

Charlemont Board of Health Minutes  
BOH Minutes September 8, 2021  
Charlemont Fairgrounds

Present: Doug Telling, Rob Lingle

Absent: none

Guest: Randy Crochier, Patrick and Katie Banks, Mary Ellen and Phil Banks, Charlie Ricko, Wesley Janssen, Bill Harker

Called to Order at 3 pm

Banks stated that they will record the meeting

-Lingle stated that the P and K Banks requested a hearing disputing Crochier Cease and Desist Order for Vacationland.

Lingle called the hearing to order at 3:02 pm

Lingle read the hearing notice: The Charlemont Board of Health will hold a Public Hearing on Wednesday, September 8, 2021, at 3:00 PM, at the Charlemont Fairgrounds, 1 Park St., Charlemont, MA to hear an appeal by Patrick and Katie Banks regarding an order to Cease and Desist operation of Vacationland DBA Foolhardy Hill under the authority of 105 CMR 440. The hearing is to see if the Board of Health wishes to approve, modify, or dismiss the order.

K. Banks made an opening statement

--went over the background as to why they opened the campground.

--Began the process for permitting in October 2019. K Banks claimed corruption and delays caused them to miss the first season.

--P. Banks discussed the building codes and his belief that the building commissioner's misread them and used an out of date code.

--P. Banks stated that the order by Crochier did not cite 105 CMR 440 and provide a code-based reason for the order.

--Crochier replied that 440.03 requires that building be safe. Given that the building department is unwilling to grant a Certificate of Occupancy, cannot assume that the building is safe.

--K Banks asked about the structures at Berkshire East's campground. Telling replied that the hearing is about the cease-and-desist order applied to Vacationland, not about any other campground. K Banks replied that the issue is selective enforcement. She asked Lingle if he agreed to an order without code citation. Lingle replied that we rely on and trust our health agents. It is important that things are done correctly from the beginning.

Charlie Ricko addressed how the campground fit into the character of the town as a recreation destination. Boards need to be pro-business. Lingle replied that we are following the code.

K Banks charged that the board acted maliciously because, she charged, that Telling tried to undermine the Banks' efforts with Department of Public Health. Telling denied the charge.

Wesley Janssen stated that the Banks have supported Wells Provisions and brought the store business. She stated that she believed the Banks' were trying to do the right thing for the town.

Telling moved and Lingle seconded a motion to close the hearing. Passed 2-0 Closed at 4:02 pm

--Telling asked Lingle if he heard evidence supporting a move to change or reject the order.

--Lingle worried about someone getting hurt at the campground and suing the town as well as the campground given that the town has not issued a permit.

Ricko wondered if the difference between the spirit and letter of the law applied here?

Lingle moved and Telling seconded a motion to uphold the cease and desist order. Passed 2-0

Telling moved and Lingle seconded a motion to adjourn. Passed 2-0

Meeting adjourned at 4:05 pm

These minutes are not official until signed

Documents Reviewed

9/8/21

- Agenda 9/8/21
- Hearing notice