



# ***Town of Hull***

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## **BOARD OF HEALTH**

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**253 ATLANTIC AVE.**

HULL, MA 02045

## **MEETING MINUTES – MAY 9, 2023**

Board Members Present: Jennifer Butler-Rickard, Janet Scribner

Staff Present: Joan Taverna, Director

Ellen Barone, Office Manager

Town Counsel: James Lampke

### Attendees:

Gerard and Linda DiLeo, Luke DiLeo: 110 Highland Ave.

Bob Peters, Jake Peters: 104 Highland Ave.

### Exhibits:

1. Letter to Gerard & Linda DiLeo advising of complaint dated January 9, 2023
2. Letter from Gerard & Linda DiLeo responding to complaint dated January 17, 2023
3. Chapter 215-4 Nuisances ByLaw
4. Letter to Gerard & Linda DiLeo advising of date of hearing – dated January 26, 2023 with handwritten note saying “Gerard DiLeo stated that they would eliminate the ground feeder and that they no longer wished to go before the Board.”
- 5., 6. Photos of Pigeons and White Bird Poop on roof of 106 Highland Ave submitted by Bob Peters
- 7., 8. Information relating to roof damage from bird droppings submitted by Bob Peters
9. Photo of Pigeon & Squirrel Proof Feeders & Bird Feed not for Pigeons submitted by Bob Peters
10. Photo of hanging bird feeders submitted by Bob Peters
11. Photo of Pigeons feeding submitted by Bob Peters
- 12.- 15. Photos of Pigeons on roof of 106 Highland Ave submitted by Bob Peters
16. Photo of Pigeons on roof of 110 Highland submitted by Bob Peters
17. Photo of Patio and Bird Feeders at 110 Highland Ave submitted by Linda DiLeo
- 18.-22. Photos of homes in the neighborhood submitted by Linda DiLeo
23. Letter from Kerrie Otis & Michelle Cox received by Bd. of Health May 9, 2023
24. Complaint form from Michelle Cox dated March 13, 2023

**5:30pm: Opened Hearing for Gerard DiLeo of 110 Highland Ave.** request for a hearing regarding complaints concerning feeding of birds.

J. Lampke swore in those that would be testifying; Gerard & Linda DiLeo, Bob Peters, Jake Peters, Joan Taverna, Ellen Barone.

J. Lampke introduced the Complaint letter (Exhibit 1) sent to the DiLeo's as the subject of the hearing. The Board of Health received complaints about excessive birds at your property that were defecating

and creating a health nuisance by the accumulation of the birds and the bird waste that has a tendency to attract rats. The DiLeos stated that there was a subsequent complaint that was placed to them via telephone. The DiLeos responded to the original complaint on January 17, 2023 as they were out of Town and requested a hearing (Exhibit 2). The Nuisance ByLaw was presented to the DiLeos and they were provided a copy (Exhibit 3). The January 26, 2023 letter informing the DiLeos that a hearing has been scheduled was presented and acknowledged (Exhibit 4). E. Barone stated that the handwritten note was added when G. DiLeo came to the office to attend the hearing. The note read “Gerard DiLeo stated that they would eliminate the ground feeders and that they no longer wished to go before the Board”.

Mrs. DiLeo stated that she has removed the bowls that were on the ground that contained food/corn and water for the chipmunks and squirrels. She has moved the feeders so that they are over the grass area and replaced one feeder that was a square wooden feeder on a chain after she saw the pigeons tipping the feeder with one with a cathedral top on it that the pigeons cannot tip over. There currently are 2 feeders, one has seed for cardinals and blue jays and one has wild bird seed. The patio area has been cleaned of all debris. She did not add a new feeder, replaced one.

J. Lampke explained to the DiLeos that under the law, they have a right for a hearing with the Board. These are administrative hearings and are not subject to the strict rules of court procedure. The Board of Health will make a decision whether to modify the violation order, or cancel the violation order if they believe that you have corrected the matter or keep the violation order in effect. He cannot advise them as he works for the Town of Hull. The Town also has the right to reissue complaints, violation notices, etc. If necessary the Town can seek relief with the courts which it has done in the past. The DiLeos need to show the Board that either the complaint is an error or that they have corrected the situation.

Mrs. DiLeo presented photos of her property and other homes in the neighborhood some of which were vacant that she feels are the cause and nesting places of the rats. She alleged that one of the homes and a photo of a large tree on the lawn was that of the man who complained. Board of Health staff informed her that none of the photos were of the home of the person who complained (Exhibits 17 – 22). Mrs. DiLeo asserts that there have been less pigeons since she made the changes to the feeders and cleaned up the ground which was approximately 2 weeks ago. Bob Peters stated that none of the photos were of his property and that he was one of the two people who filed complaints. The other complaint was from Michelle Cox and Kerrie Otis of 106 Highland Ave. whose roof the pigeons sit on.

J. Butler-Rickard asked Mrs. DiLeo how many feeders she previously had. Mrs. DiLeo stated that she originally had 3 hanging feeders each for a different type of bird and 2 stainless steel round bowls on the ground; one with food that she would put corn in for the squirrels and one with water.

J. Scribner clarified that currently there are 2 feeders; Ms. DiLeo stated yes, one for cardinals and blue jays and one with wild bird feed and that they were moved approximately 2 weeks ago.

Mr. DiLeo stated that there were 4 dogs at the home of the other complainant that put out a lot of excrement that is a source of food for rats. Mr. Peters added that he sees Mr. DiLeo pick up his dog poop every day and throw it behind the red canoe. Mr. DiLeo stated that he does do that and sometimes he covers it with mud.

Jake Peters, who works in pest management and is licensed by the state of Massachusetts added that he tells people all the time that bird feeders and gardens are the 2 things that bring rats into yards.

Mr. Peters stated that he really has nothing against bird feeders, they just put too many out and then there were 80 pigeons last summer. The food is dropped onto the ground from the feeders and the pigeons feed from that. He stated that the neighbors had asked them to stop feeding the pigeons. The pigeons will hang out on their roof and poop all over their roof and deck. He stated that moving the feeders to the grass area is helpful but they will not go away until there is no food for them. Mr. Peters presented photos showing pigeons on the roof of 106 Highland Ave. and also bird waste. (Exhibits 5, 6, and 12 – 15). He stated that the numerous birds that are attracted to the bird feeders have become a nuisance. The feedings have attracted a large number of pigeons that perch on the roofs. Their waste can cause damage to asphalt shingles on the roof and the waste is also on other items in neighboring decks. Mr. Peters also presented photos of 110 Highland Ave. showing three (3) hanging bird feeders (Exhibit 10), a photo of pigeons feeding (Exhibit 11), and a photo with more than 75 pigeons on the roof taken in September (Exhibit 16). Mr. Peters provided written information pertaining to damage that is caused by bird waste on roofs (Exhibits 7, 8) and also a photo of pigeon and squirrel proof feeders (Exhibit 9) and also a type of bird feed that is not for pigeons. Mr. Peters who is licensed by the State of Massachusetts owns and operates a pest management control company. He has seen rats in the neighborhood and on his property since the DiLeo's have been feeding the birds. It is his opinion that the bird feed and bird waste is a food source attracting the rats.

J. Scribner asked Mr. Peters if it was his opinion if it was the type of seeds being used that is attracting the pigeons. Mr. Peters stated that most bird seed pigeons go for. There are some they don't like. If you use a cylinder type of feeder with some type of mesh at the bottom with a tray so that the pigeons cannot get at it. When asked if they changed the type of food they were using he stated that it would help. The pigeons will not go away until they stop feeding them. It may take awhile. Then if they start feeding them again, they will return.

J. Lampke asked, is the problem that the pigeons are there because they think there is food and if they don't get food they will go somewhere else? Mr. Peters stated that is true but it may take some time for them to go away. J. Lampke said so if the seeds fall to the ground the pigeons then go to get them; is there some type of mesh that can be used to prevent the pigeons from getting at the food? Mr. Peters stated that a mesh can be used around the feeder and on the ground to prevent the pigeons from getting at it. The pigeons feed on the ground. They are too heavy and bulky to feed from hanging feeders. J. Lampke asked if it is just the pigeons or all birds that are an issue? Mr. Peters stated that it was the pigeons.

Mr. Peters asked the DiLeos if they were going to pick up their dog feces because that is attracting rats. J. Lampke asked if that was Mr. Peter's professional opinion and he stated yes it is; bird feeders, dog feces and trash attract rats.

Mr. DiLeo feels that they have taken steps to make improvements since the original complaint. He said he has never spoken to Michelle and Kerrie about any complaints.

J. Butler-Rickard stated that the original complaint for the Board of Health stated that you are to remove the nuisance; excessive feeding of birds has led to a large number of pigeons.

J. Taverna referenced a telephone call that she had with Mr. DiLeo where she stated that we have received another complaint Mr. DiLeo said what are you saying, that I cannot feed the birds and she thought she was being generous and said he should remove the feeders for 30 days and see how that works. Mr. DiLeo did not want to stop. Mr. DiLeo feels it is unreasonable to ask someone to stop doing this.

Mr. DiLeo stated that they feel like things are improving, if they keep improving, they don't feel we need another board meeting; it can be worked out between the department even with a phone call. There are now more birds at the feeders that are not pigeons.

Mrs. DiLeo stated that she did have a conversation with Michelle about removing the ground feeders and complied with this. Her bird feed is for particular types of birds, she does not put out any food for the pigeons.

J. Taverna recapped with the DiLeos that, the original complaint was regarding the pigeon feces the health concerns relating to that, in addition to that there are concerns about what it is doing to roofs and properties. The rats had been brought in to the situation by Bob and Kerrie and Michelle. The number of feeders has been reduced however there is still food on the ground. That is both an attraction for the pigeons and rats. In addition you said that you put out corn for the squirrels. The DiLeo's stated that was in the past. J. Taverna stated that now the situation with the dog feces that was brought up tonight also needs to be addressed.

E. Barone read for the record a letter from Kerrie Otis and Michelle Cox of 106 Highland Ave. received via email on May 9, 2023 because they were unable to attend the meeting voicing their concerns and requesting that the open feeding of the birds be discontinued (Exhibit 23). A copy of the complaint form from Michelle Cox dated March 13, 2023 was presented (Exhibit 24). Mr. DiLeo wanted to go on record stating that he feels some of the items in Michelle Cox's letter are untrue.

J. Lampke advised the Board that they could make a decision tonight or schedule another meeting to talk about their decision. J. Butler-Rickard would like to have additional time to review all of the documents presented and have a conversation with other Board Members.

The hearing has been closed and the decision would be based on the information presented tonight.

Copies of all exhibits were provided to the DiLeos.

J. Butler-Rickard recessed the hearing until May 16, 2023 at 6:30pm

Upon a **motion** by J. Scribner, and a unanimous vote the meeting was adjourned.