



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, April 14, 2009 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 April 14, 2009. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending was Junichi Sawayanagi. Paul Canniff, D.M.D. was unable to attend. Thomas McKean, Director of Public Health, and Sharon Crocker, Division Assistant, were also present.

I. Show-Cause Hearing:

Marilyn Higgins and Cindy Gold at 92 County Seat, Hyannis – Refuse Violations.

II. Hearing: Septic:

A. Ronald Mycock, Mycock Real Estate, representing Diane Roper, owner - 41 Shell Lane, Cotuit, requesting extension of septic repair deadline.

Ron Mycock represented the owner. The house is for sale and no one has lived there since last August 2008. They request an extension until a sale and will not have any occupants live in it. Currently, no furniture is in the house.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the extension for one year or 90 Days after the sale of the house whichever is sooner with the following condition: 1) no one shall occupy the house until the septic system is repaired and, 2) the owner's agent will make sure the septic system area is safe and secured from anyone falling in.
(Unanimously, voted in favor.)

**POSTPONED
UNTIL
MAY 12, 2009**

B. Michael Picard, owner – 288 South Main St, Centerville, requesting extension of septic repair deadline to March 14, 2010.

Dr. Miller asked Mr. McKean for the date of the original flooding. Original flooding was in Nov 2005 and there have not been any occupancy there since. The item

will be continued until May 12, 2009 and the Board will require no occupancy continue if the extension is granted.

III. Hearing – Housing:

Deborah and Ralph Krau, owners – 312 Compass Circle, Hyannis, -housing violation, bedroom count.

Mr. and Mrs. Krau were present and reviewed the fact that they have followed our rental policies and limited the lease to five people.

In 2008, the rental certificate stated it as a three bedroom and may have five adults in it. The issue is that the design of the house has an office which qualifies as a fourth bedroom. The basement has a bedroom and there are two bedrooms and an office on the top level.

They have two options: 1) to extend the doorway to 4 feet in the office, or 2) to put a three-bedroom dead restriction. The Board and the owners can not prevent the occupants from actually sleeping there. However, the deed restriction will allow the Board and owners to be covered in meeting regulations.

The owners will respond to the Health Division on their desired choice.

IV. Septic Variance (Cont.):

- A. Michael Ford representing Michael and Gisa Belanger, owner – 100 Cross Street, Cotuit, Map/Parcel 033-032, 0.9 acre lot, four (4) variances for repair (continued from Oct and Dec 2008)

Mr. Ford presented the plans. The Board had indicated that they needed more information on how the three bedrooms were arrived at.

Mr. Ford provided an affidavit from the owners stating they purchased the house in 1978. Prior to their acquisition, he had pictures showing windows existed in late 1977. In 1978, they made repairs to sea wall. And took out a building permit to do sill work and they did work on the three bedrooms (2 down and 1 up). Downstairs bedrooms used for children and parents used upstairs bedroom. Once children went to college, they rented it out as a three bedroom. They did obtain the necessary housing registration certificates. There was never a problem presented in the size of bedrooms or anything else through this time. The town is no longer interested in acquiring the property as they had been considering.

Dr. Miller stated that the only paperwork available is the paperwork from the Building Department in ? 1976 which mentioned that there were 2 rooms (2 bedrooms are not mentioned) and it only calls for a repair of sills.

Mr. Ford stated this is a 40,000 square feet lot and it leads us to believe it was intended to say “bed” rooms. This property is used year-round. Dr. Miller stated there are major

setbacks to wetlands areas. The Board will speak to the town attorney as to the use of an affidavit for the historical base.

Mr. Peter Sullivan presented information on the groundwater of the property. There is a tidal pond which is also surrounded by BVW.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to Continue until the May 12, 2009 Board of Health Meeting. (Unanimously voted in favor.)

- B. Brian Grady, GAF Engineering, representing Joan Remmes-Foy, owner - 536 Shootflying Hill Road, Centerville, Map/Parcel 193-029, 17,420 square foot lot, four (4) variances requested on failed system, revised plan from the approved Feb 2009 plan.

Brian Grady presented the revised plan. There is a slight difference in the tanks as the new one is a shallower tank. Mr. McKean did not have any issues with the plan.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the revised plan signed and dated 3/26/09—with the following conditions: 1) a properly recorded three-bedroom Deed Restriction, and 2) a copy of the deed restriction will be supplied to the Public Health Division. (Unanimously, voted in favor.)

V. Septic Variance (New):

- A. Stephen Wilson, Baxter Nye Engineering, representing Pittsburgh National Bank, owner – 129 Island Avenue, Hyannis, Map/Parcel 265-018-002, 9,080 square feet lot, repair of failed septic system, setback variance to coastal bank.

Stephen Wilson presented the new plan. The new plan has 1) removed the garbage disposal, 2) leach field measurement has been adjusted, 3) a riser was put on the D-Box, 4) the D-Box is 97 feet from the seawall in lieu of 100 feet, thus the variance for this was added, and 5) a locust map was added.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the revised plan dated 4/14/09 with the following conditions: 1) a properly recorded 2-Bedroom Deed Restriction, and 2) supply the Public Health Division with a proper copy of the Deed Restriction. (Unanimously, voted in favor.)

- B. Dan Speakman representing Robert Booth and Trina Francesconi, owners – 30 Skating Rink Road, Hyannis, Map/Parcel 291-119, 0.29 acre parcel, three (3) variances for repair of septic system.

Dan Speakman presented the plan. He recently received the checklist for submitting plans and reviewed the checklist notes with the Board. The dwelling is currently a 2-bedroom and there is no increase in flow submitted. One item on the checklist which the Board will have Brian Dudley clarify what constitutes a vent needed, along with

which measurement of incline is used (ie, average, maximum or minimum.) Is the measurement started at the top of peat stone? Or at top of invert?

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the plan dated March 22, 2009 pending clarification from DEP of the need to vent the system, with the following conditions: 1) a 2-Bedroom Deed Restriction properly recorded, and 2) a copy be furnished to the Public Health Division. (Unanimously voted in favor.) (4/16/09 Mr. Speakman stated he will be installing a vent.)

- C. Down Cape Engineering representing Carl and Stephen Syriala, owners – 1630 Main Street, West Barnstable, Map/Parcel 197-024, 0.88 acre lot, 4 setback variances for repair of system.

Dan Ojala was present and reviewed the submitted plan.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the plan dated 4/14/09 with the following conditions: 1) a three-bedroom deed restriction properly recorded, and 2) a proper copy of the deed restriction supplied to the Public Health Division. (Unanimously, voted in favor.)

VI. Variance – Food (New):

- A. Paulo Brandao Santos for PSPJ Ebenezer, 459 Main Street, Hyannis, new owner, grease trap variance.

Mr. Paulo Brandao Santos was present.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the grease trap variance for the same number of seats as prior owner, with the following condition: will use all disposable paper goods. (Unanimously voted in favor.)

- B. Peter Scalata and William Achion, The Coffee Table Cafe, 230A Ocean Street, Hyannis, increase in seating proposed, only three bathrooms provided.

Mr. Scalata and Mr. Achion were present. They stated that currently they use 100% paper and plastic. They do not use glass dishes.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve 20 additional seats with the following condition: 1) Hyline is willing to present the Board with a letter stating patrons of the Raw Bar/Coffee Table building will be allowed to use the bathroom facilities in Hyline's main building (at least two bathrooms may be used), 2) the Coffee Table Café's restrooms in their building must have proper signage informing patrons that additional restrooms are available at HyLine's main building. (Raw Bar will

remain at 59 seats and the Coffee Table Café will have 40 seats.), and 3) continue with the condition from the variance issued 4/8/08 requiring the Raw Bar and the outside dining area must be separated by proper screening to prevent the entrance of insects and rodents. (Unanimously, voted in favor.)

VII. Discussion:

George "Skip" Simpson, Anchor-in, One South Street, Hyannis – discussion of qualified swimmers and lifeguard coverage at pools.

Skip Simpson spoke of the current status that other neighboring towns do not require lifeguard and/or qualified swimmers at all times. In the last 12 years, there have not been any drownings in any pools here and he proposed revisiting the requirements for pool supervision.

The Town of Barnstable did experience drowning. Ideas passed around were that ...there must be a person on the property who has CPR training, signage .."swimming at your own risk" should be present, no swimming alone, the pool door can have a noise installed to go off once someone opens the door so all in vicinity are aware someone is entering the pool area. The area must be secured. No children alone. The Board is willing to research the other towns in the area and will Continue to the May 12, 2009 Board of Health meeting for a decision before the summer season.

VIII. Old Business/New Business:

A. Continental Breakfast at Motels and Hotels.

Dr. Miller feels strongly in wanting to continue to restrict the foods. No eggs, pancakes, etc.

Mr. McKean will write up a policy to allow Motels and Hotels included in the regulation for continental breakfasts.

B. H2O Loading of Chambers and Distribution Boxes Under Driveways.

Dr. Miller believes the Board would want H2O under driveways. It must come before the Board for a variance. If there is an H2O component under the driveway which has never come before the Board to obtain a variance, then it must come before the Board for a variance.

During an inspection, this situation came up and the inspector was unsure on our town's ruling. The answer was determined that yes, if there is a component under the driveway, it would be a failed system for a real estate transfer until it applied for a variance and was granted.

C. Impervious Liners versus Spray Applied to Foundation.

More information must be gathered before the spray would be approved.

D. Farmers Market - State had prohibited selling raw shellfish in bulk but will now allow a temporary food permit.

The Board will allow the above food proposed to be sold at the farmers market will a temporary food permit. If it becomes a time-consuming task to check all the proper tags, etc, the Board may increase the fee for it.

Motion to adjourn 5:15pm.