



OFFICE: 508-862-4644
FAX: 508-790-6304

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, June 14, 2011 at 3:00 PM
Town Hall, Hearing Room, 2ND Floor
367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, June 14, 2011. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul J. Canniff, D.M.D and Junichi Sawayanagi. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

I. Hearing – Trash:

Richard Miller, owner – 99 Walton Avenue, Hyannis, trash violation.

Thomas McKean and Health Inspector, Tim O'Connell, discussed the case. The property is now currently owned by a bank. The Health Division will give the bank two weeks to clean up the property.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve use of the funds available to the Board of Health to clean up the property and obtain reimbursement from the owner. (Unanimously, voted in favor.)

II. Sewer Connection:

Michael Princi, Wynn & Wynn, representing First Light Holdings, LLC, owner – 300 Barnstable Road, Hyannis, Map/Parcel 310-144, sewer connection.

Michael Princi was present and reviewed the information discussed at the May meeting.

Bob Bergman, Town Engineer, said he would like people connected to the sewer, whenever possible.

The Board felt they must stay consistent. The reason for not connecting can be the distance established here as many would want to avoid the connection costs.

Dr. Canniff felt strongly that the time frame of one year would suffice to handle the cost, as seven years has already passed since sewer was available at this location.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to enforce the connection to sewer within an 18-month period – connect by December 2012. (Vote Passed. Two voted in favor. Dr. Canniff voted opposed to the time frame.)

III. Discussion:

Center Village Condo – Request to replace soil absorption systems without a shared I/A system.

Bill Rabe, Trustee at Center Village, and Gary Wolcott, Civil Engineer, were present and said they have changed the request.

They are looking for approval to hook up to sewer so they can have a feasibility plan devised. It has been almost 6 years since they came to the Board and it was only expected to be 5 years before sewer would be available to them.

Bob Bergman said the major cost is already done in having a pump station; they don't usually have to increase the size of station, just the number of hours the station will have to run to handle the additional volume.

The Board brought up the fact that Strawberry Hill Condominiums also needs their septic repaired/replaced and has less land available to do repairs. They came to the Board in 2004. Bill Rabe said the possibility of splitting the cost of the connection with Strawberry Hill would be good.

Mr. Rabe said the Center Village Condominium Association was also looking for an approval to replace a few pits with a Title V drain while waiting for the connection to town sewer.

The Board explained that the suggestion of using a Title V drain is a separate issue all together and must be reviewed separately and thoroughly. The only issue they can address today is the feasibility of connecting to the town sewer and the Board agreed that it would be reasonable for the condominium association to prepare a feasibility plan with the expectation of connect to sewer soon.

**Dr. Miller asked Mr. McKean to pull out the Strawberry Hill Condos files and have the Board (possibly at the next meeting) address the septic connections at the same time as Center Village and the association will be able to split the costs.

IV. Variances – Septic (New):

- A. Peter Eastman, Howard Boats – 164 Beale Way, Barnstable, Map/Parcel 280-004, 0.50 acre lot, boat building and repair requesting approval for incinerating toilet, currently no plumbing.

Peter Eastman was present and explained his request. Historically, they have been using the neighbor's property and he actually had more employees in the past than he does now as he has streamlined the process.

Dr. Miller said Brian Dudley prefers an incinerator toilet because there are no bio-hazards from it; it burns and ends up just ash. The other system requires special disposing and/or burying. Hand washing would be with hand sanitizer. Brian Dudley is also happy to have the hand sanitizers instead of the alternative of using grey water as the soaps, etc., would be leaching into the ground and the property is so close to the water.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the use of an incinerator toilet and hand sanitizing at the location. (Unanimously, voted in favor.)

- B. Edward Stone, EAS Surveying, representing owner, Salvation Army - 157 Straightway, Hyannis, Map/Parcel 268-218, 10,544 square feet parcel, gravity system vs. pump.

Ed Stone presented the plans. Thomas McKean brought up the comment that the plan should be designed by an engineer should be used. Mr. Stone said it is his understanding of the regulations that if the wall is under four feet, an engineer is not required. This wall would be 3 ½ feet.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve the plan for a one foot variance with the following condition: a structural engineer must design the wall and that it must meet the requirements of Title V and the staff of the Barnstable Board of Health. (Unanimously, voted in favor.)

- C. Peter McEntee representing Bank of New York Mellon – 116 Iyannough Road, Hyannis, Map/Parcel 328-144, 9,330 square feet lot, variances.

Peter McEntee presented the plan. There is a lining which will run between the cellar wall and the SAS. It will run the length of the SAS.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve with the following conditions: 1) A three-bedroom deed restriction will be properly recorded at the Barnstable County Registry of Deeds, and 2) a proper copy of the deed restriction will be supplied to the Barnstable Health Division. (Unanimously, voted in favor.)

- D. Peter Sullivan, Sullivan Engineering representing C. William Carey, owner - 986 Sea View Avenue, #A, Osterville, Map/ Parcel 091-002, 2.72 acre parcel, proposal to grandfather four bedroom without installing new septic system.

Peter Sullivan presented the history of the property. Since the initial permit, the area has fallen under the salt-water estuary limitations.

Mr. Sullivan suggests performing a 16-page septic inspection of the property to validate the system's design handles a four-bedroom.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the parcel as having a four bedroom approval with the following condition: 1) A full 16-page septic inspection report will be done on the property and it must validate that the system's design is built to handle a four-bedroom capacity. (Unanimously, voted in favor.)

- E. Allen Halliday, Trustee – 154 Eel River Road, Osterville, Map/Parcel 115-010-001, 74,985 square feet lot, approval of five bedroom floor plan (continued from the March 2011).

The owner was to be present. The five bedroom plan submitted is a generic plan.

The Board had requested the five bedroom floor plan as the stipulation of removing the three bedroom deed restriction. The septic system is built to handle a five bedroom capacity.

Upon motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the 5 bedroom plan and the three bedroom deed restriction will be allowed to be removed. (Unanimously, voted in favor.)

- F. Robert Greer, owner – 140 Peach Tree Road, Marstons Mills, of interpretation of septic permit dated 4/26/2006 with the number of bedrooms –Section 360-45 variance of salt water estuary.

Thomas McKean said the septic system is designed adequately for five bedrooms. The septic permit showed it as a 3 bedroom and it was designed with rooms which are now enclosed. At the time of the permit, the property was outside of all zones of restrictions. There would have been no reason to deny the five bedrooms in 2006.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve a variance to the estuary to permit the 5 bedroom design flow to be used for the 5 bedroom house. (Unanimously, voted in favor.)

V. I/A Monitoring:

Joanne Hooker, owner – 112 Nyes Neck Road East, Centerville, request to reduce monitoring.

No one was present.

The reports showed levels of 22 and 23 while the desired level is 19 or less. By interpreting the results of the testing, the property is not used during the winter and thus, does not make sense to test during the winter. The nitrogen level is ok during the ok but not as good as it could be.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve the I/A monitoring to be reduced to once a year with the following conditions: 1) the property is only rented seasonally, 2) the I/A is testing during the prime season of Jul or Aug, and 3) the water will be tested annually as the well was actually installed closer than the plan had originally specified. NOTE: If the property is to be rented year-round, then the property's I/A system must be monitored twice a year, one of which will be during the Jul/Aug season. (Unanimously, voted in favor.)

VI. Variance – Food (New):

- A. Marat Hunanyan, owner of Cape's Best Gyros & Grill – 569 Main St, request to do deep-fry cooking.

Marat Hunanyan said he had spoken with Bob Bergman, Town Engineer, and Bob did not have a problem with using a deep-fryer until the grease tank was hooked up at the end of the season. Dr. Canniff and Mr. McKean confirmed this.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to reverse one of the criteria's of the BOH ruling on May 2011. The applicant will now be allowed to use a deep fryer for foods on the proposed menu with the condition that the underground grease trap will be installed by the end of the season as stated (by Nov 18, 2011). (Unanimously, voted in favor.)

- B. Aaron Webb, owner – The Daily Paper, toilet facility variance to utilize three toilet facilities, in lieu of the required four.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve the toilet facility variance to permit three, instead of the four toilets. (Unanimously, voted in favor.)

- C. Lori Caron, Salty Lou's Lobster, for Mid Cape Farmers Market – request to sell prepared foods.

Approved as refrigerated items, not as frozen items. The summer temperatures during the Farmers Market allow the potential of the food to thaw as she will only be storing it in ice.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the food as refrigerator items and will also approve the food as frozen items with the condition that the vendor uses a freezer at the market for storage. (Unanimously, voted to approve.)

- D. Temporary Food Event – Phil Wallace and Susan Finegold for Summer Fete En Plein Air to be held at Pastiche of Cape Cod, 1595 Main St, West Barnstable, on Saturday, June 18, 2011, seven vendors, serving food 4:30-8:00 pm.

Phil Wallace and Irina MacPhee were present to answer questions. They will have five wash stations available.

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

- E. Temporary Food Event Summer Sampler, Osterville Historical Museum, 155 West Bay Road, Osterville, on July 10, 2011 – three vendors, serving food 5:00-7:00 pm.

Cynthia Hall will submit a floor plan of the food event.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve as an annual event, with the condition that a floor plan of the food event be submitted to Mr. McKean and it meets with his approval. (Unanimously, voted in favor.)

VII. Septic Installers (New):

- A. Michael Labute, Mashpee, MA

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve Michael Labute as a septic installer. (Unanimously, voted in favor.)

- B. Fred Swain, Hudson, MA

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve Fred Swain as a septic installer. (Unanimously, voted in favor.)

VIII. Body Artist Variance:

- A. Alyssa A. Long, Hyannis - Request to conduct Body Art without taking Anatomy and Physiology from an accredited college. Applicant took an online First Aid and CPR course.

Mr. McKean stated the applicant needs to submit evidence of receiving her Hep.B series shots and must submit a photo ID as the requirements state.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve as an apprentice for 6 months with a 6-month renewal with the following conditions: 1) Must submit evidence of receiving Hep B Series shots, along with her photo ID's, 2) Ms. Long registers for Anatomy and Physiology, and (3) no complaints are registered with the Public Health Division with Ms. Long. After the 12 month period, she may come back to the Board for review or for application for licensing if qualifications met. (Unanimously, voted in favor.)

- B. Alex Travassos – Request to conduct Body Piercing without taking Anatomy and Physiology from an accredited college.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a variance for Alex Travassos to operate performing both tattooing and body piercing with no conditions. This variance will expire in two years – 6/14/2013, at which time he may come back to the Board. (Unanimously, voted in favor.) (also, see April 12, 2011 meeting minutes).

IX. Old / New Business:

- A. Proposed Revision to Section 322-5 of the Town of Barnstable Code Regulation currently requires both a screen and an air curtain at all serving windows associated with outdoor dining. Proposal is to allow a screen or an air curtain.

The Board voted to add the words ‘to allow a “self-closing” screen on window or an air curtain.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to adopt the proposed revision to Section 322-5 of the Town of Barnstable Code Regulation to state that it is allowed to have a “self-closing” screen on window or an air curtain. (Unanimously, voted in favor.)

- B. Proposal to allow health inspectors to grant counter variances on HACCP Plans and time/temperature controls for licensed food facilities.

The staff will contact Junichi Sawayanagi, whenever assistance is needed.

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

- C. Bathing Beach Policies.

The Town Attorney’s office is going to try to clarify the regulations on what constitutes a Bathing Beach.

POSTPONED until July 2011.

X. Informal Discussion:

Stephen Wilson representing Christopher Kuhn, owner – 337 South Main Street, Centerville, requesting to utilize open space land as credit to construct a restaurant on a small parcel of land in the salt water estuary.

Stephen Wilson and Chris Kuhn presented the situation.

One of the lots proposed has just one house on it and it is a three-bedroom house. The other lot has buildings and one system on it.

The Board said they have approved a nitrogen aggregation plan before and find it reasonable to draw up a plan.

Mr. Kuhn's interest was to have a local pub there. However, it is not allowed to have a liquor license without serving food. So, his interest is not in food, simply needs to supply the minimum amount of food required to obtain the liquor license.

XI. Craigville Beach DCPC Implementing Regulations:

A. Section 353-10 of the Town of Barnstable Code – Pumping Requirements.

Staff has some issues with some of the wording of the code.

The Town Attorneys will be reviewing the regulation first.

The Code states that the pumper must do an inspection at the time of pumping. This is not reasonable.

POSTPONED to July 2011. The Town Attorneys will be reviewing the regulation first.

B. Section 360-46 of the Town of Barnstable Code – Reporting Requirements for Septic Haulers.

POSTPONED to July 2011. The Town Attorneys will be reviewing the regulation first.

ADDITIONAL COMMENTS:

Pools/Lifeguards: Dr. Canniff suggests after the two near-deaths down-Cape this past weekend, he thinks the Board should reconsider the changes implemented this year for lifeguards and pool coverage.

Touchless Faucets: Dr. Canniff stated with respects to the touchless faucet article, he still has confidence the touchless faucets are good choices.

Windbine Regulations: The Falmouth Board of Health has approved some windbine regulations and Dr. Canniff has requested Mr. McKean to obtain a copy for discussion.

425 Sandy Neck (septic at beach): Dr. Canniff felt he and Mr. Sawayanagi should have been brought in for discussion/decision on the handling of Sandy Neck as they had both been to the site. Dr. Miller stated that they went on the comment from Brian Dudley that the Sandy Neck receive approval.

Upon a motion duly made to adjourned -6:00 pm.