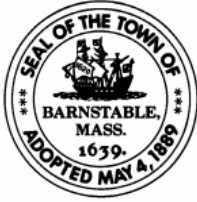


Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



Office: 508-862-4644
FAX: 508-790-6304

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

BOARD OF HEALTH MEETING MINUTES Tuesday, May 22, 2007 at 3:00 PM Town Hall, Hearing Room 367 Main Street, Hyannis, MA

I. Hearing:

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

A. Show Cause Hearing:

7-11 Store No. 25161B, 210 North Street, Hyannis – Second Offense, tobacco products sold to a minor.

Bob Collette read the violation. The owner was not present at this time.

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

Mr. Haq Nawaz did appear later in the meeting. He acknowledged it was their error as he and his wife were handling the sale at the same time and thought the other had requested the ID.

B. Hearing:

Sea Street Market, 231 Sea Street, Hyannis – First Offense, tobacco products sold to a minor.

Jennifer Cullen, owner of Sea Street Market, asked for a change in procedure. She asked for a form or letter be left at the time of inspection for the manager. Bob Collette said he believes managers may never receive it from the staff but is willing to do this. He will do a quick version of the report and leave the form at the time of inspection.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to issue a warning. (Unanimously voted in favor.)

II. Hearing:

Charles Hamblin, owner – 1726 Santuit-Newtown Road, Cotuit, applicant is requesting permission to accept grass and leaves at premises.

Charles Hamblin was present and stated he has been accepting grass and leaves at the premises for 40 years and upon delivery of leaves, he grinds them up first, and no odor is produced.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue with no finding until Oct 9, 2007 meeting and an inspector will go out two times during this period to see whether there are issues. If issues are found, the Board will provide guidance to correct the problem, and, if there are not any issues, the Board will approve the continuation. (Unanimously voted in favor.)

III. Hearings – Housing (New):

A. **POSTPONED TO JUN 12 BOH MEETING per owner's request.** Raineria Laftsidis, owner, 365 Scudder Avenue, Hyannis – Driveway width greater than allowed per Town ordinance.

B. John Leggiero, owner, 8 Sandy Valley Road, Marstons Mills – No balusters provided on deck.

John Leggiero called the Health Department to say he had put additional soil under the deck to meet the requirements. A health inspector will be sent to verify. The owner stated the property will not be used as a rental and is being sold.

C. Donna and Jeff Weber, owners, 118 Scudder Avenue, Hyannis – railing on deck.

Donna and Jeff Weber had requested a postponement until July 10 meeting.

The Board felt that the situation was too critical to wait until July as the deck is on the second floor.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted on the approval of the variance. (Unanimously DENIED) Ordered to keep the door to the deck locked from renters and their visitors until requirements are met within 30-days. Mr. McKean will send out an order letter stipulating guard rails and balusters be provided to meet the regulations with a 30-day deadline.

D. Elizabeth Nilsson, owner, 2416 Meetinghouse Way, West Barnstable – Insufficient ceiling height.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the variance. (Unanimously voted in favor.)

- E. Charles Rogers, Trustee, Maxwell Nominee Trust, 464 Ost-West Barnstable Rd, Marstons Mills – Insufficient ceiling height.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the variance. (Unanimously voted in favor.)

IV. Variance Requests (Cont):

- A. David Crispin, P.E., P.L.S., BSC Group representing Dr. Nathan Rudman, 40 Waterman Farm Road, Centerville, 18.2 acre lot, new construction, six bedrooms proposed, multiple variances requested in regards to setbacks to wetlands and coastal bank (continued from BOH Meeting Mar'07).

David Crispin, Norman Hayes, and Myer Singer presented data. The new engineered plans are for five bedroom and were just received May 21, 2007 and the Board would like opportunity to have the staff review the plans and give their comments. The Board had been out to a site visit on May 21, 2007.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue the item until July 10, 2007 Board of Health. (Unanimously voted in favor.) (Later, applicant changed request to have it continued to Jun 12, 2007 meeting.)

- B. David B. Mason for Catherine and Peter Murray – 336 Holly Point / 39 Vine Street, Centerville – three variances, Sec 15.211 SAS to property line 5 feet, 360-1 SAS to wetland 50 feet, 360-1 septic tank to wetland 33 feet. (continued from BOH meeting Mar '07).

David Mason presented his plan. Abutter, Vivian M. Cress, 326 Holly Point had a letter read into minutes requesting postponement as she has been away and would like engineer to review plan. She is concerned septic is too close to her property and is concerned whether there will be a place available for her if she needs a new septic later. The applicant has been working with the Board since Dec 2006 and feels they should not be held up any longer. The Board explained there will be room available for a new septic system on 326 Holly when, and if needed, before sewer.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the variances with the condition of using a monolithic tank to be done within a two-year period. (Unanimous vote in favor.)

V. Variance Requests (New):

- A. Arlene Wilson, A.M. Wilson Associates representing Elaine Robin, Trustee, Robin Family Realty Trust – 386 Shootflying Hill Road, Centerville, 2.1 acre lot – two variances from setback of 100 feet from wetland (BVW).

Arlene Wilson presented the plan.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the variances with the condition of using a monolithic tank. (Unanimous vote in favor.)

- B. Falmouth Engineering representing Thomas and Rosemary O'Keefe – 22 Clamshell Cove Road, Cotuit, requesting two variances for septic repair.

Michael Borselli, Falmouth Engineering, and owner, Thomas O'Keefe, were present. The variances are: 1) new SAS would be 80 feet from the top of the coastal bank instead of 100 feet, and 2) new septic tank would be 54 feet from the top of the coastal bank instead of 100 feet. The location is not close to wetlands, groundwater, or coastal banks in a way that the Board would be concerned with erosion. The I/A system is above and beyond the requirement.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve with the following conditions: 1) a four (4) bedroom deed restriction, 2) an I/A system and 3) a monitoring plan done quarterly for two years. (2 voted to approve, Dr. Canniff abstained.)

VI. Food Establishment Variance Requests (New):

- A. Caffè Gelateria Bertini, 20 Pearl Street, Hyannis, grease trap variance.

Alexandra Bertini was present. As a new establishment, the touchless faucets are required.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the under sink grease trap, size to be determined by the plumbing inspector and limited to the submitted menu. (Unanimously voted in favor.)

- B. Roger Ghanem, Craigville Beach Grill, 974 Craigville Beach Road, Centerville, three variances.

Roger Ghanem, owner, and neighbor, Tony Ninabachi, spoke.

The variance for an air curtain is not applicable at this location.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the variance for one toilet facility. (Unanimously voted in favor.)

Upon a motion duly made by Dr. Canniff, made by Mr. Sawayanagi, the Board voted to grant a variance from installing anything under the dumpster. (Unanimously DENIED because it is a federal rule requiring an impervious material used under the dumpster and is outside of the Board of Health jurisdiction.)

VII. Variance Renewal – Smoking

- David Wood, Puff The Magic, 649 Main Street, Hyannis, variance renewal – Section 2.0 Prohibition of smoking regulations, pre-existing smoking bar.

David Wood and David Lawler, Attorney at Law, presented historical facts and asked that the stipulation which was added in 2005 at renewal time of no transfer of variance with ownership transfer, be removed. Also, the state now has the establishment report

quarterly to them and with the increase in state monitoring they request that the Board extend the variance time frame to a 10-year period.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve renewal for the pre-existing smoking bar for a period of two years expiring May 22, 2008. (Unanimously voted in favor.) The Board will check with the Town Attorney, who was involved in establishing the initial period of two years, to determine if he approves of the variance lasting 10 years, and if so, the BOH decision will be amended to expire May 22, 2017. Also, the Town Attorney will be asked to review the issue of transferring the variance with ownership. If the Town Attorney approves, clarification will be made to allow it without coming before the Board again.

VIII. Body Art Applicant:

Jackie Lynn Connolly – Application for Body Art to operate at Cape Cod Tattoo at 701 Main Street, Hyannis.

Upon a motion made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Jackie Lynn Connolly for a Body Art Permit. (Unanimously voted in favor.)

IX. Lifeguard Modification Request:

Jessica Maguire - Willy's West (Gym), 865 Attucks Lane, Hyannis.

Upon a motion made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Willy's West (Gym) for a Lifeguard Modification with the condition that they are restricted for pool use by adults only and request they submit all the CPR certificates of staff to the Public Health Division. (Unanimously voted in favor.)

X. Discussion:

A. Cotuit Meadows Subdivision (a.k.a. Scrimshaw Village), 9999 Falmouth Road (Rte. 28), Cotuit, 50 acres.

Matthew Eddy, Baxter Nye Engineering presented the plan. The Board approved the plan which will be sent to DEP for an application of the shared system. They are looking to begin phase 1 of the project.

B. Dumpster Screening at pre-existing establishments– Cynthia Cole, Executive Director, Hyannis Main Street (BID).

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board approved a six-month moratorium to be continued at the November 13, 2007 agenda. (Unanimously voted in favor.) Cynthia Cole is currently looking at cedar fencing costs. They will come back to the Board with a definitive plan (bids, time frames, etc.) at that time to enable the fences to be completed by the summer of 2008.

C. Percolation tests and soil evaluations for local upgrade approvals.

A letter from David Coughanowr, septic designer, was read into the minutes. In the letter, he recommended making use of soil evaluators or other town's health inspectors

to supplement the schedule for percolation tests. Also, he recommended the possibility of using our town's health inspector's during off hours at an additional fee. John O'Day, Sullivan Engineering, suggested the option of using a sieve test instead of a witnessed percolation test. Title V allows it to be used if the findings fall within a certain parameter.

Dr. Miller said we would have to discuss with the Town (Finance) setting up a separate account for handling the overtime fee if the Board chooses the option of an increased fee for overtime/weekend schedules. This would eliminate the fee from coming out the department's regular payroll. Dr. Miller feels the \$150 fee is too low to cover the cost, but feels \$200 may cover it. Mr. McKean will recalculate the costs. The Board agreed to take the proposals under advisement.

- D. Request for permission to grant variances at counter for setbacks to property line, five feet or greater.

No. Not at this time unless it is an emergency repair. For emergency repairs, it can be approved and would come back before the Board. It is a state requirement and, thus, it needs to be heard by the Board.

- E. Peter Doyle, Town of Barnstable, Water Pollution Control Division – permission for herbicide application.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the applicant's request for permission for herbicide application for a period of five years. (Unanimously voted in favor.)

- F. Request to increase the percolation test fee to \$150 for night-time and weekend percolation.

The Board determined the \$150 proposed fee was too low to cover costs for such a project of working night-time shifts and weekends, and will consider approval of a \$200 fee.

XI. Massage License Applicant:

- A. Kirsten Cahoon – Proposes to practice massage therapy in the Town of Barnstable.

Upon a motion made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Kirsten Cahoon for a Massage Therapist License. (Unanimously voted in favor.)

- B. Jennifer Claire Gillis – Proposes to practice massage therapy in the Town of Barnstable.

Upon a motion made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve Jennifer Claire Gillis for a Massage Therapist License. (Unanimously voted in favor.)

C. Elizabeth Keating Hill – Proposes to practice massage therapy in the Town of Barnstable.

Upon a motion made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve Elizabeth Keating Hill for a Massage Therapist License. (Unanimously voted in favor.)

D. Amy Welch Rollins – Proposes to practice massage therapy in the Town of Barnstable.

Upon a motion made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve Amy Welch Rollins for a Massage Therapist License. (Unanimously voted in favor.)

Voted to Adjourn.