



# Town of Barnstable

## Board of Health

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### BOARD OF HEALTH MEETING MINUTES

**Tuesday, July 8, 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, July 8, 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 – Tobacco:**

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

First Offenses, tobacco products sold to a minor on 6/10/14.

- Centerville Convenience Store, 619 Main Street, Centerville.

Farhat Asif, owner, was present and explained that the clerk was learning the procedures and made an error on 6/10/14. The owner has stressed the correct the procedure with him.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a Warning at this time. (Unanimously, voted in favor.)

#### **II. Discussion:**

Tobacco Regulations.

Currently, the Town Attorney is reviewing the wording of the proposed tobacco regulation. Cheryl Sbarra, MAHB, was present. She said that 26 municipalities have adopted changes in their tobacco regulations to increase the smoking age to 21 years. She also mentioned that Yarmouth is one of the 26 and their new regulations just went into effect 7/1/14. Yarmouth is hoping theirs will become regional regulations.

Cheryl stated one draw back to be aware of if we increase the purchase age to 21, is that the County Enforcement will be required to have 16-17 year olds assisting in the spot inspections as MA Department of Public Health funds that expense and chooses that age bracket because the vast majority of towns have the minimum purchase age of 18. If the town has resources to pay for the assistants, then it would be possible to change the assistants to 19-20 year olds.

Ms. Sbarra also brought up that Rep. Sanchez's statewide bill he is proposing will encompass all combustible products. Further mentioned, under the no-smoking in the workplace regulation smoking is defined as anything combustible and would not only include tobacco; it would include medical marijuana, as well.

All products which the FDA has categorized as devices to help one quit smoking, i.e., nicotine gum, would not fall under the restrictions.

Tom Coniaris and Eric Herbon, owners of Vape Cod, expressed their dedication to the process of helping people quit smoking. They asked for wording to be considered in the revised regulation: indoor use of vaporizers and vapor products shall be allowed where the sale of vapor products and vaporizers account for over 70% of their gross sales. The cost of quality vaporizers is higher than most would want to pay without knowing whether the customer would like it. Vape Cod is designed to allow people to try the product of quality and hopefully, they will choose to move to vapor products while quitting cigarettes. They had a petition of approximately 200 signatures of people who find the vapor products helpful-they will present that at the full public meeting on this. Eric also mentioned that their products are only pharmaceutical grade, not industrial grade with bad additives.

The Board stated that once there is an approved draft from Cheryl Sbarra and our Town Attorney Ruth Weil, the Board will post notices on the town website and in the newspaper to announce a "special" Board meeting solely for the tobacco regulation revisions two weeks from that time where the public will be welcomed to comment

### **III. Septic Variances (Cont.):**

Michael Schulz, Esq., representing 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 (continued from May 13, 2014).

Michael Schulz, Esq., and Rich Capen, Capewide Enterprises, were present and discussed a proposed plan to increase to a five bedroom to allow the family with medical needs to have additional bedrooms for additional assistants.

Dr. Miller said he has difficulty agreeing to the variance as there are other options (i.e., move the leaching out of the estuary protection zone or put in an I/A alternative, or live out of one of the other "rooms" in the house as the current system can handle 6 people as it is a 3 bedroom system. The Board is concerned with the next owner having a 5 bedroom system as they would have the right to have 10 people in the house, largely increasing the use of the house.

Attorney Schulz said there is an issue of cost which the owners struggle with if they were to put in an I/A system, etc. The Board suggest that the owners work together with the Building Department and with Mr. McKean, Health, to come up with a floor plan.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to continue to the August 19, 2014 meeting. (Unanimously, voted in favor.)

**IV. Sewer Connection:**

Gilbert Wood, owner – 730 and 740 Bearses Way, Hyannis.

No one was present. The Board would like to know whether the owner has worked with the Town Engineer on this item.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to continue this to the August 19, 2014 meeting. For the August meeting, the Board will ask Gilbert Wood for a letter of explanation prior to the meeting. Also, the Town Engineer will be asked to attend. (Unanimously, voted in favor.)

(Added later: owner was ill, will be continued once feeling well.)

**V. Policy Changes – Body Art Variance for Apprenticeship**

Dr. Miller suggests we suspend the any further variances from our established regulation for temporary permits until we have a chance to review our protocols and that would include an outlining oversight to include a log of the cases performed by the temp. permit holder and a sign-off of each one by a fully-licensed person and revise reg. to include limitation of open hours for these facilities to only be when there is a fully-licensed person on the premises.

Dr. Miller asked that Mr. McKean and the Town Attorney to come up with a written protocol and if possible, to voted on it in the August meeting, if possible. The Board feels they may have been too flexible in the past. Dr. Canniff had brought up the question of how much experience each apprentice is receiving – the regulations are currently based on a length of time and should be specific in stating the number of drawings they must perform (with supervision), and the amount of time working in the office with the equipment.

Attorney Marc Van Jensen and Alex Travassos spoke to inquire whether the Board would allow the apprentices on this agenda for Black Pearl to continue in the process as they said they began the process in February.

Dr. Canniff asked Alex what is the number of tattoos he would estimate the apprentices do during the 18 month period. Alex said there are many factors that make it vary.

Dr. Miller acknowledged that the Board does have a long way to go to decide how to handle the variances and that is why the Board feels they should postpone approving additional variances.

After further discussion of how Alyssa has had seven years of tattooing experience in New Hampshire before coming here and Alex inquired into approving Alyssa as she has all the skills and he needs her additional assistance in the business. The Board determined they would consider approving an additional 6-month extension of Alyssa's original temporary permit (see item VII. B., below).

**VI. Food – Temporary Food Event:**

- A. Cotuit's 375th Celebration Picnic, Cotuit Village Green, Main St, Cotuit on Saturday, August 9 from 5 – 7 pm.

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

- B. Town Picnic, Hyannis Village Green, 367 Main Street, Hyannis on Sunday, September 21 from 11:30 am – 3:30 pm.

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

- C. Love Yoga Fest, Aselton Park, Ocean and South Street, Hyannis on Saturday, August 16 and Sunday, August 17.

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

**VII. Body Artist – Variance:**

- A. Black Pearl – Due to establishment closure, adjustment of variance dates for two apprentices, Derrell Lazu and Neftali Vallejo will expire on December 31, 2014.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to extend the apprenticeships of Derrell Lazu and Neftali Vallejo for one month, so they will now expire on December 31, 2014. (Unanimously, voted in favor.)

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

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to approve as a 6 month continuation of her original variance granted. During this six month period, the Board is expected to make changes to the apprentice program.

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

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant John Leslie Chambers a one year apprentice program because of the applicant's extensive prior work. At that time, he must come back to the Board to request consideration for a permanent full permit. (Unanimously, voted in favor.)

**VIII. Old / New Business:**

A. Approval of the Minutes –May 13 and June 25, 2014.

The minutes were continued to the August meeting.

B. Proposed non-business hour inspection fees for percolation tests and swimming pool inspections.

Mr. McKean stated that they are proposing an increase in percolation tests and swimming pool inspections if requested to do during non-business hours.

The Board reviewed with Mr. McKean the additional costs incurred. If an inspector is asked to extend the end of their work day, it is at a rate of 1 ½ times their regular rate (approximately \$50/ hr). If an inspector is asked to come back out after returning home, i.e., if they are requested to work on a Saturday or Sunday, there is a 4 hour minimum at 1 ½ times their regular rate (approximately \$200).

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to adopt an increase in inspection fees for non-business hours at a rate of \$ 50 + the normal cost of the fee (for example, the percolation test would be the normal cost of \$100 plus the additional labor cost of \$50 = \$150), and for hours where the inspector is called back out, the Board voted to adopt the inspection fee at a rate of \$ 150 plus the normal cost of the fee (for example, the percolation test on a Saturday would be the normal cost of \$100 plus the additional labor cost of \$150 = \$250). (Unanimously, voted in favor.)

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

The Board requested that a letter be sent requesting her attendance to Board of Health at the August 19, 2014 Board of Health meeting for violation of permitting unless paid immediately.

Motion to adjourn 5:05 pm.