

BOARD OF Health MEETING MINUTES

May 31, 2022
Town Hall 1 Main St., Upton, MA 01568

The public hearing was called to order at 12:31 p.m., by Member, Al Holman. Also in attendance were; Member, Stedman (Ted) Briggs; Asst. Public Health Supervisor, Diane Tiernan; Animal Control Officer, Mike Moran; Joseph Laydon, Town Manager; Laura Lima of the Dartmouth Group; Mark Mastroianni, Director of Planning and Entitlement for Pulte Homes, John Engdahz of Pulte Homes, Jim Mazzuchelli of Westboro Pest Control, along with thirteen residents of the Upton Ridge Development (see attached sheet).

Al opened the floor to Pulte as they requested the hearing from the Board.

Mark Mastroianni stated they were in receipt of the latest order from the Board dated 5/18/22, addressed to Pulte. Mark stated the letter should not have been addressed to Pulte, but to the Dartmouth Group, who is the owner of Upton Ridge Condominiums. During the construction phase, Pulte is the Trustee, but the completed condo's are owned by the Dartmouth Group. Pulte was notified by the Dartmouth Group of the rodent problem and the services of Westboro Pest Control were obtained and we did what the order stated. On May 10th there was an onsite meeting which he attended with John Engdahz, Mike Moran, Richard Desjardins of the BOH, Mike Desjardins of Westboro Pest Control, Building Inspector Steve Johnson and area residents. The building inspector said nothing was wrong with the walls. Mike Desjardins said the baiting was successful. Richard Desjardins said he was satisfied. Not long after that meeting the BOH met and another order was sent saying everything that you are doing is wrong, and there will be fines if the orders aren't complied with. At that point we thought it would be best to talk things through and address the issues so that we understand what it is the BOH is looking for.

Mark stated he found it interesting that the Board acknowledged the rats had been eradicated, but then they go on about the stone walls. What stone walls were you referring to? Walls are deteriorating and unsafe. Which ones? He requested that the order is corrected and addressed to the condominiums not Pulte. The treatment is still working, weekly reports can be sent to the Board.

Ted asked if the day a purchase is made of one of the condo's, is Pulte done? Are they still the trustee? Mark stated no, the construction area is still under the charge of Pulte. The condo's that are sold are in the hands of the association, the Dartmouth group. The owner pays fees to the association as soon as you move in. They own the land, if you have a problem with the common area, the association is responsible. Pulte has a warranty process.

Resident, Mark Donnelly read his notes which reflected a detailed timeline of the events. Mark Donnelly stated that Pulte deflects responsibility and has a pattern of delay.

Resident, Michael Rosati, stated he is concerns that any action the Board orders Pulte to take will cause damage to the residents and not Pulte. It becomes the burden of the association to make repairs.

Resident, Kelly Brennahan stated she shares Mikes concerns. The value of their properties is at risk, there is a public health risk to pets, children, etc. and she asks that all of that be considered.

Ted asked Jim Mazzachelli if the rats will return during colder months. Right now, the situation is under control with the rats, but will they return in the winter. Jim stated, no the rats are under control. There is no more infestation at all due to the baiting situation. If more rats come back, they could go anywhere, under stumps, below the frost line, they do not normally harbor in a stone wall.

ACO, Mike Moran stated the whole process to eradicate the rats could take several months. Westboro Pest Control explained it could take 10 to 12 months, you can't over bait, you'd kill everything in the area. They'll come back if there is a food source.

The problem is that the holes they left are very deep, he stuck his entire arm inside one. There is a safety issues in the area that the rats burrowed into. The walls themselves need to be addressed by Code Enforcement, anything over 4' needs a permit.

Resident, Mike Rosati stated as engineer, he can vouch that the walls were not over 4' but the ground has settled. Exposed areas of the walls are now taller.

Resident, Janice Begin stated the walls are not in good shape – my wall is in really bad shape, stones falling out of the wall, entire wall is starting to fall. Holes are getting bigger and bigger.

Resident, Kelly Brennahan, stated she is experiencing the same thing; stones are falling, she has no bird feeders, yet her home was infested with mice and she paid to have it corrected on her own. Her relative is a forest engineer and wildlife expert and told her rats like to go back to the place they originally harbored.

Resident, Mike Rosati, stated the HOA continues to spend our money on baiting, has there been enough baiting to keep them from coming back?

Al stated there are two things that are an issue; baiting and the wall condition. Harborage is part of the public health regulation. Mark stated that Pulte has followed through with what the code says to do and has eradicated the rats.

Al stated that harborage describes the physical place that the rodents live, we still have an issue with it. Westboro Pest Control is saying the rodents may or may not come back. The ACO says they will. How do we eliminate the problem in its entirety.

Resident, Regina Carfora, stated were not happy with the baiting coming out of the HOA fees. We have no control over these rodents, we didn't create the problem.

Resident, Mark Donnelly asked Mark Mastroianni since there are more homes to be built, are you continuing to build these same walls? Now that you know there's an issue, will you change the walls or tell the residents there's an issue, we are asking you to take a roll in fixing this. If you go get blocks at Home Depot and fix the wall – I can't believe it would cost that much. You have all the equipment and personal already. Figure out the cost within the next four weeks. You have the resource, it is much cheaper for you. Mark D. stated he calculated 1200 bucks for the wall behind the houses.

Resident, Bob Butler stated there's no way it would only cost 1200.00 it would be a minimum of 30 to 40,000 to repair all the walls which will be passed back to all of us. I don't want to pay the cost.

Al agreed it would seem since Pulte has the equipment and manpower on site, it would be great advertisement to Pulte to make the repairs, we're happy with the fact that the rodents are gone but we need to address the walls.

Resident, Neil Carfora stated he is not an expert, but the fact that the walls closest to the wooded areas seem to be the problem area, why not fix those first. He doesn't believe every wall needs to be done, but some do.

Mark M. stated there is nothing wrong with the walls, they are fine.

Al stated we don't control the building inspector, our concern is the harborage area. Fill the walls with foam or whatever, we just want them fixed. Mark M. stated they hired the pest control. There is no guarantee that even if every wall was fixed that the rodents wouldn't return.

Resident, Mike Rosati stated as an engineer, if you plug the holes up so nothing can get in, the walls will fall over, then we will definitely be responsible. Do you know how big of a gap you are looking to eliminate? Al stated he was not sure, he would assume only the larger holes, the smaller ones would not be an issue.

Al stated to Mark M that it appears there is no movement in your plan. Mark stated that everyone here has a good point, this development was created in a wooded area. We learned the rodents were here, Westboro Pest Control did the work and the rats left. Just because the residents don't like the walls is not enough reason to re-do the entire development. That's not appropriate, if they're not to regulation that's different.

Resident, Mark Donnelly stated understand this wall is 111 inches away from my front door and here's the rat! (photo shown)

Ted stated as a developer, if I discovered there was a problem, maybe I should reconstruct the walls a little different.

Attorney, Don Morenstein stated the land is owned by the trust; common area and walls. If your jurisdiction is against the owner, than that's the association. We responded to an order to restructure the walls; we didn't understand the order. All agree that we don't want rats and we understand the interest to make sure they are gone, but to make sure they don't come back? How? Rebuilding the walls? He didn't hear anyone say the rats will stay away if you do. All walls have gravel which will be burrowed into. The walls themselves are not the problem and to hold up an occupancy permit would create a burden to Pulte who is prepared to fight back on that issue.

Al stated the town may not be able to hold up an occupancy permit on this specific issue, but we can issue violations for public health issues, we want this resolved.

Jim Mazzachelli stated they currently use Warfarin as bait but we can use something different if there is concern. The traps can be check 3 to 4 times per week. If we want to continue until the weather gets cold.

Al stated that Westboro Pest Control did a really good job on killing the rats. We are pleased with that outcome.

Al said he heard mention of filling the holes with dirt. Mark M. stated that was to address the settlement of the walls and the loam would bring the wall into code.

Al asked Mark M if there was interest in correcting the harborage area?

Mark stated when this was brought to our attention, we hired a professional. It worked. No one knows if the rats will come back. Why not continue to monitor the traps?

Jim Mazzachelli stated the stones in the wall may have fallen out because of the frost.

Attorney Morenstein stated Mark says he has complied with what the board asked on all accounts and before you order us to replace the walls at significance expense without knowing if it will fix the issue, there are other steps that can be taken. Lets continue to monitor the situation. The condo association can review the walls again, lets meet and go look again? Maybe we've learned something. Ultimately, my client will not be willing to replace the walls at a great cost.

Al stated the harborage is the issue right now, we are not asking you to replace all the walls. We were hoping we could all come to some resolution, but it appears at this time there is no solution and we will continue with monitoring. Mark asked if we could reconvene in 30 days after meeting at the site and looking at all the options.

Motion one – Ted made a motion to meet again in 30 days to discuss the need to eliminate the existing harborage. Ted will meet on site with Mike Moran and Mark and any other interested parties. The order will be re-issued with a 30 day extension.

Motion two - Ted made a motion to adjourn and Al seconded the motion.
2:55 p.m., Meeting was adjourned.

Respectfully Submitted,

Diane Tiernan, Asst. Public Health Supervisor