



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, February 12, 2013 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, February 12, 2013. 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. Policy – Deadline for Connection to Public Sewer:

One issue brought up in last month's special meeting for Stewart Creek (1/14/13) was the inability to get questions answered. Dr. Miller said there is a commitment from the Town Manager that he will identify a point-person by April 1st who will be the contact person whether you have a Finance, Health, or DPW question on Stewart Creek connections. If someone does have a specific question that is unresolved, they can ask for their time-frame to be suspended until that person is in place.

The second issue brought up was a double assessment for accessory apartments/low income apartments. All assessments have been reviewed and two parcels were identified as having this occur. Both are being abated. If anyone else believes they have received a double assessment in error, the Town Manager has asked to have those people referred to the Town Attorney to review it for a possible abatement.

The third issue is the financial hardship. Dr. Miller said the Town Manager's point-person will have the ability, training, and expertise to evaluate the economic hardship issue. If people believe they would qualify, they can give the Board an application (with no financial information for now) and they'll be put into a system where the clock will not start ticking until we have the evaluation process in place.

Mr. McKean presented four options given to the Board at this time, each with different lengths of times for the deadline to connect: one, two, 15 and 20 years.

The option supported by the majority of the staff was the fourth option, the twenty-year option, which uses 20 as the projected number of years as the life span of the septic system. By subtracting the age of the current leaching system, the difference is the span of time being offered before the person needs to hook up to sewer provided: (1) the system is not in failure, (2) is not offered for sale/transfer, and (3) no environmental variances exist with the current system.

Mr. McKean explained the benefit of the option (above) is that it would (1) reduce the number of requested extensions, and (2) for people who financed their current septic system, it would allow them to pay off the loan on their current system before incurring the expense of the sewer connection. The 20-year option would have approximately 50% of the people required to hook up within two years. Dr. Miller mentioned that this area was first identified as a high impact area by the Comprehensive Waste Facility Management Plan first drafted in 1987.

Public Comment:

Attorney Paul Revere stated that the Board of Health is acting under a policy and is suppose to act by regulation according to the State Code MGL Chapter 111 Section 127 and Section 31 in terms of whether someone is suppose to hook up to sewer. He also mentioned Chapter 83, Section 11 as a reference.

Attorney Revere pointed out that we have a regulation already in print so he doesn't think a policy as a guideline would have any effect on the regulations. The DPW follows the regulation by enforcing people to hook up. He also pointed out that a policy doesn't need the same amount of public notice when instituting.

Attorney Revere feels the proposed policy is vague and does not specify whether it applies to all future sewer connections or only to these Stewart Creek area connections. He feels it should be spelled out clearer.

Attorney Revere also recommends a 25 year option as the cost of connection is substantial (as much as 5-15% of the value of the properties). Twenty five years brings it back to 1988. A pre-1995 system may only have 4 feet separation to groundwater. He suggests the stipulation that those made pre-1995, include a stipulation that they have to have current separation to groundwater (5 or better).

Dr. Miller responded that he acknowledges there is a regulation that people do have to hook up to sewer; however, there is no time table spelled out. The Town Attorney suggested doing this in the form of a policy. Dr. Miller agreed there is nothing that spells out that it applies to only Stewart Creek (which it does) and they should specify that. Mr. Revere suggested that wording be used that this policy applies to "the appropriated project of the Stewart Creek area connections (so it is very clear which parcels are included.)

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to adopt the 20-year formula option for the appropriated project of the Stewart Creek area and is dated 2/07/2013 (Exhibit#1). (Unanimously, voted in favor.)

**II. Proposed Revisions to Section 322-6: Mobile Food Operations
(Proposal to Include Boats.)**

Mr. McKean said he has met with the Town Attorney's office a number of times on this. As of yesterday, the legal office suggests we hold off with the regulation as Legal believes it is unclear in the State codes whether boats fall under the food regulations. The State's opinion was received and the State believes that food

operations on boats fall under “Mobile Food Operations” which means the Board of Health has the authority and responsibility of regulating these food operations.

No one in the audience wished to speak on this matter.

The Board is going to hold off on the proposed policy as it is already under the State Code. No vote required.

III. Show – Cause Hearing: Housing:

Jitendra (Tara) Patel, owner, Craigville Motel, 8 Shootflying Hill Road, Centerville, numerous violations and operation of a motel without a valid Motel License.

Mr. McKean stated that there were a number of violations observed including no smoke detectors where needed. They were instructed to correct that violation within 24 hours. Some of the other violations have been corrected at this time. It was noted that a year ago March, the motel was also in front of the Board of Health for lack of heat.

Tara said the tenants are provided a refrigerator in the room and are instructed not to have any hot plates. The tenants have been using hot plates, then remove them when the motel staff inspects. Many of the people are renting by the week. Tara said if they could evict the people immediately, then the problem tenants would be gone by now. The motel feels they are babysitting the tenants to prevent issues. One person said she uses a candle in prayer. Tara explained that the tenant can not use it and Tara took the candle and packed it up. Then, the tenant went back out and bought another candle.

The owner explained the upstairs is mainly rented for one to two nights and downstairs, there are people who have been staying there for years.

The West Barnstable Fire Captain, David Paananen, said there had been a fire in the past; the unannounced inspections are the worst ones. They have found some electrical work done illegally.

Health Inspector Donna Miorandi said many of the rooms border on hoarding as it can be difficult to walk through the room safely.

Dr. Miller believes they do have the means to get rid of the tenants who are problem tenants within 90 Days. The motel is allowing the same problem tenants to repeat their violations (i.e., by removing the batteries in the smoke detectors, etc.) Therefore, Dr. Miller feels the only remedy is to evict problem tenants or close the motel down.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, The Board voted to uphold the orders and violations cited by the Health Inspector. All violations deemed as conditions to endanger or impair health or safety contained within the State Sanitary Code, Article II, 105 CMR 410.750 (A) through (P) must be corrected within 24 hours. All other violations must be corrected within 10 days.

The Board voted to issue a temporary Motel License for 120 days, expiring on June 12, 2013. If any critical violations (specifically of 105 CMR 750.00 (A) – (P) re-occur prior to 120 days, the motel will be shut down within 24 hours of discovery when found to exist. (Unanimously, voted in favor.)

IV. Variance – Septic (Cont.):

Matthew Eddy, Baxter Nye Engineering, representing Joyce Angelo, owner - 280 Long Beach Rd, Centerville, Map/Parcel 185-026, 7,038 square feet parcel, requesting multiple variances.

Matthew Eddy was present. (This item is being continued from the Board of Health meeting on 12/11/12.) Matt Eddy has provided an exhibit plan to show a Title V system can fit in the lot. He understands the staff may need some more time to review the recent revisions.

Dr. Miller acknowledged that there are no environmental variances except the 75 feet setback and the plan provides the additional protection through the AdvanTex System (general use permit). He complimented Matthew Eddy on all his work and acknowledged that they would like time to review the plan and receive the staff comments. Dr. Canniff said he, too, did not have any objections at this time.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant a continuance until the Board of Health meeting on March 12, 2013. (Unanimously, voted in favor.)

V. Septic Variance – New:

Mark Marinaccio and Brian Lauzon, DPW, representing Town of Barnstable, owner – Old Selectmen’s Building, 2331 Meetinghouse Road, West Barnstable, Map/Parcel 155-002, 1.0 (not 6.33) acre parcel, one variance, requests permission to reconstruct foundation without first upgrading single cesspool.

(The correct size of parcel is 1.0 acre parcel. The database mistakenly reversed the acreage for 2321 Meetinghouse Road and 2331 Meetinghouse Road, when separating the parcels).

Mark Marinaccio and Brian Lauzon were present. They stated the septic has been located and is a single cesspool. They provided pictures and said the water line was not even past the one foot mark. There is very little use as the building is only open for seasonal use on weekends for approximately 10-20 people. The patrons at the baseball field use the facilities at the Community Building (not this one).

Mr. McKean said the staff does not have an issue with the system at this time as it has such low use. Mr. Marinaccio said the town is hoping to allocate the funds within a two-year period to either install a Title V or to connect it to one of the town buildings next door.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant a two-year extension on the septic repair/replacement. The Board

also voted to grant a variance to sign off for Health on the Building permit to reconstruct the foundation prior to the septic repair. (Unanimously, voted in favor.)

VI. I/A Monitoring Plan Review:

Daniel & Bertha Lewis, 269 South Main Street, Centerville, requesting reduction of testing required for I/A at location, eight testing results provided.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant a reduction of the Innovative Alternative Septic System's Monitoring Plan from quarterly to once a year, to be done in the summer. (Unanimously, voted in favor.)

VII. Subdivision# 820- Definitive Plan:

Dan Ojala, Down Cape Engineering, representing Stephen E. Wallace, -'0' High Street, a.k.a. Wayside Lane Extension, West Barnstable, Definitive Plan Subdivision# 820 in Historical District, Map 110, Parcel 007, 2 lots on 6.96 acres, within the Resource Protection Overlay District. (Preliminary Subdivision Plan presented at April 2011 Board of Health meeting.

Dan Ojala was present and summarized the plan.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the approval of the Definitive Plan dated 1/22/13. (Unanimously, voted in favor.)

VIII. Food Variance (New):

A. Aaron & Samantha Webb regarding Perry's, 546 Main Street Deli, 546 Main Street, Hyannis. toilet facility variance requested - 64 seats requested, only two toilet facilities provided.

Aaron Webb was present and stated that he has submitted a similar menu as the former restaurant (Perry's) had, and would like to continue to operate the business and be granted a toilet facility variance. (This restaurant shares a 3,500 gallon grease trap with Columbo's (next door) which was installed in 2008).

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variance for 64 seats with only two toilet facilities. Unanimously, voted to approve.)

B. Rick Shechtman, new owner – Nirvana, 3206 Main Street, Barnstable, grease trap variance, two-page menu submitted.

Mr. McKean mentioned that the menu is labeled pages one and two of two. The staff had no issues. The menu submitted is quite similar to the prior owner's menu. Mr. McKean also said he checked with DPW who were comfortable with this.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variance with the submitted two-page menu. (Unanimously, voted in favor.)

IX. Temporary Food Event:

Susan Preston for “The Tasty Table” food event to be held at Hyannis Country Garden, 380 West Main Street, Hyannis on Saturday and Sunday, February 16-17.

John Dufley and John Regan were present. The event will have food demonstrations and a chef’s table. They agreed to set the inspection time for 11 a.m. Each of the restaurants are preparing the food at their own establishments and transporting the food over. John Regan referenced the submitted floor plan (Exhibit 2).

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

X. Old / New Business:

A. Approval of the Minutes January 15, 2013.

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

B. Proposed Revisions to Guidelines: Catering Requirements No. 2013-001 Dated 1/15/2013.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to adopt the proposed revisions dated 1/15/2013 to Guidelines: Catering Requirements No 2013-001 (Exhibit 3). (Unanimously, voted in favor.)

C. NSTAR Electric/Gas, Westwood, MA – regarding NSTAR’s easements.

The letter was summarized for the minutes (Exhibit 4). NSTAR was writing to notify the public that their easements can not have septic systems installed on them as it may interfere with their use. The Public Health Division mailed a copy of this letter to the engineers in their database as a courtesy.

D. Correspondence from MA Food Association regarding Ban on Tobacco Sales in Health Facilities.

The letter (Exhibit 5) summarized that their view was that the tobacco sales ban on pharmacies should not be passed. This reached the Board after the January Board meeting which had passed the ban.

E. Discussion for amending guidelines for the Mobile Food Units including Boats, Self-Propelled Units and Trailers.

Mr. McKean recommending holding off until next month to allow him some time to modify it. This will be continued to the March 12, 2013 Board meeting.

Meeting Adjourned at 4:50pm.

List of Exhibits for Board of Health Meeting 2/12/13:

- Exhibit 1: Options for deadlines of Stewart Creek Area sewer connections.
- Exhibit 2: Temporary Food Event – The Tasty Table, Country Gardens, Floor Plan
- Exhibit 3: Proposed Revision to Guidelines: Catering Requirements No. 2013-001
Dated 1/15/13
- Exhibit 4: NStar letter – regarding avoiding septic installed on utility easements.
- Exhibit 5: Letter from the MA Food Association on the subject of the ban of tobacco sales at health facilities.