



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES Tuesday, October 8, 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, October 8, 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. Septic Deadline Extension:

- A. Laura Hodgson, owner – 25 Bayberry Lane, Barnstable, Map/Parcel 335-044, failed septic, requesting extension of septic repair deadline.

Laura Hodgson read her letter in.

Mr. McKean said the staff has no objections to the deadline extension.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant an extension of the deadline for the septic repair for two years or until the property is sold, with the condition the water will be allowed to remain on for the next three months to allow the percolation tests and inspection. Then, the water will be shut off until the septic repair unless the applicant comes back to Board, and 2) the owner will have a condition included in the sale of the property that the septic must be replaced within 60 days of the real estate transfer.
(Unanimously, voted in favor.)

- B. Adrienne Carlton, owner – 107 Robbins Street, Osterville, Map/Parcel 142-117, failed septic, requesting extension of septic repair deadline.

Adrienne Carlton requested a deadline extension for her septic. She is the only person in the house and it is designed for five-bedrooms. The price of replacement is too high for her at this time and she is in the process of selling the house.

Mr. McKean said the staff has no issue with a six month extension and having it pumped as needed. She said she has not had any issues with the septic and the

only reason she had it inspected for to prepare for the sale of the house as recommended by her broker.

The Board said she could come back to the Board if, in six months, the house has not sold.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant a six month deadline extension to April 8, 2015, for the septic repair. Pumping will be done as needed. (Unanimously, voted in favor.)

II. Septic Variance (Cont):

Susan and Bruce Waluck – 22 Burning Tree Lane, West Barnstable, Map/Parcel 136-025, requesting reconsideration on September 10, 2013 Board decision to change condition of study from 5 feet to 4 feet opening.

Bruce Waluck was present. It is technically impossible to enlarge the opening to a five feet opening due to the stairs location. The three bedroom deed restriction has already been recorded.

The Board will change the requirement of the doorway opening from 5 to 4 feet.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to grant the following revision to the variance condition# 6, approved at the August 20, 2013 meeting. Condition # 6 will read...a four-foot opening will be made into the study (changed from a five-foot) (Two voted in favor, Dr. Canniff abstained.)

III. Septic Variance (New):

A. Peter McEntee, Engineering Works, representing Carol Crouthamel, owner – 385 Elliott Road, Centerville, Map/Parcel 227-104, 1.21 acre parcel, repair failed septic system, multiple variances.

Peter McEntee was present and stated the house is currently a four bedroom and the submitted plans are designed for four bedrooms, as well.

Mr. McKean said the staff has no objections. There was only a question on two unmarked small rooms on the plan.

Mrs. Crouthamel was present and reviewed the plan. She said the doorways to the rooms were widened when they did construction to the house in 2006 making the garage into the kitchen. The stairs come up in between the larger bedroom and the two smaller bedrooms. The two unmarked rooms on the second floor were identified as a bathroom on the left and a closet on the right. There are three bedrooms upstairs and one downstairs.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variances (no conditions). (Unanimously, voted in favor)

- B. Brian Yergatian, BSC Group, representing Michael Feinberg, owner – 100 Herring Run Drive, Centerville, Map/Parcel 229-045, 25,900 square feet parcel, house addition, requests two variances.

Brian Yergatian was present. Brian said he spoke to Mr. McKean on some issues. Brief overview: existing site restrictions. There is a four bedroom primary residence, cottage close to water with one bedroom with a second story loft, and there's an existing garage. The owner is looking to install an elevator.

Wants to demolish the existing garage, replace it with a different garage and put in an exercise/workout room above garage. No bedrooms are proposed in it.

Owner purchased property in 2012, they would like to continue using the SAS and move the pump chamber from off-site to on-site.

There was a six bedroom septic permit issued in 1992 and the system was installed accordingly; however, there was never a Certificate of Compliance issued.

They are requesting relief for the new septic tank and the pump chamber which need slight setback variances from the wetlands. There were also some concerns relative to the groundwater and how it was determined. We did not do any soil testing that was witnessed by the Town because we were not proposing any new flow. There are two Title V septic inspections on file and with one of them an auger hole was dug and groundwater was encountered and they put on the adjustment and the result of seasonal high groundwater elevation came out to 28.9 which makes no sense because the elevation of the water in the pond is 27. If it was 28.9 the whole site would be under water. There has been water in the basement on a couple of occasions. Mr. Yergatian tested the site, himself, and augered down in between where the new septic tank and pump chamber are proposed and, using an adjustment factor, he came out with elevation 28.6 which is within 3/10th of the estimated elevation based on the old Title V report. This still didn't make sense. So, being very conservative, Brian said he used elevation 28 for the adjusted groundwater elevation.

Mr. McKean said they need floor plans for the primary house and the existing carriage house, didn't show the location or type of the SAS on plan. The pump chamber and tank would be below water and he would have to request a variance from the 12" standard Title V requirement of the inlet pipe, no effluent filter on septic tank shown. No COC given for the permit. Mr. McKean said someone wrote pond on the plan of the property. Mr. Yergatian confirmed there is definitely not a pond on the property between the house and the garage.

Brian said the package does have the plans for the proposed carriage house/the proposed garage. Brian had the floor plans for the cottage and the existing main residence with him.

Dr. Miller said the access to the exercise room above garage is from the outside and thus, the exercise room would be categorized as a bedroom, unless the

access was through the inside of garage. Brian Yergatian said they will adjust that. The Board must review the floor plans.

Dr. Miller had Brian clarify the flow currently which goes out from both the main house and the cottage to the existing tank to the pump chamber. The flow then moves outside the property line (as Brian explained the fence on the neighbor's property originally must have been assumed to be on the property line and is shown on the plan as "x's"). The line then cuts back in somewhere around the garage and comes fairly close to the corner of the slab of the garage. Brian explained the when the existing garage is taken down, it's slab will be moved a couple feet over.

Brian stated the applicant has three main goals: supply handicap availability, install an exercise room and relocate the components which are on the neighbor's property onto this owner's lot.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this item to the November 12, 2013 meeting. (Unanimously, voted in favor.)

Additional Note: The following week, the applicant formally withdrew the request.

IV. I/A Monitoring:

- A. Stephen and Pamela Dane, owners – Herring Run Place, Unit D, 195 Route 149, Marstons Mills, Map/Parcel 078-018-40D, requesting reduction in O&M requirements to once a year.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to approve a reduction of the O&M Maintenance for the I/A (OMNI Recirculating Sand Filter system from Quarterly to twice a year. (Unanimously, voted in favor.)

(Previously granted – the total nitrogen testing is done once a year.)

- B. Barbara Ryshavy, owners – Herring Run Place, Unit# F, 195 Route 149, Marstons Mills, Map/Parcel 078-018-40F, requesting reduction in O&M requirements to twice a year.

Barbara Ryshavy was present and stated the system has been working very well. The nitrogen testing was reduced in 2009 down to once a year. She is interested in reducing the O&M Maintenance. Test results were available.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to approve a reduction of the O&M Maintenance for the I/A (OMNI Recirculating Sand Filter system from Quarterly to twice a year. (Unanimously, voted in favor.)

(Previously granted – the total nitrogen testing is done once a year.)

- C. Carolyn Keating, owner – Herring Run Place, Unit# I, 195 Route 149, Marstons Mills, Map/Parcel 078-018-40I, requesting reduction in O&M requirements.

Carolyn Keating was present. In 2009, the nitrogen testing had been reduced down to once a year. Mrs. Keating is interested in reducing the O&M Maintenance. Test results were available.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to approve a reduction of the O&M Maintenance for the I/A (OMNI Recirculating Sand Filter system from Quarterly to twice a year. (Unanimously, voted in favor.)

(Previously granted – the total nitrogen testing is done once a year.)

V. Food Variance (Cont):

- A. Stephen Hayes, Attorney, representing Jorge Montero, LLC, owner of Vista de Mare Diner – 430 Main Street, Hyannis, status on grease trap (continued from August 2013).

Attorney Hayes said the plans for the grease trap were drawn up, the Health Division approved the plan, and they are contacting contractors to do the work and hope it to be completed before the next Board meeting.

Mr. McKean said the plan must be submitted and approved to the DPW, then it will be ready to install. DPW will also be doing the inspection.

Dr. Miller asked Mr. Hayes to notify Mr. McKean once the job is completed and to return to the Board of Health at the November 12, 2013 meeting if it is not completed at that time.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board granted an extension until November 12, 2013 to hook up a grease trap. (Unanimously, voted in favor.)

- B. Carrie-Lee Touhey, owner – The Cape Cod Cookie Company, 569 Main Street, Unit# B, Hyannis, status grease trap.

No one was present.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to the November 12, 2013 meeting and to have a health inspector visit the establishment and confirm they are still in compliance with the Board's instructions.

- C. Chandler Bosworth, Bosworth Associates, representing Enrique Valdovinas, owner of Mi Pueblo, 459-B Main Street, Hyannis, status on grease trap (continued from August 2013).

Mr. Bosworth was present. He is working on hooking into the grease trap at Embargo, next door. He has approval from the business owner but the property owner has been ill and he was just able to reach him yesterday. Mr. Bosworth asked him to contact Tom McKean and Mr. Anderson, DPW to answer any questions the property owner may have. Mr. McKean has already done the calculations and there is more than enough room available in Embargo's grease trap to service both facilities. Mr. Bosworth said he told the owner of the property that he will need an answer within five days; otherwise, he will have to install a grease trap independently.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board granted an extension until November 12, 2013 to connect the grease trap.

D. Peter Goulet, Morning Glory Café – 211 Route 149, Marstons Mills, status on grease trap, seating for 8 (continued from August 2013).

Peter Goulet said he looked into the different types of grease traps. The Trapzilla was an issue because it could not be installed in the parking lot. They are going to install a conventional 1,000 gallon grease trap as it will be able to be installed in the parking lot. Yankee Land Surveying is in the process of drawing up plans and Peter hopes the permits will be approved next week.

Dr. Miller and Mr. McKean acknowledged that, once completed, the cooking issue will be resolved.

Mr. McKean said the seating is another issue and has two separate parts. One is to determine exactly how many gallons are available in the septic system after all the other uses in building are calculated and the other is that there is one bathroom inside and one bathroom outside and he doesn't know if the Board will approve any seating if the people must access a bathroom outside.

Dr. Miller said the Board had talked about three seats plus a bench for people waiting. Mr. McKean said that was just a quick calculation. Dr. Miller suggested Mr. Goulet have an engineer determine the usage of the other spaces in the building and a more accurate calculation for the food establishment's space. Mr. Goulet said he will do that.

Peter Goulet said the Board had recommended going to Nirvana. He said he had done that and he has since taken out two sets of tables and put in a settle with a lamp table to lessen his seating.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant an extension until November 12, 2013 meeting. (Unanimously, voted in favor.)

E. Ted Schilling, Esq. representing James Surprenant, owner, Crisp Flatbread, 791 Main Street, Osterville, variance from Title V for additional seating (continued from May 14, 2013 meeting).

James Suprenant was present and said he is open and everything has been resolved.

Dr. Miller summarized saying originally the Board had approved temporary seating outside in the summer with monitoring of the water supply. Due to unexpected events, the restaurant did not open until late in the summer. Mr. Suprenant said that they have the outside seating currently and have begun the monitoring. Dr. Miller said the July and August months of the monitoring will be the most essential reading. It is fine to have the outside seating there as the Board does not anticipate they will be used much in the colder weather and to continue with the monitoring of water monthly through September.

Jim Suprenant asked if the irrigation system is monitored, can they subtract that water from the usage in October when reviewed. He had spoken with Craig Crocker, COMM, and Craig said they would just put a separate meter on the outlet itself, for irrigation. Dr. Miller said that would be fine.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the use of the outside seats through September 2014 with the condition that the establishment return to the Board in October 2014 to see whether the septic is handling the flow. (Unanimously, voted in favor.)

VI. Food Variance (New):

WITHDREW Frank Sanchez, Airport Assistant Airport Manager, 480 Barnstable Road, Hyannis, Map/Parcel 329-003, requesting permission to have a food kiosk for the Airport Cafe to sell pre-packaged food items at opposite end of terminal building.

VII. Old / New Business:

A. Approval of the Minutes: June 18, 2013.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to accept the June 18, 2013 Minutes with the following changes: 1) Verify for 536 Main Street, Cotuit, on page 2, whether there was not a condition to shut the water off or not, 2) On page 3, last paragraph, the last sentence should read ...separation from groundwater..., 3) On page 4, fourth paragraph, under the first condition, it should read ...separation from groundwater to the bottom of the septic components of 4 feet., and 4) On page 9, first sentence should read ...interested in reducing.. (Unanimously, voted in favor.)

The Board asked Mr. McKean to follow up with Jacques Morin regarding 25 Debbies Lane, Marstons Mills to verify he completed the request on page 3, to have an inspector dig around the chambers to measure the amount of stone to make sure it is adequate.

ADDITIONAL NOTE: Upon reviewing tape, the Board did not require water to be shut off.

B. Regulation: Propose to adopt a regulation to abandon other components of a septic system (other than a septic tank).

Mr. McKean had spoken with Brian Dudley, MA DEP, who confirmed the State only requires the abandonment of the tank. Brian recommended the abandonment of other components, as well. Mr. McKean said the staff discussed this and suggested any component below the ground of one foot or greater. They brought up an issue of dry wells used for drainage of roofs, driveways, etc. and that someone may want to repurpose an SAS for this use.

Dr. Miller said he does feel it needs to be extended to other components. Mr. McKean said he would not suggest re-use of the septic tank. By including the wording "approval for re-use", this would allow them to prevent tanks from re-purposing.

Upon discussion with the Board, it was suggested that a final proposal be drafted which would require abandonment for septic components (including pump chambers, etc.) to be filled in with sand or removed if they have been abandoned and where (1) permission was not granted to use for other purposes and (2) their depth is greater than one foot. Mr. McKean will have a final proposal available for the November 12, 2013 meeting.

C. Review draft model Fertilizer Regulation submitted by the County to Health.

Dr. Miller said the Cape Cod Commission is meeting the end of October 2013 on their final proposed regulation. He said the CAC is very interested in the topic and he would like to bring the Cape Cod Commission's proposal to the CAC's meeting in November to get their opinion. The Board of Health can then determine their final proposal at their December 10, 2013 meeting as there is a deadline of January 14, 2014 issued by the Department of Agriculture and Resources. If no proposal is adopted by January 14, 2014, the matter will be deferred to Department of Agriculture to determine policy.

Mr. McKean asked the Board if they want to consider the Town Council adopting the proposal. Dr. Miller said he had spoke with the Town Attorney and she felt it was more a health issue and belongs with the Board of Health.

Dr. Miller said he can talk with the Town Council and if they want to do a proposal that would be fine, as well.

The Board will continue this item on the December 10, 2013 meeting.

D. Discussion - Medical Marijuana.

Dr. Miller said the State regulation appears to covers all the issues the Board needs to be concerned with for the medical marijuana.

Mr. McKean said he went to a meeting in Devens on the subject and some issues were brought up: smoking outside where children will have exposure and limiting the number of plants one is allowed to grow. There is no limit other than 10 ounces in 60

days. It does specify that to grow it, you must be a regulated user. He mentioned some states limit it to six plants.

Mr. McKean also said the State is going to recommend to patients to use the vapor marijuana, instead and will focus on educating the public of the benefits of vapor. The Board has never regulated outside smoking with the exception of 10 feet from a public entrance.

Dr. Miller said the Board can always add to the State regulations and said the Board can consider the two suggestions and Mr. McKean can come up with a proposal.

Dr. Canniff suggested having Bill Collett, County Tobacco Enforcer attend a Board meeting to talk about e-cigarettes.

Dr. Miller mentioned there are a number of large articles currently out. It has been stated that e-cigarettes may be the best way to quit smoking. However, the difficult part of the equation is that they still have the nicotine and are still addicting. With accessibility to children, they can get hooked. The FDA is looking into regulating them within the next six months.

E. Status on Craigville Motel.

Dr. Miller asked for an update to Craigville Motel. Mr. McKean will update him.

F. Discussion of sanitary conditions of portable toilets.

Dr. Canniff brought up a subject touched on last meeting – sanitary conditions of portable toilets and the need to provide handwashing. Currently, there is no permit required and it is suppose to be for “temporary use”.

Dr. Miller feels any use longer than a few days or anything that’s used repetitively should have hand wash capabilities; but would like to hear the staff’s views.

The Board asked Mr. McKean to discuss with his staff: a definition of temporary use and ask if they think we should require hand wash capabilities (this can be done with or without a permit).

Voted to Adjourn – 4:55 pm