



# Town of Barnstable

## Board of Health

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### BOARD OF HEALTH MEETING MINUTES

**Tuesday, May 13, 2014 at 3:00 PM**  
**Town Hall, Hearing Room, 2<sup>ND</sup> Floor**  
**367 Main Street, Hyannis, MA**

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, May 13, 2014. 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 – Show Cause – Body Art Establishment:**

Alex Travassos, Black Pearl Tattoo Studio & Gallery – 509 Main Street, Hyannis, violation of operation as an unlicensed tattoo artist was performing tattoos at the establishment.

Police officer Keith Sexton said that he and Officer Morell reported to the lobby of the Police Department and spoke to a woman who stated she was a victim of sexual assault. She had been at the Black Pearl Tattoo Studio and had received a tattoo earlier that day by someone identified as James Oliver. At some point later, she was allegedly sexually assaulted. In following up with James Oliver at the Black Pearl, he said he did give the person a tattoo for \$65 and stated that he wasn't licensed to do so.

Alex stated that James Oliver did do a tattoo. Alex was not present at the time as he and apprentice Derrell Lazu had gone out to purchase supplies. Apprentice Neftali Vallejo, along with James Oliver, phone receptionist, was in the studio. Alex noted the required sign was displayed in their window. (A sign "We are open for appointments only" is required on the front door whenever the owner is not there for apprentices.) Nef went outside to help some people they had hired to clean up the back lot and returned to the shop approximately 30 minutes later. Upon returning from back, he found that James Oliver (who was only allowed to make appointments) had given a customer a tattoo. James and the customer then left together and went to 7-11. Upon James's return, the police officers came to investigate the occurrence which was said to occur after leaving studio. Alex had then returned and fired James.

Alex stated he put in a new camera system with a 24 hour feed, now has his daughter, Kayla, working at the front desk, and he gave Nef a 2-week suspension without pay.

Tom McKean said based on the fact that an unlicensed person performed a tattoo at an establishment under the operation of Alex Travassos, the health staff recommended a suspension of 30 days.

Mark Corliss, Spilt Milk in business 14 years, said he has seen this same issue happen a number of times at Black Pearl Tattoo where unlicensed people are performing tattoos over the past two years. He has spoken to the Health Division and the Town Manager. He said it does not have anything to do with competition. It is a concern for the business and safety.

Korrin Dean, owner of Pincushion (body piercing) in business 20 years, said she no longer does tattoos at her establishment. She said she has had many customers coming in complaining about Black Pearl. She said it is not an issue of competition as she only does body piercing. She feels all should follow the same rules established. She mentioned that many years ago, the rules required her to hire an R.N. for piercing and she followed through with that for the two years required. She believes Black Pearl must follow the established guidelines.

Lorna Berger, Great Island Tattoo, spoke of concern of the qualifications of the Black Pearl staff.

Alex Travassos responded stating their concerns are with the competition. Alex said he, too, has received complaints from customers of the other shops on Main Street. He said Mr. McKean's staff and the police have been in numerous times to check on his procedure and everything has been in order.

The Board said their initial response is that the 30 days suspension recommended is lenient.

The Board will be reviewing the regulations to consider limiting the number of apprentices at a shop and to require that if the doors are open and lights are on, a fully licensed body artist must be present.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board determined the establishment will have their body art and body piercing license suspended for 30 Days starting May 14, 2014. (Unanimously, voted in favor.)

**II. Hearing – Show Cause – Food Establishment:**

Peter Goulet and Craig Larson, Morning Glory Café – 211 Route 149, Marstons Mills, violation of variance decision, failure to comply with order, insufficient septic system capacity, located within a saltwater estuary district.

Peter and Colleen Goulet and Craig Larson were present and were appealing their outdoor seating situation. Peter apologized and said he had 3 extra seats inside and removed them immediately on May 6. He explained that he was confused at the original variance hearing as he was told to fashion the shop after Nirvana coffee shop.

Mr. Larson, owner of property, explained the picnic tables are across the parking lot and belong to him as he does not want his tenants smoking inside and has always supplied his rental properties with picnic tables for this purpose. He stated he is willing to remove them.

The Board agreed to allow the two settees (arm chairs) to remain (without the table) and the four Adirondack chairs can remain outside. These are for waiting for orders. The Board understands that the owner can not forcefully prevent people from using them for eating but whatever the owner can do to facilitate not encouraging them is appreciated. Mr. Goulet will also remove the small bench outside.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to grant a change in the variance letter dated 12/13/13 so that the first condition will read: 1) No more than five (5) seats total are authorized for dining purposes. The existing outdoor picnic tables and outdoor bench are not authorized and must be removed. For waiting purposes, four (4) Adirondack chairs without a table may be allowed outside. Indoors, two settee (soft seats), without a table in between them, may be allowed. (Unanimously, voted in favor.)

**III. Hearing – Tobacco (New):**

Tobacco violations as reported by Bob Collette of Barnstable County Tobacco Control - First Offense, tobacco products sold to a minor on 4/05/2014.

A. Cotuit Fresh Market, 737 Main St, Cotuit.

Bob Collette, Tobacco Enforcement, and Richard Pimental, Cotuit Fresh Market was present.

Richard Pimental explained the clerk had been properly trained and had worked for him for six months. The worker at the deli distracted her by helping and handing the cigarettes to customer and clerk rang it up. The employees were reprimanded and the policy was reviewed by all employees again.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a warning for the tobacco violation. (Unanimously, voted in favor.)

**IV. Septic Variances:**

A. Peter McEntee, Engineering Works, representing Robert Hallam, owner – 28 Wiinikainen Road, West Barnstable, Map/Parcel 132-016, 0.27 acre parcel, failed septic system, multiple variances.

Anna McEntee, Engineering Works, was present and said the variances are proposed due to site constraints. Anna handed in the green certified cards and had a plan with the neighboring wells and their setbacks listed on it.

Mr. McKean said the staff believes this meets maximum feasibility and has no issues with it.

Dr. Canniff recommended a monolithic tank and Dr. Miller agreed, as the groundwater is almost directly in the path of the well.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the variances with the following conditions: (1) a monolithic tank will be used, (2) a three bedroom deed restriction will be recorded at the Barnstable Registry of Deeds, (3) an official copy of Deed Restriction will be supplied to the Health Division.

- B. Adam Hostetter, owner – 144 Troutbrook Road, Cotuit, Map/Parcel 008-009, 0.50 acre parcel, multiple variances.

Chad Hill was representing the owner.

Mr. McKean said the permit was issued in the past and the variance/permit had expired so they had to start the process again. The staff did not have any issues with the plan which proposed the Sand Filter Circulation again.

The Board voted to grant the variances with the following conditions: (1) a three bedroom deed restriction will be recorded at the Barnstable Registry of Deeds, (2) an official copy of Deed Restriction will be supplied to the Health Division, (3) O&M agreement for maintenance of system, (4) all requirements of DEP must be followed (must verify whether this Sand Filtration System falls under DEP's most recent regulation requiring a Deed Restriction informing future owners. If used as general use-remedial, it may not). (Unanimously, voted in favor.)

- C. Debra Dwyer, owner – 86 Oak Street, Centerville/West Barnstable line, Map/Parcel 173-011, 44,440 square feet parcel, house renovation, needs five bedrooms to allow medical help to live on premise.

Debra Dwyer explained that when she took out the building permit in 2001, she was told by the Health Department that there was no restriction on the number of bedrooms allowed on their property as long as they remained 100 feet from the creek. This was not a problem as they own over to the other side of the creek and have kept the building more than 100 feet away from the creek. She and her husband have both had strokes and have three children living at home. The oldest has returned home to help with the upkeep of the house and needs his own living space. She is looking for the ability to have five bedrooms.

Dr. Miller said the recent septic has been designed for three bedrooms. If five bedrooms are desired, she will have to increase the system to a five bedroom design.

The current system is located in the Estuary Protection Zone which would allow a maximum of a four bedroom design. This can probably be done by adding two more components. Dr. Miller explained that to have five bedrooms, either change the system to an alternative system which removes nitrogen to a greater degree (which would be very expensive); or, add another separate leaching field outside

the Estuary Protection Zone. The current septic tank is 1,000 gallons. A 1,500 gallon tank would be required for five bedrooms.

Mrs. Dwyer said her son came back home to help save the cost of repairs on the house and help with care. They can not afford additional cost to the septic.

The Board advised the best thing to do would be to go back and speak with the engineer for design suggestions because without a plan, the Board has nothing to vote on.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to continue this for three months until August 19, 2014 meeting to allow applicant more time. Applicant may return in August to request another extension, if needed. (Unanimously, voted in favor.)

**V. Septic Deadline Extension**

Cape Cod Aggregates Corporation, owner – 1660 Phinney's Lane, Barnstable, Map/Parcel 276-017, house is vacant and may be demolished.

The owner, Mr. Laruzo, is in the process of determining whether the main house on the property will be demolished. With the uncertain future, the owner is requesting an extension.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant a six month extension for the septic deadline. The property shall remain vacant until such time that the septic system is repaired or replaced. (Unanimously, voted in favor.)

**VI. I/A Monitoring Plan – Reduction:**

A. Kimberly Straubing and Jeffrey David, , 195 Route 149, # G, Herring Run Condominiums, Marstons Mills, MA – requesting a reduction in monitoring.

Joseph Smith, Bennett Environmental Associates, representing Kimberly Straubing was present. This is year-round residence. Title V has fewer monitoring requirements on the Sand Filter systems now.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant a reduction in the maintenance to twice a year with field testing of PH, DO and turbidity with lab sampling for TN during both visits. If a new owner is seasonal-, they will still need to monitor twice per season. (Unanimously, voted in favor.)

B. Ray Daly, owner of The Oceanview Motel – 966 Craigville Beach Road, Centerville, MA, Map/Parcel 226-007, requesting a reduction in monitoring.

No one was present.

The Board reviewed the available monitoring results and the request to reduce due to seasonal use.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board denied a reduction in monitoring. The business can only be open six months of the year to qualify as seasonal and the testing results do not call for a reduction at this time. (Unanimously, voted in favor.)

**VII. Food Variance – (Cont.)**

**WITHDRAWN** Sullivan Engineering representing Old Post Corner, LLC, owner of building, and Robert Hayden, owner of Saga Steakhouse, - 1560 Old Post Road, Cotuit, Map/Parcel 058-022, requesting grease trap variance, not on town sewer.

**VIII. Food Variance – New:**

Tony & Carolyn Ninivaggi, new owners of The Barnacle – 988 Craigville Beach Road, Centerville, multiple variances.

Prior to the start, Dr. Canniff disclosed that he is friendly with Tony through the gym and states it will not have any effect on the vote as this is really a repeat of the situation a year ago. No objections were made to his participation.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant the variances with the following conditions: a handwash sink and a mop sink will be installed prior to opening this year. Using the list of future work drawn up by the Board for the prior owner, this owner will be required to complete the list before opening next year (2015) (List includes: finish giving washable surfaces to two walls in back room, tile floors, washable ceiling in back room, and adding a prep sink in back room. (Unanimously, voted in favor.)

**IX. Food – Temporary Food Event:**

A. Kevin Dubois for the Mobile Truck Festival at the Cape Cod Melody Tent, 41 West Main Street, Hyannis on Saturday, June 28, 2014 from 1-4 pm.

Kevin Dubois was present and said this is a new idea which will have blues entertainment, as well. The inspection time will be 12-1 pm and there will be 10 trucks, all self-contained.

Dr. Canniff mentioned it is nice to hear the organization, parent company being South Shore Playhouse Association, has given over \$3 million to help youths to further their studies in the entertainment industry.

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

B. Stacey Gallagher, Children’s Cove, for the event “Coolest Dessert on Cape Cod” presented by Four Seas Ice Cream at St. George Greek

Orthodox Church, 1130 Falmouth Road, Hyannis on Sunday, August 3, 2014 from 1-4 pm.

Doug Warren, Four Seas Ice Cream, was present. He explained there will be 20 great chefs creating desserts using 4-Seas Ice Cream with 100% of funds going to Children's Cove. There will be live music and various activities. Handwash stations will be between every other table.

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

**X. Body Artist – Variance:**

- A. Alex Travassos, applying for a variance from Anatomy & Physiology course requirement, for Alyssa Long at Black Pearl Tattoo Studio and Gallery Studio, 509 Main Street, Hyannis.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this item until June 10, 2014 as the establishment has lost its license for 30 Days as of May 14, 2014. (Unanimously, voted in favor.)

- B. Alex Travassos, applying for a variance from Anatomy & Physiology course requirement, for John Leslie Chambers at Black Pearl Tattoo Studio and Gallery Studio, 509 Main Street, Hyannis.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this item until June 10, 2014 as the establishment has lost its license for 30 Days as of May 14, 2014. (Unanimously, voted in favor.)

**XI. Old / New Business:**

- A. Approval of the Minutes – February 11, March 11 and April 8, 2014.

Upon motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the February 11, 2014 minutes. (Unanimously, voted in favor.)

Upon motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the April 8, 2014 minutes. (Unanimously, voted in favor.)

March 11 minutes will be continued..

- B. Update: Stable - Kathy Woodbury, 365 Sampsons Mill Road, Cotuit.

Mr. McKean stated the deputy sheriff delivered the notice Saturday, May 10. This will appear on the June 10th agenda as horses should be removed by June 9.

- C. Informal discussion regarding future potential tobacco restrictions.

Cheryl Sbarra, Senior Staff Attorney, MA Association of Health Boards was present. She spoke of the different strategies which have been used by other towns to address tobacco regulations:

- Broaden the definition of tobacco to include anything that is a derivative of tobacco including electronic cigarettes.
- Prohibit the sale of cigars unless they come in a package of two or more and that they have a price of \$5.00 or more. This eliminates the lower priced cigars targeted at the youth.
- Cap or reduce the number of tobacco permits so it'll make the licenses more valuable and encourage the vendor to be diligent at sticking to the regulations.
- Prohibit sale of tobacco within 500 feet of a school district, granting grandfathering existing retailers.
- Ban all flavored tobacco products including flavored e-cigarettes. In 2009, the federal government placed a ban on flavored cigarettes but it does not cover other tobacco products.
- Increase minimum legal age to sell tobacco to 21 years.
- Increase age for purchasing tobacco as there is much scientific evidence that the brain responds differently to addictive substances at age 18 versus 21 yrs.

Dr. Miller stated the difficulty in conflict of prohibiting those not to buy tobacco yet asking them to serve in war. The Board will continue to discuss this topic.

#### D. Informal discussion - Fertilizer Application State Regulation Proposal.

Dr. Miller said the Citizens Advisory Committee (CAC) will make a recommendation involving both Board of Health and Town Council to adopt under the DCPC. Dr. Miller believes that because part of recommendation involved using some non-town resources, it would be best to have Town Council handle that, whereas health issues can be incorporated into the Health regulations.

The proposed State regulations from Agricultural Resources were very extensive. Dr. Canniff said the proposals are very sensible. Our regulations will be dependent on the extensiveness of the final State proposal of regulations, which may be available within 60 days.

#### ADDITIONAL ITEMS:

The Board asked Mr. McKean to draft a policy for seeking approval from abutters whenever a holding tank is installed for the septic as the maintaining of it may cause a disturbance to the neighbors.

Voted to Adjourn – 6:10 pm