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Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



Wayne Miller, M.D.
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BOARD OF HEALTH MEETING MINUTES Tuesday, June 14, 2016 at 3:00 PM Town Hall, Hearing Room 367 Main Street, 2nd Floor, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, June 14, 2016. 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.

Appreciation Given:

This was Chairman Miller's last meeting before retiring from the Board. Town Manager Tom Lynch, Assistant Town Manager Mark Ells, Town Attorney Ruth Weil, Tom McKean, Director of Health and the Board of Health members acknowledged and thanked Dr. Miller for his work on the Board. Town Council President Fred Chirigotis presented Dr. Miller with a plaque for 16 years of tireless effort and leading by example. The Board presented Dr. Miller with a gift for his leadership and support as well.

I. Variance – Food:

- A. Tony Ninivaggi, owner of 'The Barnacle Too' – 974 Craigville Beach Road, Centerville, requesting variance for only one bathroom.

Tony Ninivaggi, new owner, was present. He is requesting a variance similar to the prior owner who was able to use the bathroom facilities located across the street at the public beach. He stated the menu he submitted only has a few minor changes from the former owner.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the toilet facility variance for 20 seats with the following condition: the restaurant will only be open during the hours that the beach bathroom facilities are open when using seating at the establishment. (Unanimously, voted in favor).

- B. James Surprenant, owner of 'Crisp Too Express' – 770 Main Street, Osterville, requesting variance for only one bathroom.

Richard Capen was present and said the idea is to have this location mainly handle the take out orders to avoid the congestion at Crisp Flatbread down the street. Crisp Flatbread would be the main dining location.

Mr. Capen said the previous owner had two small baths; neither of which could be converted to a handicap which was now required for the Building code with the new renovations. The Building Department approved having one larger bathroom which would be unisex and would be handicap accessible. They were not able to create space for a second bathroom.

The Board asked the number of staff expected. Mr. Capen said it would be 5-6 staff on a shift with desired seating for 12 (a reduction from the prior owner). Mr. Capen mentioned that the owner had just gone through installing a very expensive septic costing over \$150K for his restaurant, Crisp Flatbread, down the street.

The Board expressed their concern is to remain consistent and fair in dealing with all food establishments who have come to the Board.

The Board discussed the possibility of allowing one bathroom for the 8 seats at table and one bench without a table. The bench would be used for customers waiting for take-outs.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the variance with the following conditions: 1) receipt of a written statement from the landlord stating the restroom(s) in the hallway between the barber shop and dry cleanings will be available to restaurant during the hours the restaurant is open, and 2) the seating will be limited to 8 table seats and they may have a bench (without tables at it) for people waiting. (Unanimously, voted in favor.) (See REVISED MOTION Below.)

ADDITIONAL PRESENTATION at end of meeting:

Richard Capen and Jamie Surprenant addressed the Board. The Board re-opened this item.

Mr. Surprenant said his landlord has guaranteed access to two bathrooms close to the restaurant. They are located in a hallway between the barbershop and the drycleaners next door. This would give them three bathrooms. He was not sure whether direct access from Crisps Too into hallway was possible. Otherwise they would use back door and walk around.

Dr. Miller asked if the landlord would allow patrons access to the hallway bathrooms. Jamie would be happy to ask the landlord. They had not discussed that.

REVISED MOTION:

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the variance with the following conditions: 1) receipt of a written statement from the landlord stating the restroom(s) in the hallway between the barber shop and dry cleanings will be available to restaurant during the hours the restaurant is open, and 2) if the landlord permits the patrons to have access to the hallway restrooms, then the Board approves 12 seats. However, if the landlord does not allow the patrons access to the restrooms in the hallway, the seating will be limited

to 8 table seats and they may have a bench (without tables at it) for people waiting. (Two voted in favor, Dr. Canniff abstained.)

II. Body Artist - Trainee:

Donald A. Lariviere, Great Island Tattoo, 12 Enterprise Road, Hyannis, completed trainee program and is applying for a body artist license.

Lorna Berger, owner of Great Island Tattoo, was present and had submitted a letter of recommendation stating Donald Lariviere had completed his training program successfully and there were no issues, nor complaints.

Mr. Lariviere submitted samples of his artwork and a log of the dates he had done tattoos and the sign-offs on each by Lorna. The Board was very pleased with the documentation submitted.

Upon a motion duly made and seconded, the Board voted to grant Donald Lariviere a full body art (only) license. (Unanimously, voted in favor.)

III. Hearing – Tight Tank Installation - Food:

Steve Wilson, Baxter Nye Engineering, representing Salyes & Henry, Inc., 44 Bodick Road, Hyannis, requesting a tight tank to accommodate flow from a three-bay sink.

Steve Wilson, Baxter Nye Engineering, and Charlie Salyes were present. Charlie had gone through site plan review for the wholesale facility one year ago and an inspector from the State Health Department determined that a three-bay sink was necessary. The bathroom facility is across the lot from this. A tight tank is needed to handle the small amount of water from the sink. This facility is basically used for storing lobsters. Mr. Salyes will not be cooking or processing the lobsters, only seasoning and grading them, then returning them to their crates and shipping out.

The Board and the staff do not see any issues with this.

Upon a motion duly made and seconded, the Board voted to grant the use of the 1,000 gallon tight tank. (Unanimously, voted in favor.)

IV. Hearing – Septic Repair

A. Daniel A. Ojala, Down Cape Engineering and Richard Capen, Capewide Enterprises, representing Ernest Charette, owner - 279 Maple Street, West Barnstable, Map/Parcel 132-047, 4.2 acre parcel, repair of failed septic system, requesting four variances.

Dan Ojala and Richard Capen were present. The property has an existing three-bedroom home and there is no increase in flow.

Upon a motion duly made and seconded, the Board voted to grant the variances in accordance to the revised plan dated June 9, 2016. No conditions were required. (Unanimously, voted in favor)

- B. Shawn MacInnes, MacInnes Consulting, representing Brian and Valerie Jansson, 26 Johnson Lane, Centerville, Map/Parcel 193-041, 0.45 acre parcel, requesting variance(s).

Shawn MacInnes presented the plans for a Fast system. Mr. MacInnes stated he has informed the owners of the monitoring requirements and what to anticipate in cost and maintenance for this particular innovative alternative (I/A) system.

Mr. McKean said the staff supports the issuance of the variances as this is the best location for the leaching facility.

When asked why he changed his reference of a structure on the plan from a barn to a shed, Shawn explained the surveyor had marked it as a barn and upon visiting the location found it to be a shed. The Board and Mr. McKean said the owners had mentioned an interest in using the building as an art studio. Shawn stated the owners have not mentioned that to him.

Upon a motion duly made and seconded, the Board voted to grant the variances in accordance to the plan with the following conditions: 1) the system be installed in full compliance with the Certification for General Use listed in the MA DEP approval letter dated March 20, 2015, 2) record a four-bedroom deed restriction at the Barnstable County Registry of Deeds and submit a copy of the recorded deed restriction to the Health Division prior to issuance of a permit, 3) submit a signed Operation and Maintenance Agreement prior to the issuance of the permit, and 4) Testing be performed in accordance to directions in the DEP approval letter dated March 20, 2015 and that the designer adhere to the conditions in Section VI, page 9, number 6 of said DEP approval letter. (Unanimously, voted in favor.)

V. Discussion:

Application for Comprehensive Permit (40B) 536 River Road, Marstons Mills, Habitat for Humanity Comprehensive Permit (7 lots will be: Map/Parcel 061-001 through 061-007.)

Mr. McKean said the staff reviewed and had no objections to the proposed four single-family, three-bedroom dwellings being proposed on the 5.91 acre parcel. The parcel will be divided into 7 lots with proposed homes on Lots #1-4 with Lot # 5, 6, and 7 to be open space. Mr. McKean said he does ask that the Health Division receive more detailed septic systems plans for review.

Dr. Miller expressed concern that the open space land may be used in the future and suggests they put the Lot# 5-7 into a conservation easement.as it looks like there is potential to build on these lots in the future.

The Board members acknowledged support of the letter with two recommendations being sent to the Zoning Board of Appeals: 1) need more detailed septic plans prior to approval of permit, and 2) the three lots, currently #d 5, 6,and 7 be placed into a conservation easement.

VI. Craigville Motel:

Hearing to request Motel License.

Health Director Thomas McKean stated a group of inspectors including the health inspector did go out to inspect after receiving a call from the motel stating they were prepared for their inspection to open. The group spent a couple hours and had only made it through 10 rooms at which point it was determined that the motel did not pass.

Attorney James Connors was present and asked the Board if they would be willing to issue a motel license for the 10 rooms for now, until the other 20+ rooms are up to satisfaction. Attorney Connors said Dilip Patel has just retired as a civil engineer for the State and will be the manager of the motel.

Dr. Miller stated there were grievous problems in the past which the Board had made clear and the Board had stipulated that the motel was not to call for an inspection until the management believed they would pass their inspection without any further issues.

The Board members were in agreement that they would not issue a license for a portion of the motel. They feel it is very problematic that the motel had thought it was ready for an inspection when there were basic issues that anyone in the hospitality field should be on top of and any visitor coming here should have a right to expect. The Board said they found the situation appalling and does not want the management to come back until it has everything prepared.

The Board acknowledged that the motel and the Town Attorneys are working out a contractual consent agreement stating what is necessary to for the operation of this facility which would be incorporated into the issuance of a motel permit. The agreement must be finalized and the motel must accomplish all the tasks that are required of the motel before the Board will consider a motel license. That motel license would be contingent on the procurement of the nationwide hotel chain agreement.

The Board gave Attorney Connors the option of whether he would like the Board to move forward with a vote today on the issuance of a motel license permit, or ask for a continuance.

Attorney Connors stated he had just received the contractual Consent Decree from the Town Attorney last night and would like to request the Board not vote at this time. They would like a continuance.

The Board acknowledged and the item will be moved to the next meeting on July 12, 2016. (Unanimously, voted in favor to continue.)

VII. Hearing – Sewer Connection:

Altair and Shinzo Miyagusuku, owners – 81 Woodbury Avenue, Hyannis, status on loan application.

The owners were not able to attend. They did submit a letter stating they have obtained their loan and have a contractor lined up. The work will be done in the near future.

VIII. Innovative/Alternative (I/A) Septic Monitoring Plan:

Winston Steadman representing Oyster Harbors Club – 170 Grand Island Drive, Osterville, year 2015 and June 2016 test results of I/A monitoring results and water usage comparisons.

Mr. Steadman notified the Board he would not be able to attend today. This will be continued to July 2016.

IX. Old / New Business:

A. Minutes.

Minutes will be continued over to next meeting.

B. Status – Dawn Dennen, 473 Pine Street, Centerville, underground storage tank funding.

Dawn Dennen presented a photo she came across with the date of 1989 which showed a steel tank laying on top of the ground (adjacent to piles of lumber, a palette, a ladder, and other construction products) as evidence that her underground fuel storage tank was removed during the addition work which occurred at her home in 1989.

Upon a motion duly made and seconded, the Board voted in favor of accepting the photo as evidence that the underground tank has been removed and the issue is resolved.

ADDITIONAL ITEMS

1) Dr. Miller asked 1) to be given the test resolves from Winston Steadman for Oyster Harbors Club, and 2) to be updated on 2 Lake Drive, Centerville.

2) **APPOINTMENT:**

Dr. Miller nominated Dr. Canniff as Chair for the Board. Mr. Sawayanagi seconded and Dr. Canniff accepted.

3) **ACKNOWLEDGEMENT:**

Attorney Phil Boudreau said he has worked with Dr. Miller on a number of committees and subcommittees over the years and wanted to give a public thank you to Dr. Miller for assisting in everything relating to health and safety in the town in addition to the Board of Health.

Motion to adjourn 4:35pm