

Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES Tuesday, June 12, 2007 at 3:00 PM Town Hall, Hearing Room 367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on June 12, 2007. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul Canniff, D.M.D. and Junichi Sawayanagi. Thomas McKean, Director of Public Health and Sharon Crocker, Division Assistant, were also present.

Announcements: 1) BOH meeting July has been moved to July 17, 2007. 2) At the July meeting, there will be a new Board Of Health regulation proposed outlining Time Deadlines for septic repairs next month.

I. **Hearing:**

- A. George Paton, owner, 39 Falling Leaf Lane, Osterville – Owner is requesting consideration to eliminate monitoring of innovation septic system.

Mr. Paton has signed a contract at three year periods to monitor his septic system. In March, he received a letter from Innovative Rucks Systems and recently received one from the County requesting additional testing. He is requesting the Board of Health review the monitoring plan. His system has always been in compliance. The new proposed monitoring with additional testing will increase in cost from \$150/year to \$600/year.

It is required to have four acceptable test results before the Board will review changing the monitoring. To date, there are only three tests. Mr. Paton will investigate whether there is a fourth test and if so, will come before the Board again for consideration of reduced testing.

Susan Rask, Barnstable County, spoke of the procedure as the County monitors the I/A systems for the town. Mr. McGrath is the head of the Rucks system and had gone before the Mass DEP asking whether they have to continue doing testing. The State told Mr. McGrath, the complex no longer had to do the testing after 2003. However, no one ever came before the Board of Health proposing the tests be eliminated. Ms. Rask's chart shows Mr. Paton's particular system has been doing well in the testings. Ms. Rask's recommendation would be to test once a year for nitrate levels which may only cost \$100. The maintenance contract is required by the State. Mr. Paton's system is built for a three bedroom, but he only utilizes two bedrooms (the third is an office).

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue until August 21, 2007. (Unanimously voted in favor.) (That will allow time to see if a fourth test was done, and if not, it will allow a fourth test to be done on its normal quarterly interval to avoid additional costs.)

- A. Mark Sheehan representing Nancy J. Krajewski, Trustee, West Wind Trust, owner of 80 Yarmouth Road, Hyannis – recurring critical housing violation(s).

*(see below)

- B. Mark Sheehan, representing Nancy J. Krajewski, Trustee, East Wind Trust, owner of 71 Main Street, Hyannis – serious housing violation(s).

*(see below)

- C. Mark Sheehan, representing Richard D. Arenstrup, Trustee, Park Street Trust II, owner of 156 Main Street, Hyannis – serious housing violation(s).

*Regarding all three above):

Mark Sheehan was present and explained he is involved in a law suit with his partner which is approaching resolve which he stated was holding up his cash flow and limiting his ability to pay for utilities.

Mark Sheehan presented that two years ago, he became ill and the lawsuit began. Currently, he has sold 71 Main Street, and the two other properties (80 Yarmouth Road and 156 Main Street) are lodging houses. He now has good positive cash flow and expressed this is the first problems in the twenty years of ownership.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to move forward without a penalty at this time. If this does occur again in the future, they will consider criminal complaints, notifying the licensing board and will consider having an escrow account established for expenses. (Unanimously voted in favor.)

II. Hearing (cont.):

Evandro DeCastro – 1384 Falmouth Road, Centerville – Regarding recurring housing violations including overcrowding and insufficient septic system capacity (continued from BOH March 2007 meeting).

No one was present. This item was on the Board of Health agenda several months ago and the owner was out of the country and unable to attend. Since that time, the house has been inspected, there is no running water or electricity and has been posted uninhabitable. There is evidence that people are trying to get in.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted on a motion finding the property in serious violation of housing statutes and is

uninhabitable. A letter will be send to the Police Chief requesting patrol in the area to make sure no one is living there. (Unanimously voted in favor.)

III. Hearings – Housing (New):

Raineria Laftsidis, owner, 365 Scudder Avenue, Hyannis – Driveway width greater than allowed per Town ordinance.

Dr. Canniff has gone out to property and acknowledges it is a difficult driveway for safe exit. There have been six accidents and two fatalities there.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to October 9, 2007 meeting. (Unanimously voted in favor.) (This would allow time for Town Council to review the ordinance.)

IV. Continued Items from Previous Meetings:

A. David Crispin, P.E., P.L.S., BSC Group representing Dr. Nathan Rudman, 40 Waterman Farm Road, Centerville, 18.2 acre lot, new construction, five bedrooms proposed, multiple variances requested in regards to setbacks to wetlands and coastal bank (continued from BOH Meeting Mar'07).

Nat Rudman, owner, said it is a 11.7 acre lot and he needs four bedrooms for current family and desires a fifth bedroom to allow an in-law bedroom, if necessary, in the future.

David Crispin spoke of how the coastal bank is a non-eroding one, thereby, eliminating the concern of the coastal bank. Mr. Crispin explained the comparison of the three and the five bedroom systems is basically the same level of protection (within feet). The nitrogen level would be 1.3 parts per mil with standard system on a 5 bedroom with 10 people and with 5 bedroom with only 5 people, as in household, it'll be 0.8 with standard system. With a Fast System, a full 5 bedroom would be 0.8 parts per mil and with a 3 bedroom , using a Fast, it would be 0.9 parts per mil (slightly higher).

The revised plan dated June 5, 2007, only lists one variance (but also says “see attached letter”). The June 5 letter on page three has the listing of seven variances total. The foundation is part slab and part crawl space. Dr. Miller explained nitrogen level will not be the Board’s big concern here. It will be a year-round house.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a five-bedroom with an I/A system with the condition of 1) the use of an ultraviolet protection system, 2) a five-bedroom deed restriction, and 3) the monitoring plan state that the quarterly monitoring will be done for two years, and will monitor for pH, BOD5, TSS, and TN, 4) After two years, the applicant shall be present at a public Board of Health meeting for a determination of whether the testing may be reduced. (Unanimously voted in favor).

B. John Schnaible, Coastal Engineering Company, representing Silvia & Silvia, 116 Scudder Avenue, Barnstable, 1.3 acre lot - Proposed house addition, five variances requested. (continued from BOH Meeting Jan'07)

The owner purchased the home in 1998 with 7 bedrooms. However, the 1991 septic permit listed it as 5 bedrooms and a Board of Health variance letter at that time specified no more than 4 bedrooms and one art studio shall exist. Also, a 2001 septic inspection noted the system as a 5-bedroom system.

John Schaible and Paul Covell presented data for an I/A system. The calculations show a standard system would produce an 8-bedroom with 8.9 parts per mil, or a 5-bedroom with 6.5 parts per mil. The Fast system would bring the 8-bedroom down to 5.1 parts per mil. Paul Covell, Chairman of Board of Health in Dennis, stated his town has had great success with the Fast system and recommends a monitoring well be installed, before the I/A system is in place, to establish a base line.

The owner has lived there for nine years as a seven bedroom home with an eighth room in the garage which has a wide hallway as direct access to the garage and may discount it from being a bedroom. Also noted was that the study can have a 5 foot opening added to it. The owner expressed a willingness to eliminate one bedroom downstairs (the TV room on first floor) by opening the doorway.

John Schaible requests two variances: setback of septic tank from coastal, and setback of SAS from coastal. With a Fast system, 2000 gallon pump chamber and the leaching system as pressure-dosed, the nitrogen loading calculations would be as follows:

<u>Without IA:</u>	8 bedrooms	8.9 parts per mil	<u>With IA:</u>	5.1 parts per mil
	5 bedrooms	6.5 parts per mil		5.1 parts per mil

This plan is viewed as “new” construction because they are proposing an increase in flow. As such, a minimum of 75 feet is required from wetlands. This plan only allows 63 feet.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this until the July 17, 2007 meeting after the applicant considers options. (Unanimously voted in favor.) (The Board will be available for a site-visit if applicant is interested.)

C. Charles Sabatt, Attorney, representing Hyannis Public Library, regarding underground fuel storage tank.

Charles Sabatt was unable to attend the meeting. Mr. McKean will contact Charles Sabatt for an update.

V. Application for Extension – Underground Tank:

Kathleen Sousa, Cumberland Farms # 2142 (a.k.a. # 2326)- 395 West Main Street, Hyannis, Map 269, Parcel 116, requesting extension on replacement date of four (4) fiberglass 8,000 gallon underground storage tanks.

Richard Boyle, Regional Sales Manager for Cumberland Farms with an office at 393 Main Street, Hyannis presented data. The Corningware company who made the tanks state the tanks last 30 years. The tanks were installed in 1982 and the town had required replacement in 20 years (designed to protect environment from steel tanks).

Mr. Boyle will meet with Mr. McKean to reduce the reporting size from 30 pages to a one-page summary.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a one-year extension to expire Jun 2008. At the Jun 2008 meeting, Cumberland Farms should be prepared to present a firm replacement date. (Unanimously voted in favor.)

VI. Six Bedrooms or More:

Stephen Wilson, Baxter Nye, representing Vincent Wolfington, 586 Scudder Avenue, Hyannis, 95,500 square feet lot, nine bedrooms.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the existing nine bedroom. (Unanimously voted in favor.)

VII. Innovative Alternative Septic System:

A. Dan Ojala, Down Cape Engineering, representing Bay Point, LLC, 671 Main Street, Cotuit, proposed development.

Dan Ojala presented the plan identifying that a backup generator has been added. The plan is revised to 14 bedrooms on 2.377 acres. He is seeking a variance from 330 ordinance from ZBA. Affordable units are 25% (3 units).

Dr. Miller read the two letters on the agenda under "XII. Correspondence" pertaining to 671 Main Street, Cotuit.

Mr. Ojala stated the condominium documents can specify the lofts are not to be converted to a separate bedroom.

Thomas Knight Burgess at 658 Main Street, Cotuit, spoke. He said there is proper concern over the use of the loft and suggests a visit of other Bornstein properties to see how the lofts are used. Another concern is the ability of the affordable units to come up with the funds to replace the system if it does fall, along with the concern that the property is one foot from Zone One – a town well.

The Board will issue a letter to the Zoning Board of Appeals with the Board's recommendations.

B. Jack Landers-Cauley representing Patricia Downey and Stefan Schiestl, owner - 19 Angus Way, Centerville, 20,015 square feet lot, addition of a third bedroom within groundwater protection district, I/A system monitoring plan review.

Jack Landers-Cauley said that they are only planning on using three bedrooms. The plan must clearly identify the three bedrooms, a 3-bdrm Deed Restriction is needed, and a monitoring plan must be submitted with quarterly reporting for two years.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the three-bedroom plan. A new engineer's plan should be submitted showing the reserve area. (Unanimously voted in favor.)

VIII. Food Establishment Variance Requests (New):

- A. Fishy Business, 1600 Falmouth Road, Centerville, toilet facility variance.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the toilet facility variance. (Unanimously voted in favor.)

- B. Caffè Gelato Bertini, 20 Pearl Street, Hyannis, new establishment, two variances requested – only one toilet facility provided, handwash sink faucet(s) without automatic sensor-operated faucets.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the toilet facility variance. (Unanimously voted in favor.)

- C. Joseph Dunn, Island Merchant, 302 Main Street, Hyannis – request for increase in seating capacity.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the increase to 66 in the seating capacity. (Unanimously voted in favor.)

IX. Temporary Food Permit Applications:

- A. Noah Shelter of Housing Assistance Corp, 77 Winter Street, Hyannis – “Housing Assistance Corporation’s Walk to End Homelessness” on September 30, 2007, multiple food: chili with meat, sodas, chips, etc., applying for food at Village Green, Hyannis.

No one was present.

Upon the motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve with the condition that the preparation of food is in a licensed facility and handled adequately in transportation to the site and once at the site, must be handled properly. Also, they must have a temporary hand wash station, not the hand wipe written on the application. (Unanimously voted in favor.)

- B. The Sausage Guy, 118 Dorchester St, South Boston – “Beetlemania” on July 7, 2007, applying for hot dogs, pretzels, sausages, drinks, etc., at Village Green, Hyannis.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the temporary food permit. (Unanimously voted in favor.)

- C. Porky’s BBQ, 28 Hamblin’s Hayway, Marstons Mills – Hyannis Fireworks on July 6, 2007, applying for pulled pork, sausage, fries, and fried dough at Maritime Museum, South Street, Hyannis.

A safety food handling certificate is on file at the Public Health Division.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the temporary food permit. (Unanimously voted in favor.)

X. Discussion:

- A. Ed Pesce, Pesce Engineering, and John Kenney, Attorney, representing 381 Old Falmouth Road, Marstons Mills – (continued from BOH January 2007 Meeting) discussion regarding failed septic system.

Ed Pesce said the old Title V analysis was based on warehouse use. He made some assumptions. Here, eight of the units do not have any employees, and a few additional only have 3 employees there off and on during the day. With his assumptions, it came out to 55 gallons/day of use. Each quadrant can hold 12, thus 48 units less one unit for storage of complex. He viewed the water use for building as well and spreading use over 365 days, came up with 958 gallons average/day for 2006 and 1,151 gallons average/day in 2005.

Two issues exist for the Board. One is whether once all four systems fail, is there enough land available to put a new system in for each. Ed believes all four will fit. Also discussed was whether this falls into the 330 rule. Mr. Pesce feels that without an increase in flow, the 330 rule won't apply to a repair. The Board view was that it would apply because it is a change of use. Mr. Kenney believes the 330 rule only applies if there is a change of use which then creates a change of flow above the designed system.

The Board requests that Mr. McKean have an inspector visit the facility. The Board would like Mr. McKean to determine how the original was filed, i.e., a one or two story facility. Then, they must see whether a hearing is necessary to determine whether 660 is to be used.

- B. William Well, Weller & Associates, Fisherman's Village Condominium, 855 West Main Street, Hyannis – discussion regarding a failed septic system (continued from BOH February 2007 Meeting).

Mr. Wells said they re-inspected the system as requested at the last meeting. Mr. Wells said they also found the other pit which they had not been able to locate earlier. That pit was full.

He will meet with Mark Ells to see if he can connect or at the least, he can do a easement to connect. Then they will have a joint meeting.

XI. Septic Installer Applicant:

Greg Jones, Sagamore Beach, MA.

All applicant's paperwork is in order, the applicant passed the exam and he had excellent references.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve Greg Jones as a Septic Installer. (Unanimously voted in favor.)

XII. Correspondence:

- A. Alfred Wohlwend, 925 Main St, Cotuit – regarding 671 Main St, Cotuit.
- B. Tyler Wick, 50 West St, Cotuit – regarding 671 Main St, Cotuit.
- C. Peter Sullivan, Sullivan Engineering, Osterville – regarding Cape Cod Oyster, Osterville, Dredge Spoil Placement.

The Board voted to adjourn.