



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES Tuesday, September 14, 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 September 14, 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 Lindsay Parvin, Acting Administrative Assistant, were also present.

I. Hearing – Tobacco:

Tobacco violations as reported by Bob Collette of Barnstable County Tobacco Control.

- A. Corner Food Mart, 640 Main Street, Hyannis – First Offense, tobacco products sold to a minor.

A Dutch Master cigarette was sold by Wae Hind. The manager of the Corner Food Mart said that his employees all sign the form stating they will follow the regulations and they are very good about it.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayangi, the Board voted to issue a warning letter as this is the first offense. (Unanimously, voted in favor.)

- B. Cumberland Farms #2326, 395 West Main Street, Hyannis – First Offense, tobacco products sold to a minor.

The manager at Cumberland Farms said that they have an online training program and they have each employee's signature on the forms stating they will obey the regulations.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayangi, the Board voted to issue a warning letter as this is the first offense. (Unanimously, voted in favor.)

- C. Hess Express #21234, 149 North Street, Hyannis – Second Offense, tobacco products sold to a minor.

The manager at Hess said they have a zero tolerance and the employee was terminated. The manager explained they have a web-based training policy and the employees sign a document every day stating that they will ID every day or else be terminated.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayangi, the Board voted to issue a warning letter as this is the first offense. (Unanimously, voted in favor.)

II. Hearing - Pool:

George Simpson, owner - Anchor In, One South Street, Hyannis, lifeguard requirements.

George (Skip) Simpson suggested delaying doing anything because the State is in the process of revising lifeguard requirements. In March, if there is no regulation on the books, he would like the Board to consider eliminating a lifeguard requirement.

The Board mentioned the items they have considered putting into such a policy:

- Max Capacity less than 20 swimmers
- No Appliances in or around pools Diving Boards Slides Weight Apparatus
- No Alcoholic Beverage
- Max Depth 5 feet
- CPR certified should be present
- No personal or floatation device allowed
- No Persons under the age of 16 without adult

Skip agrees with all the above except the five foot regulation.

Dr. Miller pointed out that the different drowning and near drowning were all in facilities with lifeguards present. Lifeguards don't guarantee an incident won't happen and additional signage may be something to consider.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayangi, the Board voted to delay action until March 2011 allowing time to see if the state will develop new regulations. (Unanimously, voted in favor.)

III. Innovation/Alternative System:

Winston Steadman, All Cape Environmental represents Brian Smith, owner – Fancy's Market, 699 Main Street, Osterville, Map/Parcel 141-011, proposed Monitoring Plan for Sludgehammer System.

Winston Steadman presented his proposal.

Dr. Miller believed the proposed plan applies to residential use (see page 2#1) as opposed the remedial use. Mr. Steadman said the flows are low and DEP does not prohibit commercial use on the proposed plan. Dr. Miller will need to have clarification from the state that it can be used for commercial.

If the DEP is willing to use this system in this commercial setting, he would have no problem with it.

Winston said he had tried to reach Dana Hill, DEP, but could not get a hold of him. He did speak to the manufacturing company and they were not aware of any restrictions of commercial use.

Dr. Miller stated that the monitoring plan seems complete and notes that the monitoring will be more stringent than required.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan based on staff review and with the following condition:

1) State agency approves the application to non-residential. (Unanimously, voted in favor.)

Dr. Canniff requests it be reviewed by the health inspectors, too.

IV. Hearing – Housing:

Josephine Stuehler, owner – 370 Route 149, Marstons Mills – ceiling height.

The home was built in 1870. The property was inspected by Health Inspector, Tim O’Connell, R.S. All violations found were repaired. Staff recommends approval of the variance.

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

V. Hearing- Pool Permit:

Comfort Inn, 1470 Iyannough Rd, Hyannis - Lifeguard, near-drowning.

Jeff Lyon, the General Manager of the Comfort Inn was present. He said the lifeguard briefly left the pool area. Jeff Lyon noted that the area in the pool that the husband and wife were swimming was only 3 feet deep. This is why the lifeguard felt comfortable in leaving pool area. Since that event, Mr. Lyons has tightened their pool policy.

The Deputy of the Barnstable Fire Department was on scene within three minutes. The lifeguard did leave for two minutes. At which time a woman was at the bottom of the pool upon his return. The lifeguard administered two rounds of CPR and saved the woman’s life.

Staff recommends two day closure. Different actions have been taken in the past. Including closure and monitoring requirements.

Deputy Barnstable Fire Francis Pulsifer said the woman was in her mid-fifties and was not a competent swimmer and her personal floatation device got away from her.

Dr. Miller said the state regulations require that if a lifeguard is provided, they must be in attendance the whole time.

Dr Miller suggested a monitoring fine as opposed to a closure as to not infringe upon other patrons.

Mr. Sawayanagi does not see any fault on the part of the hotel – he believes the incident was an accident and should not receive a penalty.

Dr. Miller believes a penalty is in order based on the seriousness of the matter.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to approve a \$ 100.00 fine to the hotel. (Unanimously, voted in favor.)

VI. Variance – Septic (Cont.):

- A. Stephen Wilson, Baxter Nye Engineering, represents Jetty Realty Trust, Jane Bertolami, Trustee, owner – 15 Sea View Avenue, Osterville, Map/Parcel 162-026-002, 0.56 acre lot, two variances.

Mr. Wilson has proposed a change in the previously reviewed and approved plan.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the revised plan and the two variances. (Unanimously, voted in favor.)

- B. Daniel Ojala, Down Cape Engineering, represents Dennis and Susan Ausiello, owners – 80 Cross Street, Cotuit, Map/Parcel 033-029, 0.50 acre lot 5, variances, upgrade in system, new construction – expansion of habitable space.

Mr. Ojala presented the revised plans.

Mr. McKean said the staff reviewed and had no objections.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to approve the revised plans dated September 14, 2010. (Unanimously, voted in favor.)

VII. Variance – Septic (New):

- Michael Pimentel, JC Engineering, representing Household Finance Corporation II, owner - 41 & 43 Hiram Road, duplex, Hyannis, Map/Parcel 292-012, 0.22 acre lot, multiple variances.

Mr. McKean said the staff recommends a second tank and all lines should be sleeved and are within 10 feet from the water line.

JC Engineering said a second tank has never been required on a duplex.

Dr. Miller said Title V is clear – two tanks are required. He suggested cost estimates be done to compare this cost with a sewer connection cost. The sewer line is only 70 feet away.

Mr. Pimentel said it would be more costly connecting to sewer since it would require an extension rather than a tie-in. If a stub is present, a homeowner can connect and has a right to a sewer connection. If not, the cost of repaving the road will be placed on the homeowner.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to the October 12, 2010, meeting at which time the cost of the two methods will be compared – conventional septic system versus a sewer system connection (vacuum pipe). Also the Board does not approve the series of tanks and the plan must be modified to have a multi-compartment tank. (Unanimously, voted in favor.)

VIII. Discussion:

John Churchill, JC Engineering, representing Village Square South Condominiums – 39 Tower Hill Road, Osterville, Map/Parcel 117-072, septic upgrade.

Mr. McKean said the staff commented that the space is sufficient for an alternative system.

Dr. Miller said he would like to see an IA System based on the size of flow, with a small parcel in the zone 2. He said a property with 28 bedrooms on this size lot will not be waived in a zone 2.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted on the approval of the septic upgrade. (Unanimously, voted NOT TO APPROVE.)

IX. Variance – Food (New):

Tammy Korte, ArcVision for new business, Teavana – Cape Cod Mall, 769 Lyannough Rd, Hyannis, toilet facility variance.

Tammy Korte requests a unisex bathroom be approved as they have a small business with a total of 4-6 employees. They will be serving tea but this is only 5% of the business.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the toilet facility variance with the following condition: no seats allowed. (Unanimously, voted in favor.)

X. Discussion:

Executive Director Paul Niedzweicki and Technical Services Director Patty Daley, Cape Cod Commission, to discuss the Craigville DCPC Implementation Regulations.

Patty Daly, Cape Cod Commission was present for the discussion and was looking for a sense of whether the Board will support any DCPC regulations from a wastewater standpoint.

Dr. Miller said in environmentally challenged areas, there is a need to do anything possibly to prohibit increase of septic systems in the area.

Ms. Daly suggested a regulation like requiring haulers to report any septic component failures. Dr. Miller stated this won't work unless you put in a reasonable pumping requirement schedule.

Mr. McKean asked if the pumping requirements would be town-wide. Mr. McKean has concerns about enforcement.

Dr. Miller said flow neutral is more of an environmental issue as opposed to a health department issue.

Ms. Daly asked how would that differ from the waste water facility plan in place. Dr. Miller said personally he would rather see the 440 than the 330 flow.

XI. Hearing – Housing (Cont.):

Estate of John S. Rittershaus, 217 Sea Street, Apt# 4, Hyannis – ceiling height.

No one was present to represent the owner and plead their case.

First Vote:

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the ceiling variance. (Unanimously, voted TO DENY). The owner is permitted to re-apply.

Upon the representation of the Estate of John S. Rittershaus,

Second Vote:

The Board voted to rescind the above vote on the ceiling variance – removing the vote to Deny and hearing information on the property.

The apartment # 4 at 217 Sea Street has a ceiling height less than 7 feet in 76% of second floor. Staff recommends allowing for one person in the second floor unit.

Third Vote:

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the ceiling height of apartment #4 with the following conditions:

(a) the occupancy shall be strictly limited, upstairs apartment, #4, shall be limited to one (1) occupancy with a total occupancy limit of seven (7) people in the building and (b) condition to be monitored by the rental agent and the health inspector. (Unanimously, voted in favor.)

XII. Variance – Septic (New):

Dan Ojala, Down Cape Engineering, representing Susan White, owner – 825 Main Street, Route 6A, West Barnstable, Map/Parcel 156-031, 0.39 acre lot, septic repair, multiple variances, watertight tanks.

Mr. McKean said the staff had no comments/no objections to the proposed plan. Dr. Canniff suggested monolithic tanks be considered due to the proximity to well water.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan with the following condition: to substitution with monolithic tanks. (Unanimously, voted in favor.)

XIII. Old/New Business:

Mr. McKean brought up to the Board that they need to establish clarification on exemption rules for temporary food permit fees regarding charity organizations, schools/non-profit, Municipal Organizations.

Motion to adjourn.