



# Town of Barnstable

## Board of Health

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### BOARD OF HEALTH MEETING MINUTES

**Tuesday, October 9, 2012 at 3:00 PM**  
**Town Hall, Hearing Room, 2<sup>ND</sup> Floor**  
**367 Main Street, Hyannis, MA**

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, October 9, 2012. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul J. Canniff, D.M.D and Junichi Sawayanagi. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

**I. Clarification of Bedroom Count, Interpretation of Disposal Works (Cont.)**  
**Construction Permit # 87-805:**

WITHDRAWN Sam Naoom, representing Georgia Marmanidis – 9 Beth Lane, Hyannis, Map/Parcel 273-199, 16,651 square feet parcel, number of bedrooms.

**II. Variance – Body Art:**

Mark Corliss, owner, Spilt Milk Gallery, is requesting transfer of apprenticeship for Maria Ires Todd from Black Pearl Tattoo to Spilt Milk Gallery.

Mr. McKean stated the applicant has fulfilled the requirements for the apprenticeship including the Quincy Skin Course.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve Maria Ires Todd as an apprentice to Mark Corliss, Spilt Milk Gallery. (Unanimously, voted in favor.)

**III. Variance – Septic (Cont.):**

A. Matthew Eddy, Baxter Nye Engineering, representing Barbara Rosiello, owner – 60 Winfield Lane, Osterville, Map/Parcel 116-101, 1.05 acre parcel, multiple variances, house renovations, failed septic

Matt Eddy said the owner has agreed to move both the shed and the car-port. The revised plan now has the soil absorption system 71 feet from the bordering vegetative wetlands.

Mr. McKean said the staff did not have any further comments. They were happy with the revised plan.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan dated August 6, 2012 and revised September 14, 2012, with the following conditions: 1) a four bedroom deed restriction will be recorded at the Barnstable County Registry of Deeds, and 2) a proper copy of the deed restriction will be submitted to the Barnstable Public Health Division. (Unanimously, voted in favor.)

- B. Matthew Eddy, Baxter Nye Engineering, representing Joyce Angelo, owner – 280 Long Beach Rd, Centerville, Map/Parcel 185-026, 7,038 square feet parcel, requesting multiple variances.

Matthew Eddy was present and explained his calculations for the Recirculating Sand Filter (RSF) System. He, then, presented the Advantex AX20 which works similar to the RSF and which DEP has also approved. Mr. Eddy feels the Advantex AX20 is better for this location and would work better at removing the nitrogen.

The plan would have a septic tank, then a metered pump “filtering pod”. The footprint of the system is very compact and the system can blend in with the landscape better than the RSF. They are also proposing installing a UV Disinfection System which removed 99.9% of fecal coliform. Matt also met with Brian Dudley. Brian said this system actually removes all the virus concerns Dr. Miller had expressed.

Dr. Miller mentioned that we now have George Heufelder at the County with independent work on the I/A systems showing us that the numbers are good ones. We did not have this reassurance in the past.

Mr. McKean and Dr. Miller both expressed that they are not happy the system needs to be above ground. Dr. Canniff said he attended the Silent Springs seminar last week and it further convinced him to stick to the standard setbacks the Board has been using.

Mr. Sawayanagi said he likes the possibility of the new system; however, is wondering if there may be a back-up established in the case of the numbers being incorrect.

The Board would like more time to review. Dr. Miller does like the numbers in the proposal and he agrees that it should be more about the numbers the various systems can handle, rather than the actual distances from wetlands.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to continue to the November 13, 2012, Board meeting. (Unanimously, voted in favor.)

- C. Glen Harrington representing 1892 Investments, LLC, owner – 455 Bridge Street, Osterville, Map/Parcel 072-035, 1.79 acre lot, three variances requested to repair failed septic system.

Glen said the current house is listed as a 5 bedroom because there is one bedroom over the garage and three in the main house, in addition to a den. The owner would like to install a four bedroom system with a deed restriction stating the den will not be used as a bedroom.

The Board noted that the variance requested is a setback to a bordering vegetated wetland (BVW) and stated this should be changed to say a setback variance from coastal bank.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan submitted with the following conditions: 1) the setback variance to a bordering vegetated wetland is re-worded to say a setback to coastal bank, 2) record a four-bedroom deed restriction - including a sentence stating the den will not be used as a bedroom - at the Barnstable County Registry of Deeds, and 3) a proper copy of the deed restriction be submitted to the Barnstable Public Health Division. (Unanimously, voted in favor.)

**IV. Variance – Septic (New):**

- A. Darren Meyer, Meyer & Sons, representing Judith Savery, owner – 490 Putnam Avenue, Cotuit, Map/Parcel 038-021, 24,975 square feet parcel, multiple variances for setback to wetlands due to limited lot size.

Darren Meyer presented his plan. There are currently two septic systems at the location. His plan is to replace them with a Microfast System.

Mr. McKean stated the staff did not have any issues.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve with the following conditions: 1) the installer will take out one abandonment permit which will spell out that both of the two septic systems will be abandoned with the permit, 2) a four-bedroom deed restriction will be recorded at the Barnstable County Registry of Deeds, 3) a proper copy of the deed restriction will be submitted at the Barnstable Public Health Division, and 4) a monitoring plan will be submitted which will have quarterly monitoring for the first year, and annual, thereafter, provided it is subject to meet the DEP approval letter requirements for the Microfast System. (Unanimously, voted in favor.)

POSTPONED  
UNTIL BOH  
NOV 13, 2012

- B. Steven J. Pizzuti, Esquire, and John Holmgren, J.K. Holmgren Engineering representing Cummaquid Golf Course, owner – 35 Marstons Lane, Barnstable Map/Parcel 350-001, 110.62 acre parcel, requesting Board support for a DEP appeal for a reduction in the design flow.

- B. Michael Pimentel, JC Engineering, and Richard Capen, Capewide Enterprises, representing David Jackson, Trustee of Jackson-Malden Realty Trust, owner – 85 and 95 Huckins Neck Road, Centerville, Map/Parcel 252-014 and -015, 2 lots totals 22,084 square feet.

Mike Pimentel presented his plan dated 9/18/12. Due to the steep incline, they also need approval on variances of the groundcover for the septic and the leaching. The pump chamber is H2O because there is more than three feet of soil resting on it due to the incline. The septic is under the paved walkway (not the driveway, itself). The walkway will have to be dug up. To eliminate any issues with driving over the system, the septic tank will also be H2O.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the septic plan dated 9/18/12 with the following conditions: 1) the septic tank will be H2O, 2) a four-bedroom deed restriction will be recorded at the Barnstable County Registry of Deeds, and 3) a proper copy of the deed restriction will be submitted to the Barnstable Public Health Division. (Unanimously, voted in favor.)

**V. I/A Monitoring Plan:**

Winston Steadman, All Cape Environmental Services, representing Thomas and Rosemary O’Keeffe, owners – 22 Clamshell Cove Road, Cotuit, Map/Parcel 006-009, requesting reduction in monitoring plan.

Winston Steadman was at the meeting earlier. He was not present at this time.

As the Board was interested to find out whether the property was seasonal and why only one test reached the target of BOD’s, they wanted to continue this item.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to the November 13, 2012, Board meeting.

**VI. Food Variance (New):**

POSTPONED UNTIL BOH NOV 13, 2012 Fablo Hauch and Cristiana Rezende, owners, Brazilian Grill Butchery – 674 Main Street, Hyannis, Map/Parcel 308-047, reduced-oxygen packaging method - specialized processing methods for packaging foods.

**VII. Subdivision#822 (Preliminary Plans):**

Dan Ojala, Down Cape Engineering representing Edith Frei and William Riley, owners, Preliminary Plans at 2519 Main Street, Barnstable, Map/ Parcel 257-010, on public water and possibly private wells, on-site sewerage disposal system and is not in a Groundwater Protection Overlay District.

Dan Ojala presented the Preliminary Plans for the Subdivision. He explained the intention is to have town water. The Subdivision entrance in on a state road which was just repaved. If they are not allowed to cut into the road for access to the public water, they would supply the Board of Health with a master plan showing the well and septic system locations. The Subdivision is surrounded by vacant land so they will only have to label the lots inside the Subdivision.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the preliminary plans. If public water is not available, as the

public well connection is under the road which Mass Highway just repaved, then they must come back to us with a master plan showing all the wells and septic systems for each lot prior to the Definitive approval. (Unanimously, voted in favor.)

**VIII. Old / New Business:**

POSTPONED TO: Nov. 13, 2012 A. Regulation Revised: Mobile Food Units,  
FOR FURTHER REVIEW BY LEGAL No. 2012-02

POSTPONED TO: Nov.13, 2012 B. Regulation Revised: Catering Requirements,  
FOR FURTHER REVIEW BY LEGAL No. 2012-003

C. Regulation Revised: Time as a Public Health Control (TPHC operations), No 2012-004.

Mr. Sawayanagi said there are three concerns regarding employees contact with food: chemical contamination, hygiene and bacteria. In the case with a person tossing a pizza, the regulations allow no gloves as the food will be cooked after the contact. Junichi brought up the fact that they may transfer a foreign object, etc., from their hands and embed it into the food.

The regulation was read into the minutes.

October 4, 2012

**Public and Environmental Health Program  
Policies, Procedures, and Guidelines**

**Time as a Public Health Control Variance Procedure**

**No. 2012-004**

This policy is relative to food establishments, in particular fast-food –type restaurants, which hold potentially hazardous food items, such as processed pasteurized cheese, sliced ham, pizza, etc. at room temperature for a period of time. In Massachusetts, food establishments must obtain a variance from the Board of Health prior to using time as a public health control (TPHC) in accordance with 105 CMR 590.004 (H) and the federal 1999 Food Code, section 3-501.19, which allows a four-hour time period. On October 19, 2007, the Director of the MA DPH Food Protection Program mailed a memorandum out to local health departments reminding each municipality to require each food establishment to request a variance. After hearing several cases at public Board meetings in Barnstable, the Board voted unanimously in favor in allowing it's agent and/or health inspectors the ability to grant TPHC variances. This procedure outlines the specific requirements for obtaining such a variance.

**TPHC VARIANCES FOR TIME PERIODS OF TWO HOURS OR LESS**

A TPHC variance may be granted by an agent of the Board of Health (it's Health Agent and/or a health inspector), only if the following procedures will be taken by the food establishment:

1) Written procedures shall be submitted for review by Public Health Division staff (Health Agent and/or a health inspector) prior to obtaining a TPHC field variance. A complete list of the affected foods (i.e. pizza, sliced ham) shall be clearly indicated on the written procedures. Once approved, the written procedures shall be maintained in the food establishment and made available to the Health Agent or health inspector upon request, that ensure compliance with 1

through 5 herein and with Section 3-501.14 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

- 2) The food shall be marked or otherwise identified to indicate the **discard time** that is 2 hours past the point in time when the food is removed from temperature control,
- 3) The food shall be cooked and served, served if READY-TO-EAT, or discarded, within 2 hours from the point of time when the food is removed from temperature control, and
- 4) Any food in unmarked containers or packages or marked to exceed a 2 hour limit shall be discarded.
- 5) The TPHC variance decision letter shall be posted adjacent to the food permit, in a location which is easily viewable by a health inspector during inspections.

#### **VERIFICATION**

During routine and unannounced inspections, the health inspector should verify the following:

- Written procedures are approved, maintained in the food establishment and available for review,
- Pre-requisites are met (i.e. compliance with 105 CMR 590.00 including use of calibrated thermometers),
- Monitoring procedures are used (i.e. food is marked to indicate the **discard time** limits)
- Food employers have knowledge of corrective actions,
- Evidence of employee training, and the
- Manager's records are available and accurate.

#### **REQUESTS FOR GREATER TIME PERIODS (GREATER THAN 2 HOURS)**

If a food establishment operator wishes to seek a TPHC variance for a longer time period (i.e. any period greater than two hours but for no more than four hours) the operator must first request a variance from the Board of Health. A variance request form shall be submitted along with the required fee of \$90.00. The applicant must attend the scheduled public meeting and obtain written permission from the Board before using time as a public health control.

#### **NON-COMPLIANCE**

If non-compliance with the approved written procedures is found, the health inspector should take corrective actions which may include up to suspending the TPHC operations immediately. If needed, the health inspector shall notify the Director of Public Health.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the Policy "Time as a Public Health Control Variance Procedure No. 2012-004. (Unanimously, voted in favor.)

#### **D. Regulation Revised: H-10 Components Discovered Beneath Parking Areas and Driveways during Septic Inspections, No. 2012-005**

Tom McKean said Brian Dudley recommended a policy allowing a conditional pass on the septic inspection with a 2 year limit to allow them time to relocation component or change it to H20. Brian also said it is the Board's choice - it does not have to be a requirement.

The Board felt it provides a clear guideline for all and provides protection to the owners.

The regulation was read into the minutes:

October 2, 2012

**Public and Environmental Health Program  
Policies, Procedures, and Guidelines**

**H-10 Components Discovered Beneath Parking Areas and Driveways During  
Septic System Inspections Conducted Under 310 CMR 15.301, State Environmental  
Code, Title 5 No. 2012-005**

When a DEP certified inspector discovers an H-10 septic system component located beneath a parking area or driveway during a septic system inspection, conducted under 310 CMR 15.301 State Environmental Code Title 5, the system shall be deemed as "conditionally passes." The system owner will then be ordered, by the Board of Health, to correct this problem within two (2) years and will be provided several options to rectify the issue, including by:

- a.) replacing the septic system component with a new component relocated into another area of land which is not beneath any parking area or driveway, and properly abandoning the discovered H-10 component, or by
- b.) replacing the septic system component with an H-20 component beneath the parking area or driveway, and properly abandoning the discovered H-10 component, or by
- c.) relocating the parking area or driveway in such a way that no vehicle will have access or the ability to drive over the existing H-10 septic system component.

If it is unknown whether or not a particular system component which is located beneath a parking area or driveway, is H-10 or H-20 (for example: a leaching pit is located beneath a paved driveway without an accessible steel cover to grade and there are no records on file indicating whether the system component is H-10 or H-20), the system shall also be deemed as "conditionally passes." In this case, the seller must make the potential buyer(s) aware of the "conditional passes" status, the unknown construction of the septic system component(s), and it's safety concerns.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the Policy H-10 Components Discovered Beneath Parking Areas and Driveways During Septic System Inspections Conducted Under 310 CMR 15.301, State Environmental Code, Title 5 No. 2012-005. (Unanimously, voted in favor.)

- E. Article by Edward J. Zimmer "Refresher Course: Prevention Rather Than Cure" regarding grease removal from grease interceptors.

It was mentioned that the article was written by the company of Thermoco.

Voted to Adjourn 4:20 pm.