



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, August 28, 2018 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, August 28, 2018. The meeting was called to order at 3:00 pm by Chairman Paul Canniff, D.M.D. Also in attendance were Board Members Donald A. Guadagnoli, M.D., John Norman, and alternate Tom Lee. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

I. Mark Ells, Town Manager - Update on Town Sewer Projects.

Mark Ells, Town Manager, presented the status of the Town sewer projects and improvements underway to improve the saltwater estuary zone. He asked that the Board re-evaluate their interim saltwater estuary regulation.

II. Public Comment

- 1) Cheryl Powell spoke to the Board to share her dissatisfaction of the procedure for her septic system abandonment inspection and contractor not notifying her at time of inspection.

III. Hearing – Food:

Ms. Hye Suk Olden, owner – Annie's Frozen Yogurt at Cape Cod Mall – 793 Iyannough Road, Hyannis, operating without a certified food protection manager on site during multiple inspection dates.

John Doyle was representing the owner and stated that her full time staff person had taken the servsafe test and failed. The part-time staff will be taking the very next available test in September.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board voted to extend the permit for one more month with the following conditions: 1) the staff will take the next available course for servsafe (in September), and 2) the owner must be on site and available to cover shifts until she has someone else on site with a servsafe certificate. (Unanimously, voted in favor.)

IV. Variance – Septic:

- A. Daniel Ojala, Down Cape Engineering, representing Carol Pillsbury, owner - 38 Harbor Hills Road, Centerville, Map/Parcel 247-072, 9,185 square feet parcel, failed septic system, requesting three setback variances.

Dan Ojala presented his plan and expressed that it is not feasible to put the system in the back because the equipment and trucks cannot get to the back yard without going onto the neighbor's land.

Upon a motion duly made by John Norman, seconded by Dr. Guadagnoli, the Board voted to grant the plan with the three setback variances for maximum feasible compliance (no conditions). (Unanimously, voted in favor.)

- B. Daniel Ojala, Down Cape Engineering, representing Gerard Schwach, owner – 1825 Route 6A (Main Street), West Barnstable, Map/Parcel 217-001, 8,474 square feet parcel, failed septic system, requesting three setback to well variances.

Dan Ojala presented his plan.

Neighbor, Mike Robido, 1837 Route 6A, spoke of his concern to have well setback from 150 to 73 feet. Dan explained that the groundwater is travelling north away from his well.

Dan Ojala said he will adjust the soil absorption system (SAS) location a bit and may be able to pick up another 2 feet before a fourth variance would be necessary.

Upon a motion duly made by John Norman, seconded by Dr. Canniff, the Board voted to grant the three variances with the following conditions: 1) issue a revised plan to show the direction of the groundwater, 2) record a 3-bedroom deed restriction at the Barnstable County Registry of Deeds and supply a copy to the Health Division, 3) the tank be a 1,500 gallon tank and be coated and wrapped, and 4) the engineer will alter the location of the SAS slightly for approximately two additional feet of separation. (Unanimously, voted in favor.)

- C. Dan Ojala, Down Cape Engineering, representing Ronald and Penny Mattes, potential buyers of property owned by Charles and Charlotte Collins – 105 Bayberry Lane, Barnstable, Map/Parcel 335-038, 32, 715 square feet parcel, new construction, requesting three variances.

Upon a motion duly made and seconded, the Board voted to grant the variances with the following conditions: 1) record a three-bedroom deed restriction at the Barnstable County Registry of Deeds and supply the Health Division with a copy, and 2) minor correction to be made on the tank elevations at inlet and outlet and staff will review the correction prior to installation. (Unanimously, voted in favor.)

- D. Peter McEntee, Engineering Works, representing Elizabeth Brosman, owner – 190 Horseshoe Lane, Centerville, Map/Parcel 207-132, 10,540 square feet parcel, repair of failed septic, multiple variances requested.

Upon a motion duly made and seconded, the Board voted to grant the plan dated August 11, 2018, with the following condition: 1) the tank must be coated and wrapped. (Unanimously, voted in favor.)

V. Septic Installer's License (New):

- A. Michael Sweeney, Bourne, MA

Michael Sweeney passed his installer's exam and received good references.

Upon a motion duly made and seconded, the Board voted to grant Michael Sweeney a septic installer's license. (Unanimously, voted in favor.)

- B. Kara Quinn, Mashpee, MA

Kara Quinn passed her installer's exam and received good references.

Upon a motion duly made and seconded, the Board voted to grant Kara Quinn a septic installer's license. (Unanimously, voted in favor.)

VI. Hearing – Order Issued to Remove Underground Fuel Storage Tank:

Attorney David Lawler representing Robert and Maureen Vanasse, owners - 514 Grand Island Drive, Osterville, existing 3,000 gallon underground tank used for heating oil, constructed of single-walled steel, more than 30 years of age, owner was ordered by certified mail to remove the tank (item postponed from July 19, 2018 meeting).

Attorney David Lawler stated the owner was not aware of ever receiving the notice to replace the tank. The owner believes the tank is a double-walled tank but additional time was requested to verify this as the owner is dealing with an illness.

Upon a motion duly made and seconded, the Board granted a 30 Day Extension and must return to the Board September 25, 2018 with a permit from C.O.M.M. Fire for removal/abandonment or with a concrete plan presented to Board on how they will deal with it. (Unanimously, voted in favor.)

VII. Variance – Hazardous Materials:

James Bancroft, Bancroft Brothers Inc, barber shop tenant, Marcel Poyant, property owner, and Attorney Philip Boudreau – 1698 Falmouth Road, Centerville, Map/Parcel 209-003, requests relief from Board of Health requirement for holding tanks at all hair salons and barber shops.

Upon a motion duly made and seconded, the Board granted the variance with the condition they will not use chemicals or dyes. (Unanimously, voted in favor.)

VIII. Variance – Food:

- A. Jean Kampas, Nutter McCennen & Fish LLP, representing New England Clambakes Inc. d/b/a Wimpy's Restaurant – 752 Main Street, Osterville, requesting food variance for outside dining for six tables with no screen door and requesting approval to operate outdoor dining temporarily without repair to septic system until October 31, 2018.

Upon a motion duly made and seconded, the Board granted to continue this item to the September 25, 2018 meeting. The Board wants the owners of the property to resolve the septic issues. This is out of the hands of the business owners of Wimpy's (they will not need to attend the September meeting. It is expected to be moved forward until the owners fix septic or work out with DEP). (Unanimously, voted in favor.)

- B. Harry Patel, owner of Express Mart – 16 West Bay Road, Osterville, requesting a toilet facility variance for one toilet, in lieu of two required for employees.

Upon a motion duly made and seconded, the Board granted the toilet facility variance. (The setback of dumpster to property line was already grandfathered in.) (Unanimously, voted in favor.)

IX. Informal Discussion:

Toni and Franko Ivers, owners – 129 Elliott Road, Centerville, Map/Parcel 248-313, 0.39 acre lot and property at 109 Elliott Road, Centerville, Map/Parcel 248-314, 0.82 acre lot.

Toni Ivers said the property they purchased at 129 Elliott had been advertised as a five bedroom. At the time just prior to the closing, they learned from the Health Division, that it had two illegal bedrooms and had to be returned to a three bedroom. They, then, looked into purchasing the lot next door in hopes of building the five bedroom they desire. The estuary regulation is written in such a manner that two different 3-bedroom homes can exist on each property, 109 and 129 Elliott; however, if one dwelling is built on it, it can only be a four bedroom with the existing land size.

The Board could not assist homeowners with this and recommended obtaining a good land attorney to move forward.

X. Minutes:

Minutes – June 26, 2018.

Upon a motion duly made by Dr. Guadagnoli, and seconded by Dr. Canniff, the Board voted to adopt the minutes for June 26, 2018. (Vote: Two in favor, Mr. Norman abstained.)

XI. Old / New Business:

- A. Margaret and John Ale, owner – 52 Oak Neck Road, Hyannis, tenant evicted in July. Multiple indoor items stored outdoors, status (continued from July 19, 2018 meeting).

Mr. McKean stated the property has been fully cleaned up and issue resolved.

- B. Update: Grease Trap – Michael Gannon, owner of Gannon’s Tavern – 959 Bearse’s Way, Hyannis, Map/Parcel 273-124, on town sewer, existing 1,500 gallon grease tank proposed in lieu of 2,000 gallon for 20 additional seats for a total of 120 seats, status.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board granted the grease tank variance, to allow a 1,500 gallon tank for 120 seats (instead of 100 seats) and of those, 24 will be seasonal, outdoor seating with the following conditions set forth by the Town’s Department of Public Work (DPW) in their letter to the Board dated August 27, 2018. DPW’s conditions are: 1) the applicant will fix the cover on the existing grease tank, 2) the interior grease interceptor approved by DPW and the Plumbing Inspector shall be installed in line with all kitchen flows. The installation shall be inspected and approved by the Plumbing Inspector, 3) the interior grease interceptor must be inspected at least once a week and cleaned as required by manufacturer’s specifications, The restaurant must keep an inspection and maintenance log for the interior grease interceptor unit on-side and must be made available to Water Pollution Control upon request, 4) From May 1 and October 31, the existing exterior grease trap must be pumped at least every 10 weeks, or when the level of grease is 25% of the effective depth of the trap, whichever occurs sooner. This requirement will also apply if the use of the outdoor seating is extended beyond these dates, and 5) when the outdoor seating is not in use (96 seats total), the applicant is required to pump the existing grease trap in accordance with the Town’s standard pumping requirements.
(Unanimously, voted in favor.)

- C. Update: Matthew Lambert, Lambert’s Rainbow Fruit, 1000 West Main Street, Centerville, MA establishment with picnic tables, one bathroom for patrons without traveling through a food preparation area, status (continued from July 19, 2018 meeting).

Matt Lambert supplied a floor plan of area around the one toilet which would be shared with the public.

Upon a motion duly made and seconded, the Board granted a toilet facility variance for one toilet. (Unanimously, voted in favor.)

- D. Update: Outdoor Storage Issue - Karen Zappula, 32 Skunknet Road, Centerville, Map/Parcel 192-048, issue is result of water leak during winter, cleanup deadline was extended to August 14, 2018 by the Board, status (continued from July 19, 2018 meeting).

Karen Zappula stated the work which has been done and the property is 99% cleaned up and would be completed soon.

- E. Update of Motel and Pool Closure: Marc Patel, owner of International Inn Motel – 662 Main Street, Hyannis, motel order to be closed on July 19, 2018, status.

Mr. McKean stated the motel and pool are still closed. The Building Commissioner has requested an engineer be hired by the owner to examine the integrity of the structures.

F. Policy: Temporary Food Events – Clarification of equipment and certifications.

The Board would like information on the State Code on hand wash.

Meeting was adjourned at 6:26pm