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Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601

Wayne Miller, M.D.
Paul J. Canniff, D.M.D.

MINUTES OF THE BOARD OF HEALTH MEETING

Tuesday, September 5, 2006 at 3:00 PM
Town Hall, Selectmen's Conference Room
367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on September 5, 2006. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending was Board Member Paul Canniff, D.M.D. Thomas McKean, Director of Public Health and Sharon Crocker, Division Assistant, were also present.

I. Discussion:

Mark Ells, Town of Barnstable – Overview of Wastewater Feasibility Plan Project - Sewerage of Lake Wequaquet Area.

Mr. Ells has three major components he is hoping to file by end of September or early October, 2006. They are as follows: 1) wastewater facilities in draft form, (2) environmental impact in draft form, and 3) a notice of project change. Sept 29 is filing date for state. The original sewer environmental permit had a condition in it requiring this comprehensive data plan review before any major expansions to plant or other sewer expansions in the community be done. They began data review in 1990's and the needs assessment was done in 1993, alternatives done in 1995, and then, evaluating the alternative plans was done in 1996. Since then, they have been dealing with issues of ground water levels and discharge. They developed a model which is what they based expected capacity. Ground water fluctuates 7-8 feet naturally and with locations close to the coast, there is less fluctuation. In years of heavy rain (1998 and 2006), high ground water levels result. They are trying to close out facility within next 6 months and the discharge will add to the high ground water condition and they are trying to determine what the best discharge rate will be to avoid high impact to the low-lying areas. Designed to do 12 million gallons a day, DEP allows them to discharge up to 6 million per day. Currently, they are at 4.2 million per day and they are finding the models they had created are very conservative.

Ready to move forward into expanding planned sewer areas. To close the plant out, they had to prove out the capacities as done in the report. They are filing the Notice of Filing Change as it is the quickest way to process the paperwork to allow them to do the necessary upgrade to the pump station. They have a grant for 1 million dollars if they meet the deadline.

Mr. Ells said the new plans cover the next eight years to 2014. Mark Ells said the town's policy is to have the residents in the area of sewer pay 100% betterment cost, and, in the past, the people backed that. There will be a debate with the residents of the expansion area. He believes currently there is a 50/50 split for support. Mark said after that, we'll have to build another sewerage treatment plant, and fortunately, we have land available. The current model is proving to be very conservative in its calculations. At one point, the calculations were thrown off by a water main break and leaking 1/2 million per day. Ground water went down substantially after pipe was fixed.

Mr. Ells has a questionnaire with a reply card attached and database of addresses for residents in expansion area. Currently, Mark's project manager left so he'll transfer the project to Lynn Poyant to complete. Dr. Canniff will call Mark later in the week to help with project.

Mark Ells said they'll need the Board of Health's support regarding the direction the State is headed in for filtration. (review of their limits of discharge regulations. on them stating we can't use filtration (of sand) by using chlorine. We chlorinate the affluent, then it goes into the sand filter and back into the ground. We monitor for many items – none of which have been an issue. The DEP is reviewing the discharge regulations and it may result in requiring a filter and then a UV disinfectant to be used. He believes at this facility it should not be required and it would result in an increased cost in dollars of tens of millions. Mr. Ells will keep the Board informed on this matter.

Dr. Miller asked about the Cape Cod Community College flows. Mr. Ells clarified the only flows in the current plan are for the existing facilities, not for any possible dormitories in the future. They would have to propose that separately in the future.

II. Hearing Continued from Previous Meeting(s):

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

Show-Cause Hearing - Tobacco:

Hyannis Food Mart, 18 Center Street, Hyannis

Purchaser did ask for ID but did not ask for his age once an ID wasn't available and the sale still occurred. This is the second violation.

Upon motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to approve a \$100 fine. (Unanimous vote in favor.)

David Houghton, Town Attorney, had written feedback to Bob Coulette regarding changing some policies. Mr. Collette will review.

III. Hearings:

A. Patrick Butler representing Mary DiBuono, 6 Keefe Court, Centerville – Notice to Abate Violations – Nitrogen Loading Limitation.

Pat Butler was present. They are working on alternatives as in, stipulating the number of occupants. Or, in purchasing more land. Mr. McKean stated the basement does not have a second exit and the people there must be vacated immediately. Patrick Butler said he will deal immediately with the basement. He is requesting a 30 Day Extension to Oct 10 meeting.

John Denahy lives at 22 Keefe Court and feels the DiBuono's are overusing the septic. Dr. Miller asked if septic is functioning. Mr. McKean is unaware of any problems and said if she converts the dining room into a bedroom so it is 100-150 sq ft, then it'll be ok with the number of occupants.

Upon a motion duly made by Dr. Canniff, and seconded by Dr. Miller, the Board voted to continue this until the next meeting on Oct 10, 2006. (Unanimously voted in favor.)

- B. Kathleen Pouse, owner, requesting a hearing on 22 Marion Way, Osterville – Five bedrooms observed, permitted for two bedroom in 1979.

No one was present. Her new attorney wrote that he just received the case and requested a continuance.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to allow one more and final continuance. Tom will send a letter. (Unanimously voted in favor.)

- C. Herbert Lach, Attorney, requesting a hearing and representing Gongmin Lei – 17 Pontiac Street, Unit# 2, Hyannis, violations.

No one present. Requested a continuance in writing as the urgent matters have already been addressed.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to accept the continuance until the next meeting, October 10, 2006. (Unanimously voted in favor.)

IV. Variance Requests –Postponed from previous meeting:

Jacques Morin, owner, 1283 Old Stage Road, Marstons Mills, 51,897 square feet parcel, new construction, variance requested to construct a septic system.

Dan Ojala, Down Cape Engineering, showed the proper notice given to abutters. The plan deals with a perched ground water table. The true ground water table is 22-23 inches. The wetland varies. They are mounting the system above grade almost 4 feet. Ground water this weekend, adjusted out to 65. They plan to use the 67 inches with 5 feet separation given. A variance was granted by the Zoning Board of Appeals that there could be no more than a 4 bedroom lot and that was the condition it was purchased as. Mr. McKean said the staff comments addressed a discrepancy with the property line and recommended switching the leaching area and the reserve area.

Abutter Jacqueline Powers stated the applicant cut down trees and jumped right into the project without going through the proper channels first. Her understanding is that the facility is visually unattractive and is only 50 feet from the catch basin in the road and

questions whether that is too close. She asked for information on upkeep responsibility. Dr. Miller said they are on a monitor alarm system and should give extra protection. The setback of 50 feet is much greater than required.

A variance from the Board of Appeals was required because the two lots had common ownership. A variance was granted due to the size and hardship of lot.

Jean Wayland , abutter, is opposed to the 4 feet above ground level and questions whether it is necessary. She is opposed to structure.

He lives on 1249 Old Stage Rd and was not notified. He was not notified because he is not a direct abutter. The Conservation came down and flagged his lot before he could remove any trees on his lot and did not understand why this person did not follow the same procedure. His issue also focused on flooding of his property. The town of Barnstable resurfaced the road and now twice a year, all the run-off's pour into his yard and causes flooding. The Board recommended he speak with the DPW. He explained he has tried. He said he has mosquitoes due to it. He was also given the Mosquito Control Phone Number.

Dan Ojala said he is applying for a 45% variance and due to the fluctuation of water levels, some days, no variance will be needed.

Debra Tolcarse, abutter, does approve of it. A lot of the new lots are smaller, and she believes it won't be that unsightly. She owns the lot next door and hopes to build a house next door.

Margaret Fitzgibbon, abutter, asked about the Zoning Board of Appeals ruling which said they couldn't come for a variance from Title V. The BOH explained this is a local variance, not a Title V variance. The excavator cut into her property on the holiday weekend July 3rd. The 10 foot variance was not honored and why did they excavate without abutter notification? Why is the 4 foot mounting allowed. Cape & Island Engineers came out July 5 and staked the property lines July 7, then said they would fix them as they are inaccurate.

The applicant's attorney, Mike Ford had a picture of the property line. He said the leaching is 10 feet off the property line. The retaining wall is and can be closer but they are willing to move it a bit. Also, they are willing to put planting on the property line. An additional fact is that the Board of Appeals requested a common driveway in order to allow for 2 lots to be granted.

The Board's first concern is in terms of safety to the public and this system is in compliance. The more the system is moved back off the road, the riskier it is towards the wetland, and the higher the mound will be to work properly. Dr. Miller suggests working with the landowner to acquire the best agreement for aesthetics. The Board can not mandate the aesthetics but the attorney shows they are willing to work with neighbors here and Dr. Miller suggests the parties agree to landscaping as it can then be put in as a condition of the discussion.

Mike Ford said Mr. Morin is willing to plant leelan cypress trees 3-4 feet tall around the retaining wall and spaced out according to the recommended spacing on the tag (5-6 feet) to help hide the view (in addition to replacing trees on her property).

The septic will be built for 4 bedroom so they have the flexibility of four later. There will be a 4-bedroom deed restriction and they agree to move the closest corner of retaining wall 10 feet from the abutter's property line.

Upon motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to approve with the following conditions: a) a four-bedroom deed restriction, (b) the deed restriction will be listed are the Registry of Deeds, 10 feet separation distance from the retaining wall and property line, and 3-4 feet high leelan trees planted 6 ft apart or distance given on tag of tree. (Unanimous vote in favor.)

V. Variance Request (New):

Sullivan Engineering representing Jeffrey and Irene Cook, 545 South Main Street, Centerville, 1.37 acre parcel, house addition, variance requests.

Peter Sullivan said the house was built in 1890's. The septic system was supposed to be repaired because of failed system which was backing up in 2004. The new owner is planning on installing an I/A system. The deed restriction was required of three bedrooms, but this was not implemented because no one ever pulled a septic permit, which would have required the deed restriction at that time. The I/A system proposed is a sand filter one and it wouldn't be affected by having a seasonal occupant.

The Health Division staff comments were concerned with the property.

Dr. Miller said he likes the sand filter method. Dr. Canniff asked for a statement saying the above method will work with seasonal use.

A site visit is requested by the Board for October 5 at 1 pm, because it is a small lot. The fourth bedroom is the issue. Dr. Miller said to keep in mind that the DEP says they can increase the use by 50% if they use the sand filter method and here they are only looking for a 33% increase.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to do a site visit Oct 9 and continue to the Oct 10, 2006, meeting. (Unanimously voted in favor.)

VI. Request for Extension of Time:

Peter Sullivan, Sullivan Engineering and John Abodeely, representative for St. Michael the Archangel Church – 62 Main Street, Cotuit, requesting extension on septic upgrade.

Peter Sullivan's summary: In 2003, the church upgraded to handle 150 parishioners. In the interim, there were some foundation issues, so they have repaired the foundations and that prompted review of the septic system. In 1998, the system passed inspection. The system is a single cesspool. The foundation has already been fixed as it was an emergency. The church is used once a week for approximately 25-35 parishioners and

may use 0-10 gallons of water per week. The septic is used very infrequently and is not in failure.

Dr. Miller feels because it was an emergency repair for the foundation (similar to a roof repair), we would approve the application.

They had done an unwitnessed percolation test prior to our regulation requiring witnessed percolation.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted not to require a deadline for the septic repair. In the future, a Title V compliant system will be required for any work which requires approval of a building permit other than emergency repairs. (Unanimous vote in favor.)

VII. Discussion:

A. Norman Hayes and Michael Petrin, BSC Group, representing Pat and David Wallace, 111 Long Beach Road, Centerville

Norman Hayes represents the new owners. The new owners are unable to upgrade the septic in the existing time frame. They received bids and ask for the Board to waive the \$30,000 put in escrow which had been requested. Now they are asking to have it installed this November.

Norman Hayes said he made it clear to the owners that they can not have anyone stay at the house until the septic is fixed. He suggests we approve with the stipulation that the variances will expire on December 5, 2006, and will not be extended. They will have to come before the Board and start the process all over again.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board approved the extension on the variance to December 5, 2006, with the condition that there will not be any other extensions to this variance. (Unanimous vote in favor.)

B. Condominium Owners (four units) for 306 Long Beach Road, Centerville, to discuss replacement septic system approved in February 2006 meeting.

The owners submitted a letter stating they have agreed to put in the original Fast I/A system the Board approved.

VIII. Six or More Bedrooms:

Sullivan Engineering representing Robert Casey, Trustee – 164 Ocean View Avenue, Cotuit, 16,879 square feet parcel, proposed addition to main building.

Peter Sullivan said there are three buildings with the bedrooms as follows: one bedroom in cottage, two bedrooms in small building, and five bedrooms in the main house for a total of 8 bedrooms. Making up the five bedrooms in the main house are: the three bedrooms, the media room and the study. The foundation is a slab. The neighbors do not have wells.

Upon motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to approve with the condition of receiving a letter from Mr. Sullivan stating that no neighbors have private wells, otherwise they will be required to come back before the Board. (Unanimously voted in favor.)

IX. Old Business / New Business:

A. Vehicle Washing Policy

Upon motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to approve the proposed policy once the fine amount is corrected from \$75 to \$200. (Unanimously voted in favor.)

B. Update: 19 Mockingbird Lane, Marstons Mills

David Stanton, Health Inspector, has reinspected the property and all violations have been corrected.

X. Correspondence

Setback of Well to Horse Manure Compost.

Postposted until the October 2006 meeting.

IX. New Business

Elections:

Upon motion duly made by Dr. Canniff, the Board voted to approve Dr. Miller as Chairman. (One vote in favor, and Dr. Miller abstained.)

Upon motion duly made by Dr. Miller, the Board voted to approve Dr. Canniff as Vice Chairman. (One vote in favor, and Dr. Canniff abstained.)

Dr. Miller said the Three Bays Report says Popponesett and out to Sampsons is nitrogen-impaired. Dr. Miller will ask Brian Dudley, DEP, to come to the next meeting to help the Board with the wording for a moratorium.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to adjourn. (Unanimously voted in favor.)