



# Town of Barnstable

## Board of Health

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Wayne Miller, M.D.  
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### MINUTES OF THE BOARD OF HEALTH MEETING Wednesday, February 14, 2007 at 3:00 PM Town Hall, Hearing Room 367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on February 14, 2007. 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. and Acting Board Member Susan Rask. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

I. **Hearing:**

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

**Show Cause Hearing:**

White Hen Pantry, 426 Main Street, Hyannis – Second Offense

Paul McGowen was present.

Upon a motion duly made by Susan Rask, seconded by Dr. Canniff, the Board voted to issue a fine of \$100 for the second offense. (Unanimously voted in favor.)

**Hearing:**

West Main Gas, 577 West Main Street, Hyannis – First Offense

Khalil Naoum, West Main Gas, was present.

Upon a motion duly made by Susan Rask, seconded by Dr. Canniff, the Board voted to issue a warning for the first offense. (Unanimously voted in favor.)

II. **Show Cause Hearing:**

John Brian Hopkins, Esq., representing Kathy Posner requesting hearing regarding too many bedrooms at 22 Marion Way, Osterville.

John Hopkins represented the owner. He reviewed the history of the property presented earlier. The owner consulted with Carmen Shay, Septic Inspector. Mr. Shay believes there is enough land area for a 4-bedroom septic system on the lot. Mr. McKean states it is a three-bedroom system and does not believe there is enough room for a larger system. The owner understood it to be a five-bedroom but is willing to accept it as a four-bedroom and install a larger system. Mr. McKean expressed the department is requesting two bedrooms be removed and not to increase the system. The lot is only a 0.35 acre lot in the WP district.

Linda Edson, Town of Barnstable Building Department, said there was a rental ad the owner ran and listed it as a five-bedroom unit. The Building Department is in court with the owner trying to settle the illegal unit she is trying to rent out. Their court case can not be settled until the Health has finished with their ruling.

Mr. Hopkins asked for a continuance until the April 2007 BOH meeting. At that time, they should have already had Mr. Shay present the septic system to Mr. McKean including a floor plan for a four-bedroom, and if not legally possible, they should remove two bedrooms by the April meeting and record a three-bedroom deed restriction with the Registry of Deeds.

**III. Hearing – Housing (Cont.):**

Charles M. Sabatt, representing Victor Skende and Beverly Skende, 77 South Street, Apartments 1-4, Hyannis, - regarding various housing violations observed.

Moved to March 21, 2007 BOH meeting. The Town attorney requested additional time.

**IV. Hearing – Housing (New):**

Briar Cook, 42 Marsh Lane, Hyannis – regarding housing violation

Briar Cook was present. He explained his tenant has purchased a home and will be moving out within a couple months. A letter by his tenant, Melaney Small, was read. She is a vegetarian and would not be using the oven/stove. She prefers not to have the disruption at the unit at this time and asks the Board to wait until she has moved to enforce the oven/stove. Mr. Cook assured the Board he will install one once she leaves.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to postpone the requirement of an oven/stove in the rental unit until the current tenant moves. (Unanimously voted in favor.)

**V. Variance Request (Cont.):**

A. Arne Ojala, P.E., P.L.S., Down Cape Engineering representing Fred Tonsberg, 2 Short Beach Road, Centerville, 12,630 square feet lot, existing 2-bedroom proposed to be razed and rebuilt as 2-bedroom, numerous variances requested.

Arne Ojala presented the plan with a recirculating sand filter and pressure dosing the leach field to reduce the space needed. (DEP had expressed their view as listed at the prior meeting.)

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the plan with the following conditions: (1) a two-bedroom deed restriction be recorded at the Registry of Deeds, and (2) a monitoring plan which will monitor monthly for the first six months, then monitor quarterly thereafter, and review after two years for any adjustments in the monitoring plan. (Voted in favor.) (Two voted in favor, Dr. Canniff abstained.)

B. Arne Ojala, P.E., P.L.S., Down Cape Engineering representing Trisko Family Trust, 270 Sandy Neck, Barnstable, 10,890 square feet parcel, variance to replace cesspool type structure with a leaching pit, composting toilets proposed.

Mr. McKean reported on the site visit.

Upon a motion duly made by Dr. Canniff, seconded by Ms. Rask, the Board voted to approve the plan with the following conditions: (1) a three-bedroom Deed Restriction will be recorded at the Registry of Deeds, and (2) the back building (work space/boat storage) with a compost toilet will not be converted to habitable space. (Unanimously voted in favor.)

- C. Kieran Healy of BSC Group, Inc. representing Trustee David Ross of 0 Water Hole Lane, W. Barnstable, 149,675 sq. ft. lot, Section 360-1, SAS proposed to be located 65 feet setback to wetlands, well testing information received.

Mr. Healy's revised plan listed everything the Board had requested.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the plan with the following conditions: (1) that the plan will be revised to note that it is a certified vernal pool, (2) a three-bedroom Deed Restriction be recorded at the Registry of Deeds, and (3) the footprint can not be changed (Unanimously voted in favor.)

- D. Weston H. Bartlett, 45 Spruce Street, West Barnstable, 20,120 square feet, - proposed repair of existing system, variances requested in regards to setbacks to private wells.

Weston Bartlett was present.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the plan with the following condition: a three-bedroom Deed Restriction is recorded at the Registry of Deeds. (Unanimously voted in favor.)

**VI. Variance Request (Deferred from January BOH):**

Matthew Eddy, P.E., Baxter Nye Engineering & Surveying representing Shane Pacheco - 1799 Service Road, West Barnstable, 3 acre lot, new construction, proposed two dwellings and a barn, variance requested in regards to separation distance between proposed **private well and neighbor's SAS.**

Matthew Eddy was present and said the direction of the groundwater is in the southeast direction after from these areas.

An abutter, Dick Andres, reviewed the plan. Also, Karen Michaud, abutter, spoke of her concern on the number of buildings on the lot and concern that the barn may later be converted to living quarters. It was explained the Building Department would be the department reviewing this.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the variance with the following conditions: (1) a five-bedroom Deed Restriction will be recorded at the Registry of Deeds, (2) it is a single-family dwelling unit including cottage as per the plan revision date 2/14/07, unless it goes before the Zoning Board of Appeals process and is accepted. (Unanimously voted in favor.) (Dr. Canniff excused from the vote.)

**VII. Variance Request (New):**

- A. Stephen Wilson, P.E., Baxter Nye Engineering & Surveying representing Eleanor Mayfield – 58 Wachusett Avenue, Hyannis, 4,956 square feet lot, revised variance.

Stephen Wilson presented revised plans. The variance requested is for the leaching trenches to be two feet apart instead of the required four feet. Mr. McKean said DEP approves these revised plans and asked the Board to approve the plans.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the plan with the variance with the following conditions: (1) a four-bedroom Deed Restriction will be recorded with the Registry of Deeds, and (2) there will not be any change in footprint of the house. (Unanimously voted in favor.)

- B. Ronald Cadillac representing Dawn Burt - 340 Oakland Road, Hyannis, 17,270 square feet parcel, WP District, 2 bedroom proposed, variance for an Omni recirculating sand filter.

Ronald Cadillac was present. The system currently is the minimum three-bedroom size. They will add the recirculating sand filter to the system to handle the second bedroom. Currently, the property has a two-bedroom Deed Restriction on it already.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the plan with the following conditions: (1) no more than two bedrooms, and (2) the monitoring will be quarterly for two years, in perpetuity, unless they come before the Board after two years for a review of the monitoring plan. (Unanimously voted in favor.)

**VIII. Discussion:**

- A. Matthew Eddy, P.E., Baxter Nye Engineering & Surveying representing S. P. Properties, LLC, 1471 Iyannough Rd, Hyannis (Formerly Rainbow Motel), 81,618 sq.ft., Chapter 232-5 Maximum Allowable Wastewater Discharge, reduction from existing flow provided and excessive cost to benefit.

Mr. Pat Sullivan presented data on the property. The total nitrogen-loading would be 9.75 parts per million. This would include fertilizers, etc., as well as the septic. The proposed use is a 76% reduction in flow to 1,300 gallons per day, and it is anticipated that the town sewer may be available to this property in 7-10 years. An I/A system is not required here.

Matt Eddy presented data and reviewed the data presented June 2006 to the Board for discussion.

The Board acknowledged that a variance is not required here due to the reduction in flow means the 330 Rule does not apply and, therefore, an I/A system is not required here for that reason.

**IX. Six Bedrooms or More:**

- Stetson Hall representing Paul Murphy, 232 Wianno Avenue, Osterville, 18,060 square feet parcel, seven bedrooms.

Paul Murphy and Stetson Hall presented the plans.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the seven bedrooms with the following conditions: (1) a Deed Restriction be recorded at the Registry of Deeds stating the second building not be converted to a habitable second dwelling, no kitchen facilities be provided. (Unanimously voted in favor.)

**X. Massage License Applicant (Cont.):**

Bonnie J. Williams – Proposal to practice massage at Lewis Bay Chiropractic, Hyannis

All paperwork is now in order.

Upon a motion duly made by Dr. Canniff, seconded by Ms. Rask, the Board voted to approve the applicant as a Massage Therapist. (Unanimously voted in favor.)

**XI. Food Establishment:**

A. Douglas Reichwein representing Tracy Anderson, The Wine List, new location for education classes, GRD variance.

Mr. Reichwein presented the data. Currently, they are using a grease recovery, model MI-G is used and is an under-the-sink type. The events will occur once a week. This is not a food service business; it is served as a demonstration with small portions done.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve with the following conditions: (1) installation of a mechanical grease recovery device (i.e., Big Dipper), (2) a statement acknowledging this is not a food service business-the small portions are done as a demonstration type setting, and (3) a larger floor plan be submitted for the food preparation area so it more clear. (Unanimously voted in favor.)

B. David Dumont representing The Island Merchant Restaurant and East End Lounge, 302 Main St, Hyannis, grease trap variance.

Dan Ojala presented plan.

Upon a motion duly made by Ms. Rask, seconded by Dr. Canniff, the Board voted to approve the variance with the following conditions: (1) a GRD will be installed and the dishwasher must be connected to it, (2) use the menu submitted with variance request, (3) after three months of operations, submit to Mr. McKean the maintenance logs and record keeping of the frequency of dumping of grease from GRD for his review, and (4) they must come before the Board with any significant changes in menu. (Unanimously voted in favor.)

**XII. Discussion:**

William Weller, Weller & Associates, Fisherman's Village Condominium, 855 West Main Street, Hyannis – Requested a discussion regarding a failed septic system.

Mr. Weller represented Fisherman's Village Condominium. He reported that Bob Bergman, Town Engineer, will have an answer by mid-year 2007 of whether the complex can be hooked up to the town sewer. If so, this may take place within 5 to 10 years. Dr. Miller acknowledged the complex is in an area which the town will have to respond to its groundwater sensitivity.

The complex, which contains 10-12 dwelling units, has two septic systems. One system had passed inspection but needed repairs which have been completed.

The second system failed inspection due to evidence the D-box had not been filling. They were only able to locate the D-box and one of the three pits. The other two pits may be located somewhere under the pavement. Initially, the system was pumped two times a month, and then pumped routinely for a number of months. It now appears to be working properly. Estimated cost for a new system is \$200,000.

The Board recommends (1) having the second system re-inspected to see if it now passes, and (2) submitting to Mr. McKean the pumping records. Considering the size of the complex, the re-inspection, and its pumping records (if the pumping only needs to be done 3-4 times a year), it will probably be all right to continue using the current systems for a period of time anticipating the arrival of the sewer system - provided an escrow account is established with the town which would be applied towards either the cost of hooking up to sewer (if it arrives in time), or towards the cost of repairing the current septic system.

The town is establishing a program to manage escrows for this purpose. The town is in the process of funding the budget item for personnel of DPW and Health to run the program.

The Board asked to submit the above paperwork to Mr. McKean and to come back to the Board on June 12, 2007 for a review.