

Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, July 17, 2007 at 3:00 PM
Town Hall, Selectmen's Conf. Room
367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on July 17, 2007. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul Canniff, D.M.D. and Junichi Sawayanagi. Thomas McKean, Director of Public Health and Sharon Crocker, Division Assistant, were also present.

I. Public Hearing:

Proposed Regulation – Repair of Failed Septic System.

The new regulation for the time limits allowed on repair of failed septic systems were read and approved.

II. Hearing Housing (New):

A. Nancy Jean and Michael Faria, 800 Bears's Way, Unit 2WA,
Hyannis - housing violation(s).

Attorney Kelly Charlestown represented the management company of the condominium association. She explained that the owner Mr. Faria was held in contempt for not allowing management access to his unit. The condo association by-laws have a limit of 2 cats per unit allowed. Mr. Faria has a two bedroom unit with eight cats. Mr. Faria, upon stating he refuses to give up any of his cats, left the meeting. The surrounding units are complaining of ammonia/cat smell emanating up through their units.

Dr. Miller suggests another attempt be made at direct discussions with Michael Faria and Nancy Jean to resolve the issue before bringing criminal charges.

Timothy O'Connell, Town of Barnstable Health Inspector, agreed to give one more try for a direct conversation. If no cooperation, the Board of Health will pursue on a criminal basis. The Board of Health agrees to work with with the condominium association as much as possible within its jurisdiction.

A motion was duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to have another attempt made to resolve the situation with one more direct discussion. (Unanimously voted in favor.)

B. Ronald Bourgeois, owner of rental at 94C Sea Street, Hyannis - no oven provided.

Margaret Bourgeois was present and explained she does have a convection/microwave oven which meets the regulation.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted that this satisfies the requirement. (Unanimously voted in favor.)

- C. Donna and Jeff Weber, owners, 118 Scudder Avenue, Hyannis – owner requesting extension of deadline – no railings provided on deck.

Donna and Jeff Weber do not want to encourage the tenants to use the upstairs as a deck and asked as a resolution, if they can have the upstairs door dead-bolted instead of building a deck with railings.

The Board explained there may be two choices. One is to remove the door. Another may be to box the door in provided the Building Department permits this.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant an extension of 60 Days. They will check with the Building Dept. on boxing it in. (Unanimously voted in favor.)

- D. Fornanda McCarthy and Marci Macedo, 11 Alicia Road, Hyannis – owner requesting hearing – removal of two bedrooms in basement.

The Health Division received a complaint at this property for overcrowding. There were five bedrooms and the septic was only built for three bedrooms. The applicant said no one is using the basement area for bedrooms.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board agreed to give a 60 day extension and required the doorway of the former two bedrooms in the basement have the doorway increased to four feet.

- E. Michael Schulz representing Robert Spenlinhauer - 828 Sea View Avenue, Osterville – requested hearing regarding housing-parking.

Neighbor, Paul Kanif, 165 Bayberry Way, Osterville stated there are too many cars at night at the property including two mobile homes, and asks the town to enforce their parking ordinance. The home is only suppose to have two people per bedroom. Mr. Kanif finds it unsightly and says at least one of the mobile homes is plugged in with the air conditioner running all day long leading him to question whether someone is living in it. The owner stated no one is living in it.

Upon a motion by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to: (1) refer this to Town Council requesting an official letter from the Town Council stating whether the parking ordinance applies to private residence (non-rental) for parking, and (2) the Board will issue a fine for non-compliance of the ordinance at this time. Unanimously voted in favor.

III. Continued Items from Previous Meeting:

- A. John Hopkins, representing Kathleen Pouse, 22 Marion Way, Osterville, status of housing compliance (continued from Apr 2007 BOH meeting).

Mike from John Hopkins office represented the owner.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board held to their prior decision that the property is limited to a three bedroom due to the 330 rule and the fourth bedroom must be removed. The Board will advise the Town Attorney to consider this violation in addition to the current court hearing on this property with the Building Division.

- B. Charles Sabatt, Attorney, representing Hyannis Public Library, update on status of underground fuel storage tank (continued from Mar 2007 BOH meeting).

Mr. Sabatt has a court date today and was unable to appear. Mr. McKean will contact him for the update.

- Postponed To Aug 21, 2007 Meeting** C. David Dumont, Island Merchant, 302 Main Street, Hyannis – food establishment with grease trap variance, update to Board on three months tests wastewater entering and exiting grease recovery device (continued from Feb 2007 BOH meeting).

- Continued To Aug 21, 2007 Meeting** D. Catherine Morey, Coastal Engineering Company, representing Silvia & Silvia, 116 Scudder Avenue, Barnstable, 1.3 acre lot - Proposed house addition, five variances continued from Jun meeting).

IV. Septic Variances (New):

- A. Sarah Ojala, Down Cape Engineering, representing Joan Terkelson, 34 Swallow Hill Road, Barnstable, 30,434 square feet lot, repair of failed septic system, two variances.

Down Cape Engineering represented the owner. This is a three bedroom house outside of the zone of contribution. The existing system was installed in 1978. The engineers are not putting the system out front as there is too much of a slope and a number of installers have agreed.

The Board would like to see the 1978 permit. There are three wetlands on the property. The big issue is not to have any increase in flow. If the original permit shows it was permitted for three bedroom, the Board will approve the plan.

Down Cape is willing to do a two-bedroom deed restriction if the original permit shows only two bedrooms. However, if the original is only for two bedrooms, they will need to come back before the Board.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan with the condition that the original permit is for three

bedrooms. If it is a two bedroom, they must come back to the Board. (Unanimously voted in favor.)

Postponed To Aug 21, 2007 Meeting B. Peter McEntee, P.E., representing Thomas Capizzi, Jr., Trustee, Centerville, LLC, 1084 Craigville Beach Rd, Centerville, 5,080 square feet parcel, repair of septic system, eight variances requested.

C. Joe Henderson, P.E., representing Jerome and Marlene Goldstein – 199 Meadow Lane, W. Barnstable, 1.38 acre lot, addition to house, increase from four to six bedrooms, two variances.

Joe Henderson presented the plan for the owner.

The Board had difficulty in making a determination to approve an increase in flow and, in addition, it has a well on the property. The Board requested to see the 1993 septic permit as additional documentation. The archives will be searched.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to the August 21, 2007, to access further documentation. (Unanimously voted in favor.)

D. Stephen Wilson, P.E., Baxter Nye Engineering, representing Daniel and Lisa Gorin, 420 Bay Lane, Centerville, 3.5 acre lot - house renovation, two variances requested.

Stephen Wilson represented the owner and presented the plan which remodels the home from a five-bedroom to a four-bedroom home.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the four-bedroom plan. (Unanimously voted in favor.) The reserve area will be identified.

V. Six Bedrooms or More:

A. Sullivan Engineering representing Corey and Deirdre Griffin, owners - 371 Wianno Avenue, Osterville, three buildings, eight bedrooms.

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

ADDED TO AGENDA

B. Stephen Wilson, Baxter Nye Engineering, 44 Quail Road, Osterville, 2.3 acre lot, six bedrooms, no variances.

Stephen Wilson presented the plan which Conservation has already approved. It is new construction on 2.3 acres with just short of 1.0 acre of upland.

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

VI. Food Establishment Variance:

- A. Mark Marion, Osterville Sundae News, 3 Wianno Avenue, Osterville – new owner requests toilet facility variance.

They will be installing touchless faucets before December 31, 2007.

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

- B. Micah Power, The Black Spot Café Bar, 10 Ocean Street, Hyannis, grease trap variance.

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

- C. Charles Allen and Robin Pulsifer, Sepia, 619 Main St, Unit#2, Centerville three variances: toilet facility, grease trap, and 3-bay sink.

Robin Pulsifer explained the product comes in a can. There is no preparation. They are interested in heating it up and dispensing as a drink. The Board explained that if the drink is prepared directly into a disposable cup instead of in a pot, it is less of an issue. In a pot, if there is anything left over, it needs to be discarded and there is a lot of fats in the chocolate.

A complete floor plan is required so they can view it and make sure that there is a hand wash sink close by.

Upon a motion by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a continuance to the August 21, 2007 meeting. (Unanimously voted in favor.)

VII. Body Art Applicant:

- A. Steven Von Staats, Hopewell Lane, Cotuit, MA.

Steven's school transcript showing the Anatomy course did not arrive in time for the meeting. All other paperwork is in order and Steven had excellent references.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Steven Von Staats for a Body Artist Permit once the official school transcript is received. (Unanimously voted in favor.)

- B. Michelle Dugan, Nonantum Lane, Chatham, MA.

All paperwork was in order and Michelle had excellent references.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Michelle Dugan for a Body Artist Permit. (Unanimously voted in favor.)

VIII. Lifeguard Modification Applicant:

Narendra Patel, Budget Host Inn, 614 Route 132, Hyannis, MA - new owner.

All paperwork was in order.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the new owner at the Budget Hotel Inn for a lifeguard modification variance. (Unanimously voted in favor.)

IX. Massage Therapist Applicant:

A. Leslie Lee Cazamira, Sunset Lane, Barnstable, MA

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

B. Sarah Bird, Lovell's Lane, Marstons Mills, MA

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

C. Deborah Jones Fawcett, Ocean Street, Hyannis, MA

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

X. Correspondence:

A.M. Wilson Associates- regarding update on 765 Santuit Road, Cotuit, tight tank.

Arlene Wilson was present and explained she spoke with Brian Dudley, DEP, a number of times regarding the tight-tank which the Board of Health required. She feels they are going in circles. Brian Dudley prefers a non-tight tank system, however, that proposed system is four to five times more expensive and the Conservation Division will have a very hard time approving it. Mr. Dudley is suggesting a system 4 feet from ground water and less than 50 feet is available to the pond; distant to the wetland is 30 feet. The containment wall would be 3 ½ feet higher than house.

The Board recommends the first step would be for Ms. Wilson to apply to the DEP to overrule Mr. Dudley's decision. If she loses the appeal, then the Board will review Brian Dudley's plans and they would ask Mr. Dudley to attend that Board meeting.

XI. Old Business/New Business:

A. Touchless Faucets – request from Cynthia Cole to appeal regulation.

Informal Discussion Continued: Cynthia Cole researched the Board of State Plumbers and Gas Fitters. She couldn't find any proof that any touchless retrofit faucets are approved yet.

In summary of the meeting they had – concerns were expressed of the expensive and no other municipality has required it yet. European Union is phasing it in over the next couple years. Studies show the faucet handles have three times more bacteria count than items such as door handles. The water savings would pay for the faucets in three years. Dr. Miller has been told the battery operated ones are acceptable and are much cheaper than hard wired, noting however, that if the water pressure is not strong enough, there will be an issue.

Cynthia is going to try to coordinate it for off-season and work out a group rate.

It was also pointed out that according to servsafe, the hand washing water to be used in food prep areas need to be 110 degrees and it is questioned whether the faucets interfere with the temperature at times. Ms. Cole had heard the faucets are a maintenance problem. The Board referred her to the Cape Cod Mall which has many touchless and they have stated they do not have any problem with it. Ms. Cole will do more homework and Dr. Miller will speak to the plumbing inspector and gather more information as well.

As this issue is being explored, the Board is willing to delay the instituting of the regulation. They began this open discussion April 2007 and four months have past. The regulation at this point can be delayed four months from Dec 2007.

Upon a motion duly made by the Board, the Board voted to have a six month moratorium on the touchless faucets in restrooms and kitchen prep area (new deadline is Jun 30, 2008). All new owners and new construction need to put them in by December 31, 2007. Letters will be sent notifying the restaurants.

B. Update - percolation tests.

Voted to Adjourn.