



Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601

S

Office: 508-862-4644

FAX: 508-790-6304

John T. Norman, Chair
F.P. (Thomas) Lee, P.E.
Donald A. Guadagnoli, M.D.
Daniel Luczkow, M.D.
Paul Canniff, D.M.D.
Stephen Waller, M.D.-Alternate

BOARD OF HEALTH MEETING MINUTES

Tuesday, February 28, 2023 3:00 PM

James H. Crocker Jr. Hearing Room, Town Hall
367 Main Street, 2nd Floor, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, February 28, 2023. The meeting was called to order at 3:00 pm by John Norman, Chair. Also in attendance were Thomas Lee, Vice Chair, Board Members Donald Guadagnoli, M.D., Daniel Luczkow, M.D., Paul Canniff, D.M.D., and Stephen Waller, M.D., Alternate. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were present.

I. Connections to Sewer.

Town Senior Attorney Charlie McLaughlin to speak on delinquent sewer connections.

Attorney Charlie McLaughlin spoke of option to bring delinquent ones into both Housing or Superior Court. There are two main programs: 1) the County Loan program and, 2) since last year, a program where the town pays off the expense and sets up a betterment with a nominal interest rate with the owner. Legal will work on getting a letter out to the 13 delinquent accounts at this time and request a signed contract with an installer. If unable to produce, then we can start legal proceedings.

With the new sewer connection groups, we have to be careful as we must balance the need for the Town to meet its compliance level, with the pressure from the lawsuit.

Tom Lee has asked DPW to give the Board a copy of the package they will be sending out to sewer connection groups so they know what is available.

II. Regulations / Policies:

Proposed change in Town of Barnstable Code Section 322-5 Outdoor Dining Regulation.

Dr. Guadagnoli had brought up the interest in keeping some of the reduced requirements for outdoor dining offered during Covid. The policy was discussed and sent out to restaurant owners.

Mr. McKean said the response has been quiet. The proposed will make it easier for establishments to have outdoor dining.

Upon a motion duly made by Mr. Lee, seconded by Dr. Guadagnoli, the Board voted to adopt the proposed regulation. Roll Call: Mr Lee-Yes, Dr. Guadagnoli-Yes, Dr. Luczkow-Yes, Dr. Canniff-Yes, Mr. Norman-Yes (Unanimously, voted in favor.)

III. Show-Cause Hearing: Food – Grease Trap:

John Greene, Duck Inn Pub – 447 Main Street, Hyannis, Map/Parcel 308-081-001, grease trap has not been pumped and is not accessible.

John Greene and the property owner were present. Mr. Greene said the property owner is responsible for the pumping. Mr. Norman said the issue has been resolved. The tank has been pumped. The only item left to do is do remove the bricks and bring the cover up to grade within 60 days.. Mr. McKean will be out to verify the completion of this.

IV. Show-Cause Hearing: Tobacco:

Bob Collette, Tobacco Enforcement and Attorney Cheryl Sbarra, MAHB, were present.

ONE VIOLATION:

- A. Barnstable Bottle Shop – 10 Seaboard Rd, Hyannis
- B. Cape Mart – 130 Center Street, Hyannis
- C. Centerville Food Shop – 1620 Falmouth Road, Centerville
- D. Cumberland Farms #2348 – 1165 Iyannough Road, Hyannis
- E. Luke’s Liquor of 132 – 1166 Iyannough Road, Hyannis
- F. Luke’s Super Liquor – 395 Barnstable Road, Hyannis
- G. Mid Cape Service Center Inc-Mobil Mart– 2145 Iyannough Road, West Barnstable
- H. Mobil / J & J Auto – 381 Camp Street, Hyannis
- I. Osterville General Store – 16 West Bay Road, Osterville
- J. Sam’s Food (Santuit Gulf) – 4738 Falmouth Road, Cotuit
- K. Speedway #2429 – 149 North Street, Hyannis
- L. Speedway #2442 – 156 Iyannough Road, Hyannis
- M. Tobacco Master – 606 Main Street, Hyannis
- N. United Gas – 199 Falmouth Road, Hyannis
- O. Willow Package Store – 696-700 Yarmouth Road, Hyannis
- P. Willow Tree Market – 15 Charles Street, Hyannis

Upon a motion duly made and seconded, the Board voted to impose the following State fines and suspensions:

- A. Fine \$1,000 and Suspension: Initially,3/20/23 – later, changed to December 25, 2023.
- B. Fine \$1,000 and Suspension: Monday, December 25, 2023
- C. Fine \$1,000 and Suspension: Monday, December 25, 2023
- D. Fine \$1,000 and Suspension: Monday, March 20, 2023
- E. Fine \$1,000 and Suspension: Monday, March 27, 2023
- F. Fine \$1,000 and Suspension: Monday, April 3, 2023
- G. Fine \$1,000 and Suspension: Monday, December 25, 2023
- H. Fine \$1,000 and Suspension: Monday, December 25, 2023
- I. Fine \$1,000 and Suspension: Monday, March 5,2023
- J. Fine \$1,000 and Suspension: Monday, December 25, 2023
- K. Fine \$1,000 and Suspension: Monday, December 25, 2023
- L. Fine \$1,000 and Suspension: Monday, December 25, 2023
- M. Fine \$1,000 and Suspension: Monday, December 25, 2023
- N. Fine \$1,000 and Suspension: Monday, December 25, 2023
- O. Fine \$1,000 and Suspension: Monday, December 25, 2023
- P. Fine \$1,000 and Suspension: Monday, December 25, 2023

- Q. The Smoke Hub, Raheel Chaudhry – 145 Barnstable Road, Hyannis, Map/Parcel 327-244-001, two different tobacco violations this month: 12/28/22, 1/09/23

The owner expressed his confusion that he thought a new regulation would be coming onto the books and later inquired with Health Division for a copy of such. He also said his confusion was on the fact the distributor was still selling him the product, which did not happen the first time menthol restrictions occurred.

Bob Collett had explained he had stated that the inspection in summer was being treated as an educational one and the next inspection would be enforcing the law.

Atty Sbarra said there is an issue with the way the laws were written as the hemp wraps meet both definitions of the law: having them recognized as use with tobacco, and use for marijuana. The inspector would not know whether someone was using for tobacco or not. The inspector relies on the definition of a flavored wrap is not allowed for tobacco.

- 1) Upon a motion made and seconded, the Board voted and found a violation was not to have occurred on December 28, 2022. (Unanimously, voted in favor.)
- 2) Upon a motion made and seconded, the Board voted that a violation of selling to a minor occurred on January 9, 2023 which results in a fine of \$1,000 and a one-day suspension of cigarette sales on December 25, 2023. (Unanimously, voted in favor.)

- R. West Main Gas, Elie Naoum –577 West Main Street, Hyannis, Map/Parcel 269-003, two different tobacco violations this month: 12/28/22, 1/09/23

- Board member Mr. Lee had to leave the meeting. Quorum was still met.

Owner said the vendor had sent some product in error (cigarettes with chocolate aroma) and he had put it back. He had a friend come down from NH to cover store while he was away and that person mistakenly saw the product and put it out front for sale. They do acknowledge the error of selling to minor without I.D.

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TWO VIOLATIONS:

- 3) Hyannis Package Store – 775 Main Street, Hyannis - 8/2/21, 1/09/23

The August 2, 2021 was during the time when most were not issued tickets as the Covid period was used as a time for education.

Upon a motion duly made and seconded, the Board voted to assess a \$1,000 fine for the violation of selling to a minor on January 9, 2023, and will suspend the tobacco license for one day on December 25, 2023. (Unanimously, voted in favor.)

V. Food – Variance:

Blane Toedt, The West End, owner – 20 Scudder Avenue, Hyannis, Map/Parcel 290-112, 1.25 acre parcel, using 3,500 gallon grease trap, currently has temporary permit for an additional 86 exterior terrace seats which they are requesting become permanent.

Blane Toedt and Attorney Anthony Panabianco stated their menu creates a low amount of grease and there have been no issues during the past year while the temporary variance was in place. All pumping was done as required every other month from May to October.

Mr. McKean said the Board of Health did not issue an approval for the variance last year. The Town Engineer had approved of the increased seating and the temporary variance after being told the West End would be installing a properly sized grease trap this year as part of their parking lot improvement.

Mr. Toedt said the cost of the 5,000 gallon tank is too high for the restaurant to be able to handle. He also said, due to the owner across the street who changed the curb cut, it is making it more difficult. Dan Ojala, engineer, was in the audience and suggested getting quotes to install an additional 1,500 gallon to the existing tank.

Upon a motion duly made and seconded, the Board voted to continue this item to the March meeting as the applicant will have a discussion with the Town Engineer to see if an additional tank would be allowed. (Unanimously, voted in favor.)

VI. Show-Cause Hearing - Stable:

Janet Woodbury, owner, stable at – 365 Sampsons Mills Road, Cotuit, operating without a current stable permit.

No one was present.

Mr. McKean reported the owner has brought her account current. No action needed.

VII. Variance – Septic:

Dan Ojala, Down Cape Engineering, representing Donald MacKinnon, Trustee – MCCM Realty Trust, owner – 910 Main Street, Cotuit, Map/Parcel 035 - 090, 0.7 acre parcel, repair septic system, requesting multiple variances, with NitROE Denitrification System.

The Board approved an earlier plan on September 28, 2021. Dan Ojala present a revised plan as they decided to put in a small workshop and will be revising the 4 bedroom plan to show the sewer/water line to the workshop as they will install a bathroom.

The revised plan reduces the number of variances from two to one and is setback from the coastal bank more than original plan. They have included a pump chamber and the only variance will be a setback variance from the pump chamber to coastal bank and will be using the latest model of the NitROE Denitrification System.

Neighbor Catherine Bunting spoke on the variance. Her concern was the expansion of buildings on the project. Mr. Norman explained that the septic meets the Board of Health approval and the number of building on lot is not in the Board's purview. The Board of Health takes into consideration the number of bedrooms, impact to groundwater, impact to health, etc. The number of bathrooms is not in their purview.

Upon a motion duly made by Dr. Guadagnoli, seconded by Dr. Luczkow, the Board voted to approve the revised plan dated January 17, 2023. (Unanimously, voted in favor.)

VIII. Deadline Extension:

Robert Taylor, owner – 34 Edgewood Road, Hyannis, requesting an extension for repairing failed septic system on May 5, 2021. Sewer is available in approximately 8 years.

Mr. Taylor said it is a two-bedroom and there is only one occupant, himself.

The inspection report stated the crown of cesspool is starting to cave in. Mr. McKean and Mr. Norman said the concern is safety. Mr. Norman said there are ways to repair it i.e., install a steel plate, or put a solid 4" cement ring made for this purpose, over the cesspool as the walls of cesspool will support it and may cost approximately \$1,000.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Luczkow, the Board voted to allow a repair of the crown of the cesspool described as solid cement ring without an engineered plan with the condition that once sewer becomes available, the owner will connect up right away. (Unanimously, voted in favor.)

IX. Septic System Variances – Extension Requested.

Captain William Murphy, owner – 104 Wild Goose Way, Centerville, Map/Parcel 167-048, requesting an extension on variances for four years, extended until August 2027.

Captain Murphy sent in a letter. The government has extended his enlistment until August 2027 and he is requesting the four approved variances be extended until that retirement will b

Upon a motion duly made Dr. Guadagnoli, seconded by Dr. Canniff, the Board voted to extend the variances until August 2027. (Unanimously, voted in favor.)

- Any Conservation variance extensions must be done separately and must go through the Conservation Commission.

The Board thanked Captain Murphy for his service.

Also, Dr. Canniff thanked Councilor Starr for attending the meeting, as well.

X. Regulations / Policies:

- A. Request from the Director of Public Health to Approve Temporary Holding Tanks at Locations Where Public Sewer Will Be Provided in the Near Future (within Two or Three Years).

Mr. McKean is suggesting the Board adopt a policy to allow temporary holding tanks for situations when sewer is coming in 2-3 years. An example of when this would be a good idea would be the situation at 900 Phinney's Lane.

Mr. Lee reached out to MA DEP but they said they do not like tight tanks especially for new homes.

The installation of a tight tank may be approximately \$5-7K.

Mr. McKean is asking to accept this temporary tank, without engineered plans, with the requirement that they must hook up as soon as the sewer is available. Mr. Lee will assist by compiling a list of needs/conditions for such a policy.

A vote was not required. It was a discussion of what they may enact down the road.

B. Proposing Policy: Deadline to Connect Buildings to Public Sewer

Mr. Norman asked to keep this on the agenda to make sure it does get addressed prior to sewer connects..

Mr. McKean is receiving a number of calls at this time regarding deadline. He has been stating a 6 month time frame to connect and would like the policy adopted as soon as possible.

XI. Minutes:

January 24, 2023

Upon a motion duly made by Dr. Guadagnoli, seconded by Dr. Luczkow, the Board voted to adopt the minutes for January 24, 2023. (Unanimously, voted in favor.)

Meeting Adjourned – 6:02 pm.