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# Town of Barnstable

## Board of Health

200 Main Street, Hyannis MA 02601



Wayne Miller, M.D.  
Junichi Sawayanagi  
Paul Canniff, D.M.D.

### BOARD OF HEALTH MEETING MINUTES Tuesday, February 9, 2010 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 February 9, 2010. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Junichi Sawayanagi and Paul J. Canniff, D.M.D. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

#### I. Hearing – Housing:

- A. Philip Sheinis, owner – 6 Uncle Willie's Way, Hyannis, Map/Parcel 292-307, requesting variance from ceiling height (postponed from January 2010 meeting).

Philip Sheinis was present and described the floor plan. The basement had four rooms in basement originally identified as bedrooms. Two of the rooms in basement

Upon a motion duly made by Junichi Sawayanagi, seconded Dr. Canniff, the Board voted to Continue to March 9, 2010. Mr. Sheinis will provide a floor plan of the premises. (Unanimously, voted in favor.)

*{Potential variance: may be Granted with Condition in March that two of four {rooms in basement are opened up to 5 foot opening and that all other items in {Nov 25 violation letter are met.*

- B. Ron Jansson, Attorney, representing James Walker, owner – 5 General Patton Drive, Hyannis, Map/Parcel 292-098, housing issues.

Ron Jansson, Esquire, presented the situation that the current tenants are being evicted. In order to do the repairs required by the violation letter, the premises must be empty. The main issue is a plumbing leak and the only way to get at the hot air system's piping is the break the slab the house is built on. The hot air duct is under the slab.

Mr. Walker has owned the house for 40+ years. He is looking for an extension.

Six months should be ample amount of time to have tenants evicted and have repairs done.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to extend the deadline by six (6) months until August 2010 with the Condition that the premises will not be reoccupied until the owner has presented the repair plans to the Board and all the work is completed. (Unanimously, voted in favor.)

**II. Variance – Septic (New Item):**

Stephen Wilson, Baxter Nye Engineering, representing William Rugg, owner – 251 Bay Lane, Centerville, Map/Parcel 166-057, 1.5 acre parcel, three septic variances.

Stephen Wilson presented the plans. He said the owners do not have a failed system. However, they are undertaking work on the property by the SAS and decided it will be cost efficient to do all the work at the same time.

Mr. McKean asked for a floor plan. Mr. McKean stated the staff has no issues with the plan.

There is not an additional percolation test required before the permit. Mr. Wilson explained that if a percolation test was to be done ahead of time, it would hurt the SAS currently being used.

Mr. Wilson also said he'd be happy to retest the soil at the time of construction and confirm the soils have not changed.

Dr. Miller asked to check whether he needs an additional variance setback from wetland. He said it is unlikely that sewer will be coming to this area and suggests considering using an I/A system for future possible requirements by the State.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve of the variances and an additional variance of setback to the Coastal Waters, with the following conditions: 1) will do a 2 bedroom Deed Restriction on the house (there is already a 1 bedroom Deed Restriction on the Cottage), 2) the engineer will confirm at the time of installation that the soils are the same as tested at the time of original perc. (Unanimously voted in favor.)

**III. Hearing – Septic Failed (Cont.):**

A. Michael Santos, owner – 26 Bishops Terrace, Hyannis, Map/Parcel 251-215, septic failure.

Michael Santos was present and stated the unit is a rental. Mr. McKean pointed out the unit is not registered as a rental with the Town. Mr. Santos

said he did not realize there was a rental registration requirement in the Town and he will be happy to register his properties with the Town.

The re-inspection of septic shows it now passes. The original inspection had noted that there was a high water stain in the SAS. Mr. Santos believes that when the heating pipes broke, it pumped a lot of excess water into the system and caused the high water mark.

Dr. Miller asked Mr. McKean what would be the item monitored.

It is due to be pumped. Mr. Santos recommended that yearly as he pumps it, a note be made of the high water mark to monitor it. Dr. Miller said that he would like it done more frequently than yearly.

Mr. Santos said as soon as weather permits, he can have it dug up so the Board can view the water line themselves (the State requires the Board to personally view it when they accept a passed inspection after a failed system is on record.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to Continue to April 13, 2010 BOH and there be a site visit by the Board members in April prior to meeting. (Unanimously, voted in favor.)

- B. Christine Jenness, Attorney, representing Carstensen Realty Trust, owner – 250 Smoke Valley Road- cottage, Osterville, extension requested for deadline on repair for unoccupied cottage.

The property remains unoccupied and the water has been shut off.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to Extend the Deadline of Septic Repair for one year ending February 2011 with the following condition: 1) the property remain unoccupied, 2) the water to the cottage remain shut off, and 3) the owner as of Feb 2011 will appear before the Board of Health regarding the repair. (Unanimously, voted in favor.)

**IV. Variance – Septic (New):**

Stuart Bornstein, owner – 276 Falmouth Road, Hyannis, Map/Parcel 293-031, septic tank variance.

Stuart Bornstein was present and explained that an Abandonment Permit was taken out. They filled in the tank with sand.

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

**V. Discussion:**

Stuart Bornstein, owner, Windmill Square Ltd – 3821 Falmouth Road, Marstons Mills, potential Hair Salon tenant interested at location, holding tank.

Mr. Bornstein covered the issue of the letter written 1/30/04 to Churchill and Leonard Holtzman, potential tenant, discussed his interest in operating a small hair salon at this location.

Upon a Motion made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the allowance of a Hair Salon with one chair only with the condition that a Holding Tank be installed. (Unanimously, voted in favor.)

**VI. Variance – Food (Cont.):**

A. Discussion with Jeff Horn, Big Dipper Representative regarding Louis Capolino, Caffè “E” Dolci – 430 Main Street, Hyannis, grease trap variance previously granted, addition to menu.

B. Patience Taylor representing Marstons Mills Farmer’s Market, requesting a temporary food permit at Liberty Hall, 2150 Main Street, Marstons Mills, multiple dates.

Patience discussed that they are going to Site Plan Review once they receive a letter from the Elders of the church/hall.

Dr. Miller explained that a Retail Permit is required.

Patience said that their goal is to have the “winter market” for the first and third Saturday of the Months of February – May 15, 2010. Then, they hope to have a “summer market” as a new location in Marstons Mills.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve a Temporary Retail Permit for a Farmers Market Condition on Site Plan Review approval, condition on handwashed stations as needed for not-prepackaged samples or non-agricultural products per state code, the fee will be \$100 application fee and a \$100 retail fee to include all the vendors submitted by February 15. Any additional vendors after that will have to pay the \$100 application fee and the \$100 retail fee (they can also be bundled together under one additional application if submitted together. (Unanimously voted in favor.)

**VII. Variance – Food (New):**

A. Richard Smith, owner, Smitty’s Ice Cream – 3261 Main Street, Barnstable, Map/Parcel 299-018, grease trap and toilet facility variances.

Richard Smith said he will only be selling ice cream. The Board explained a Grease Recovery Device is not necessary. A GRD does not handle ice-cream.

The toilet facility will remain the same. There are currently no seats in facility.

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

- B. Brek Kohler and Ron Dimick representing LBK, LLC, owners – Burger King requesting variance of storage/room temperature food at two locations: (1) 184 North Street, Hyannis, Map/Parcel 309-260 and (2) 2145 Iyannough Rd, West Barnstable, Map/Parcel 215-027-001.

Ron Dimick was present and discussed the layout of the food being prepared. They normally have a four hour time frame. Ron brought the fact sheets from Mary Sanford who is in charge of food safety for Burger King. They are agreeable to a two hour time frame for specifically the cheese, tartar sauce, sliced tomato, sliced lettuce, mayonnaise, and onions. The dried onions pickles, bacon, ketchup, and mustard do not pertain to this deadline.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a two hour allowance time before disposing of products. The products on the “Main Board” area

- C. Larry Thayer, owner of property, and Centerville Pie Company – 895 Mary Dunn Road, Hyannis, Map/Parcel 332-014, variance for vacuum packaging.

Larry and Kristin Broadley (the owner of Centerville Pie Company) discussed how they make all their own products from scratch and vacuum seal them.

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

#### **VIII. Innovative Monitoring Plan:**

**Removed** Gregg Brehm – 49 Joby’s Lane, Centerville, Map/Parcel 120-084,  
**Not Owner’s** occupied 6 months/year, requests monitoring reduced to twice per  
**Rep.** year.

#### **IX. Variance – Septic Failed (Cont.):**

Rosanie Joseph and Severe Philogene, owners – 33 Stetson Street, Hyannis, Map/Parcel 306-055, septic failure, variance requested for 15.722 – no engineering plans, sewer connection in future (continued from January 2010 and November 2009 meetings).

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve a variance for no engineering plan be submitted as the failed chambers will be replaced in the same location with the following

condition: 1) an Administrative Consent Order (ACO) be signed before the compliance of the septic permit is given. The ACO will be requiring the hookup to sewer once it is available, etc. (Unanimously, voted in favor.)

**X. Old/New Business:**

A. Proposed Bedroom Count Policy – Request to be updated.

Dr. Canniff mentioned that it should say “a finished room”. Mr. McKean also asks for a Deed Restriction to be placed stating the number of bedrooms allowed at the premises.

Mr. McKean will draw up a final version for the March 9 Board of Health meeting.

B. Proposed Additional Counter Variance Approval – Repair/Replace Existing Well with setbacks to existing septic.

Mr. McKean would like to allow the inspectors to approve a repair/replacement of an existing well from setbacks between 50-100 feet from the septic tank. (This does not apply to SAS).

Dr. Miller had a concern on the integrity of the septic pipe. He would want that responsibility to be placed on the Board. All Board members agreed.

**Not approved.**

C. Proposed Revision of Beauty Shops/Barber Shops connected to Onsite Sewage Disposal Systems.

A recommendation was going to be given by the State. They have not come through with a recommendation yet.

The Board felt this was a good regulation to put into place. They discussed a three-year deadline versus a one-year deadline. The State regulations currently allow the existing situations to continue.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board proposed a Deadline of February 15, 2013.

Dr. Miller also proposed as part of this is to require signage inside the Salon stating that “all potentially hazardous materials must be disposed of in this sink”. And, on the other sink(s), a sign saying “no hazardous material disposed of here.

The final draft will be brought to the March meeting.

D. Proposed Warewashing Sink Policy.

Mr. McKean stated the code does allow it. The inspectors are finding issues in the field and with the regulation, it will specify the sanitizing test to be handle.

ReArrange Words and start with: *“The Board recommends and prefers a separate prep sink in all new food establishments,,,,,see TM’s draft.*

*E. Pool Test Kit*

*Recommend that every pool be tested for combined chorine at 0.2 increments (instead of 0.5 increments) as can be done with the equipment, Taylor K-2006*

Motion to Adjourn 6pm.