that one of the following conditions for deferral exist:
 - (1) That the individual disposal system serving the property has been altered repaired or replaced within five (5) years of the Board of Health's issuance of the notice to connect to the public sewer. In such case, the Board of Health may grant a deferral for a period not to exceed five (5) years from the date of such alteration, repair or replacement.
 - (2) That the septic tank serving the property has been pumped within three (3) years of the Board of Health' issuance of the notice to connect to the public

sewer. In such case, the Board of Health may grant deferral for a period not to exceed three (3) years from the date of such pumping.

- (3) That the connection to the public sewer shall result in an unavoidable and severe financial hardship to the owner, due to the owner's lack of adequate assets and income. In such case the period of deferral of the requirement for connection to the public sewer shall remain in effect, only so long as the financial conditions relied upon by the Board of Health in granting the deferral continue to exist or until the ownership or occupancy of the property shall have changed by any means whatsoever, whichever shall first occur.
- (d) The Board of Health shall not grant exemptions under Paragraphs (b), above, nor shall it grant deferrals under Paragraph (c), above, unless the owner establishes by clear and convincing evidence (and the owner's professional engineer, home inspector or registered environmental health specialist, licensed as such in the State of New Jersey and not employed by the Township of Chatham) certifies to the Board of Health in writing) that the individual sewage disposal system serving the property is functioning properly, safely, and in accordance with all applicable laws and regulations, and can be expected to provide long-term reliable service.
- (e) The requirement for connection with the public sewer within ninety (90) days, as set forth in Paragraphs (a) and (b), above, shall automatically be extended by the owner's filing of an application for an exemption or deferral, to a date ninety (90) days of the Board of Health action on the application, or such other date as may be established by the Board of Health.
- (f) All actions for exemptions or deferrals shall be made on forms provided by the Board of Health (See Exhibit "A") and shall be accompanied by documentation supporting each element of the application, including financial documentation, in case of financial hardship (See Exhibit "B"). Such documentation shall be treated with the appropriate level of confidentiality. The Board of Health may direct the applicants to submit the documentation to the Chatham Township Administrator, who shall likewise observe the requisite level of confidentiality, and who shall, based upon the documentations submitted, make recommendations to the Board as to whether, in the Chatham Township Administrator's professional judgment, justification exists for the application pending before the Board.
- (g) The owner shall have the burden of establishing entitlement to an exemption or deferral sought and the owner's failure to sustain this burden shall result in a denial of the application.
- (h) A deferral is not transferable to a new owner of the property unless the new owner is a close family member such as a spouse, civil union partner or a child or children of the owner.
- (i) Any owner of property subject to this Ordinance, who shall fail or neglect to comply with a notice from the Board of Health pursuant to this Ordinance, shall be subject to a penalty not to exceed two hundred and fifty (\$250.00) dollars. An additional penalty not to exceed \$100.00 per day shall be imposed for each day after the expiration of the notice as provided above in which the provisions of the said notice are not complied with. Such notices shall be served upon the owner(s) personally, or by leaving it at his or her usual place of abode with a member of the family of at least 18 years of age, or by sending it by registered or certified mail, return receipt requested, to the last known address of the owner as revealed by the Tax Rolls of the Township of Chatham.
- (j) Ordinance BH-4-67, BH-2-02, and BH-1-03 are hereby repealed.
- (k) This Ordinance shall take effect after final publication in accordance with the laws of the State of New Jersey.

Mr. Newby moved to re-introduce Ordinance BH-1-09 as amended in section (a). Mr. Nachtigal seconded the motion.

Roll call: Dr. Marano, Aye; Mr. Tubbs, Aye; Mr. Newby, Aye; Mr. Nachtigal, Aye; Mr. Brown, Aye.

The public hearing will be scheduled for the next meeting on September 8, 2009.

Discussion

Codification of Well Ordinance- Mr. Brown asked the Board if they wished to amend the current well ordinance to include a section pertaining to the expiration of permits. The Board was in agreement. Attorney Taormina will prepare the amendment for the next meeting.

Mrs. Wiley distributed to the Board the septic model ordinance from the state that Township Attorney Carl Woodward had given to her. Attorney Taormina will compare the model ordinance to the Board's existing septic management ordinance to see if any changes are appropriate. This also should be placed on the next agenda.

Swine Flu Update- Mr. Brown advised he has been forwarding any swine flu information that he receives to the members of the Board. It appears three flu shots will be given in the fall, two for H1N1, and one regular flu shot. Mr. Tubbs raised concern from a budgeting perspective about the costs involved with three flu shots. Mr. Brown did not think the township would be affected, but he would follow up with Health Officer John Theese about how the Madison Health Department is being reimbursed for their efforts. The Board requested that John Theese be present at the next meeting to provide an update on this issue.

Mr. Brown moved to adjourn at 8:35 P.M. Mr. Tubbs seconded the motion and it carried unanimously.

Joy M. Wiley
Board of Health Secretary