



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

Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



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

BOARD OF HEALTH MEETING MINUTES Tuesday, February 19, 2008 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 February 19, 2008. 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. HEARINGS:

A. Proposal to regulate high liquid levels in leaching pits.

Mr. Thomas McKean read the proposed regulation. It was clarified that the proposal will not include the 500 gallon tanks nor the infiltrators.

Dr. Miller suggested we approve the regulation and if we want to add additional SAS systems later to the requirement, we will be able to do it.

David Coughanowr asked the Board to clarify whether they are in agreement that if the top cover of tank shows the level had reached that high at an earlier time, it would qualify as failed. The Board acknowledged that they would interpret it as failed.

Also, David Coughanowr asked the Board to consider forbidding cement block septic systems due to the hazard of the collapsing of old systems. When they are full and you can not see the bad wear, they may collapse, i.e., with anyone driving near it. The Board responded that they would take this into consideration.

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

B. Proposal requiring applicants to file revised plans a minimum of ten days prior to scheduled hearing.

Mr. McKean read the proposal which would change the regulation from two days to ten days.

Upon a motion duly made by Dr. Canniff, and seconded by Mr. Sawayanagi, the Board voted to add in the new regulation that revised plans and paperwork for

the Board must be submitted a minimum of ten (10) calendar days prior to the meetings, and voted to approve the revised regulation. (Unanimously voted in favor.)

II. Show- Cause Hearing – Housing (New):

Marilyn Higgins and Cindy Gold at 92 County Seat, Hyannis – Housing violations.

No one was present from the property. Also, the complainant was not present.

Tim O'Connell, Health Inspector, spoke regarding his inspections at the property. There is an issue of potential rodent attraction and issues with safety egress into and out of the property from the back leading to a fire hazard.

Tim O'Connell spoke of how a number of properties are appearing on his inspections that are owned by people who have left town or the bank may now own the property but no apparent contact is available for the out-of-town banks, etc.

Dr. Miller suggested the property owner be given notice to clean it up with a deadline of March 1, 2008, and if it is not cleaned up, the Board use the hazardous abatement fund to clean it up. To bring the property owners to court may result in numerous years of litigation before a resolution is reached.

Janet Police spoke to the Board and suggested the inspector file a complainant to Elderly Services. They provide a service to research the problem and pay for the possible cleanup. This would eliminate the possibility of legal issues for the Board of discarding items the owner does not want discarded.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to have the Health Inspector (1) contact the owner of a deadline of March 1, 2008, to clean up the property, (2) contact Elder Services to learn of the possible services available in this regard, and (3) if it is not cleaned up by March 1, 2008, use the hazardous abatement fund to clean it up. (Unanimously voted in favor.)

III. Septic Variances (Cont.):

A. David Coughanowr representing William Gordon – 62 Point of Pines Avenue, Centerville, 9,930 square feet lot, requesting two variances for repair septic system (continued from Jan 2008 BOH)

David Coughanowr presented the proposal of the tight tank. It would be six feet above the ground.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve with the following conditions: (1) submit a three-bedroom deed restriction to the Registry of Deeds, (2) file a proper copy of the Deed Restriction to the Board of Health, (3) provide a Service Contract with the Hauler, and (4) submit the Operative Plan of the Maintenance. (Unanimously voted in favor.)

WITHDRAWN B. David Dadmun representing Karen and William Butler, owners - 465 Craigville Beach Rd, Hyannis, 15,000 square feet parcel, house addition, request for one variance (continued from Jan 2008 BOH)

C. Arthur Pacheco representing Janet Police, owner – 120 Third Avenue, Hyannis, 0.09 acre parcel, addition of a sunroom and a bulkhead to access basement, one variance requested (continued from Jan 2008 BOH).

The Board agreed to hear the above item as the applicant misunderstood the requirement of needing the information submitted prior to the meeting.

Arthur Pacheco and Janet Police were present. They submitted the floor plan which was reviewed by the Board to see whether any other options were available for the project.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan submitted at the January Board meeting with the following condition: (1) a liner will be used. (Unanimously voted in favor.)

D. Dan Ojala, P.E., Down Cape Engineering, representing George and Alice Fardy, Trustees for Ocean View Motel – 966 Craigville Beach Road, Centerville, 0.13 acre lot, four variances requested, repair of septic system (continued from Jan 2008 BOH).

Dan Ojala presented the I/A system.

The question was brought up of whether this property is planning to change to a 10 unit condominium, and if so, would this septic plan be appropriate for the use. Mr. Ojala expressed that the owner is not planning to do that, a potential buyer had brought that up but the current owner wants to repair the system which they understand to be failing. A septic inspector has not officially done a failed inspection.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan submitted at the January Board meeting with the following condition: (1) a 10-Bedroom Deed Restriction be recorded at the Registry of Deeds, (2) a proper copy be submitted to the Public Health Division, and (3) a two-year monitoring plan be submitted. (Unanimously voted in favor.)

*Dan Ojala asked that the Conservation Board be emailed prior to tonight's meeting with the results of our Board.

IV. Septic Variances (New):

A. Peter McEntee, Engineering Works, representing Paul Soares, owner – 25 Blantyre Avenue, Centerville, 20,000 square feet parcel, emergency repair of septic with one setback variance.

Peter McEntee presented the plan. Dr. Canniff asked why they did not replace it two years ago. Mr. McEntee explained two years ago the system was not in failure. The owner had submitted a variance request two years ago because they were hoping to complete the project at the same time as another project. That did not work out and it was not in failure. It is now in failure and is an emergency repair.

The percolation information will be confirmed at the time of inspection. The basement is a walk-out basement so there is not a pump chamber in basement. There are four septic systems and the engineer ensured they will address all of them.

The neighbor, Joey Ifate, discussed that there is a drainage problem on the left side. He had thought that is why the prior proposal was abandoned. This is a concern for him and he is hoping the Board is able to discuss the issue to avoid it going back to the Conservation Board. He does not have an issue with the septic itself and he does believe it will be an improvement.

The Board explained the drainage problem on the property is not in the realm of the Board of Health's jurisdiction.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve with the following conditions: (1) a three-bedroom Deed Restriction will be allowed to be done after the installation yet, before the Compliance will be issued as this is an emergency. (Unanimously voted in favor.)

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POSTPONED B. Whitney Wright, owner – 4308 Main Street,
To MARCH 11, 2008 Barnstable, 145,800 square feet parcel, one variance.

Dr. Canniff noted that the applicant's paperwork has the incorrect map and parcel. It should be 351-029.

V. Six or More Bedrooms (Cont.):

NEED Parking Information Darren Meyer representing Jamison DaSilva, owner – 47 Suffolk Avenue, Hyannis, 11,000 square feet parcel (continued from Jan 2008 BOH).

Darren Meyer said in order to accommodate for parking, they are willing to move whatever is necessary. The parking area of five spaces, 9 feet by 12 feet deep. Mr. McKean explained the parking here would be greater than 25% of the yard. The Board felt the 9x12 size appears too small for a standard car, thus, in actuality the parking will be greater for the five vehicles.

The owner is applying for the amnesty program.

The property is not large enough to accommodate 7 vehicles (the current parking regulation allows two cars for the first bedroom and one car for each of the others.)

Mr. Arch of Arch Construction, the installer, stated he believed the house was built as a four-bedroom house. The system is in hydraulic failure. Provided they are pumping, the Board is willing to give them an extension as long as they continue to pump it.

The neighbor, Ellie Kenney, spoke and she is in agreement with the letter submitted. She believes it is a rental property and believes they have done work illegally in the night including dumping gravel.

The hydraulic failure of septic normally would be required to be repaired within 60 days. The Board gave consideration to an additional 60 days.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to extend the required time frame by 60 more days for a total of 120 days with the following conditions: (1) the Board requested the owner be present at the March meeting (so the Board can ask him the intentions of renting only to family - mother-in-law and aunt.), (2) notification from the Amnesty program of whether or not it is approved, (3) site inspection from a health inspector to see if any seepage above ground, and (4) the building department's notes/reports on their regular inspections completed that no one is living in the basement. (Unanimously voted in favor.)

VI. Correspondence:

Letter from William and Myrna Elkins regarding 47 Suffolk Avenue, Hyannis.

January 11, 2008, letter from Mr. and Mrs. Elkins explained the building was a three bedroom until the new owner, Mr. DaSilva.

VII. Six or More Bedrooms (New):

A. Stephen Wilson, Baxter Nye Engineering, representing J. Brian O'Neill, owner – 85 Ocean Avenue, Hyannis, 1.3 acre lot.

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

B. Sullivan Engineering representing Richard Bond – 80 Edgehill Rd, Hyannis, 26,700 square feet parcel, house addition, 9 bedrooms.

Sullivan Engineering presented the plan. The property is not in the Zone of Contribution.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the plan for a nine bedroom. (Two voted in favor. Dr. Canniff abstained from voting.)

VIII. Nitrogen Aggregation Plan (Cont.):

PROJECT Matthew Eddy, Baxter Nye Engineering & Surveying, representing
CANCELLED James Murphy, owner – 34 Ost-W. Barnstable Road, Map and Parcel 120-046-001, Osterville, obtaining “credit land” at 1322 Main Street, Map and Parcel 2119-079, Osterville (continued from Jan 2008 BOH).

IX. Variance – Food (New):

Ed Pesce representing Allen Sylvester, American Tent – 381 Old Falmouth Road, Unit#41, Marstons Mills, variance for grease trap.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the use of a grease recovery device (G.R.D.) with the contingency that: (1) the engineering plans' calculations for the entire building's septic system at 381 Old Falmouth Rd, are under 3,400 gallons, (2) the testing of the GRD will be done for three months: May, Jun, and Jul 2008, and (3) a daily log of grease removal will be maintained. (Unanimously voted in favor.)

X. Subdivision # 817 - Definitive Plan:

POSTPONE to MARCH 2008 Cape & Islands Engineering representing Peter Jenkins, Jr., Definitive Plan at 361 Parker Road, West Barnstable, Map and Parcel 176-021, private wells, on-site sewerage disposal system, continued from Oct 2007 meeting (Postponed from Jan 2008 BOH.)

XI. Correspondence:

Letter from A.M. Wilson Assoc. regarding proposed Subdivision# 817.

XII. Old Business/New Business/Correspondence:

A. Joseph Dunn, Island Merchant and Jeff Horn, Big Dipper, regarding grease recovery device and testing.

Joseph Dunn was not present. Jeff Horn of Big Dipper explained a spout must be installed on the machine for proper testing. He recommends a daily log of grease removal be maintained.

Upon a motion duly made by Dr. Canniff and seconded by Mr. Sawayanagi, the Board voted to Continue to the March 11 meeting requesting the presence of Joseph Dunn. The Board will be looking for: (1) Mr. Dunn's assurance that problem is being taken care of, (2) a maintenance log must be maintained, and (3) at least one good test be done. (Unanimously voted in favor.)

POSTPONE To MARCH 2008 B. Ed Pesce, Pesce Engineering, and John Kenney, Attorney, representing 381 Old Falmouth Road, Marstons Mills –septic system discussion regarding failure (continued from BOH Jan. and June 2007, and Jan 2008).

C. Commonwealth of Massachusetts letter regarding Massage Therapy.

A letter was read from the Commonwealth of MA stating the Massage Therapy licensing will be handled by the state from this point forward.

D. Craig Short, Engineer, response on 373 Scudder Avenue, Hyannis

Letter read.

XIII. Updates:

A. Cynthia Cole- continued discussion of touchless faucets.

Cynthia Cole proposed that the Board eliminate the requirement of the touchless faucets in any bathrooms. She also proposes extending it out as far as the Board will allow, i.e., July 2008 or Dec 2008.

The Board proposed using a deadline of Dec 31, 2008, to require all hand wash sinks in existing food establishment kitchens to have hands-free faucets in them (touchless or knee operated) and all "bathrooms for employees use only" would have to be touchless faucets and the Deadline for both will be December 31, 2008. A full mailing must go out to all food establishments to notify them it has been moved from June 30, 2008 to December 31, 2008. It will remain that all new owners and new establishments will have touchless faucets in all areas.

Mr. Sawayanagi questioned whether the proposal will create the desired results. The Board will continue evaluating both sides of the proposal.

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

ADJOURNED –OPEN SESSION.

A proposal was made to end Open Session and to move to go into Executive Session at another location to discuss strategy with respect to litigation and to not return to open session. Roll call- each voted in agreement.

XIV. Executive Session.

ADJOURNED.