



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, March 12, 2013 at 3:00 PM

Town Hall, Hearing Room, 2ND Floor

367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, March 12, 2013. 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.

Dr. Miller opened the meeting with some noteworthy items:

- An announcement will appear on the Town website within the next few days to inform the public of the 'point' person to the Stewart Creek Area sewer connections. Keep an eye open for the contact name and number.
- A correction – the funds through Growth Management for the Stewart Creek connections are through a loan program, not a grant as was mentioned by someone earlier.

I. **Variance – Septic (Cont.):**

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 (continued from February 2013).

Matthew Eddy and Joyce Angelo were present. On the last hearing, the Board continued this item to allow the staff to review the revisions submitted. Matthew said he has been working hard to respond to each of the comments staff has had. He has been given a new checklist of items recently which again will postpone the plans. Some of the lines pertain to the exhibit plan he had drawn to show the property can have a Title V system on it. This plan does not have any variances on it by design, yet, he is asked for a list of variances. There are other items listed which he has answers to now. Matthew understands it is to his advantage to answer all the staff questions so they are in support of the proposed plan. However, he would like to make more progress with the plan. He is concerned with continuing down this path, as it continues to cost more money to the homeowner, and may not materialize in a successful plan.

A schedule was established to finalize items. The Health Inspector who received the recent plan on March 7 will have until March 15. Then Mr. McKean and David

Stanton will meet with Mr. Eddy on March 18 or March 19 with comments. Matthew will then submit a final plan on April 1st before the final staff meeting on April 3rd.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this to the April 9th 2013 Board meeting. (Unanimously, voted in favor.)

II. Septic Variance – New:

- A. Darren Meyer representing Margaret Savery, owner – 16 Route 130, Cotuit, Map/ Parcel 010-009, 2.52 acre parcel, multiple variances, failed septic.

Mr. Meyers presented 4 green cards, abutters notified (Exhibit 1)

Mr. McKean said the staff had no issues with the plan. It is a repair of a failed system and it is a maximum feasible plan.

Dr. Miller asked the distance to ground water. Darren said the ground water is 30 feet down and the system is 12 feet above that. The owner's well is 131 feet from the septic system vs. the required 150 feet. Dr. Miller suggested a well water test be done as protection – this is not a requirement. Darren Meyer duly noted.

Upon a motion duly made by Junichi Sawayanagi, seconded by Dr. Canniff, the Board voted to grant the variances listed on plan dated 2/25/13 with the following conditions: (1) record a 3 bedroom deed restriction at the Barnstable County Registry of Deeds, and (2) submit an official copy of the deed restriction to the Public Health Division. (Unanimously, voted in favor.)

- B. Arlene Wilson representing Robin and Marcia Brown, Trustees – 250 Smoke Valley Road, Osterville, Map/Parcel 097-002, 5.8 acre parcel, multiple variances, house addition, failed septic.

Arlene Wilson presented the plan. She specified that even though the plan has a variance listed, she does not believe it is necessary. She handed out the definition of a coastal bank from the State (Exhibit 2), which stated that a coastal bank means the seaward face.

Mr. McKean said the staff was notified by the Conservation Commission that the property needed a coastal bank variance.

There are currently two buildings: the main house (3 bedrooms, and a building referred as a Boat House (with a 1 bedroom –living quarters). The applicant is interested in building a third structure referred to as the guest house. It is proposed that each of the three buildings will have three bedrooms for a total of 9 bedrooms. This is consistent with the plan submitted earlier (August 2012).

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to obtain clarification from DEP as to whether a coastal bank variance

applies as the side of the slope is seaward and would not cause the system to become more exposed. If the DEP determines a coastal bank variance is not required, then the previous determination (August 2012) would stand as granted. If the DEP believes a coastal variance is required, the applicant must come back to the Board for a re-vote. (Unanimously, voted in favor.)

III. Food Variance (New):

- A. Ming Gu, assuming lease at Hot Diggity Dog, 569 Main St, Unit D-11, Hyannis. grease trap variance.

Bill McKenzie, Commercial Real Estate Broker, was present along with the owner, Ming Gu and son Fang Tao. The property is estimated to have 30 seats, inside and out.

Bill McKenzie asked the Board to reconsider the prior vote on this property. The new owners had wanted a new lease. It was not given. They have assumed the lease from the prior owner. The owner has put all of her savings into the purchase and they do not understand why they would be asked to install the grease trap creating such a hardship.

The Board explained that DPW has expressed concern for the sewer pipes and expressed an interest in not allowing grease trap variances at food establishments on town sewer. Dr. Miller and Dr. Canniff stated that the Board had gone against the wishes of the DPW on the last approval and had approved the prior tenant to continue their operation with the variance at this location, under very specific guidelines. At that time, the Board stated that if the food operation had a new owner or a new business or the lease expired, they would be required to install a grease trap at that time, as requested by the DPW.

Upon a motion duly made to grant the variance of the grease trap by Dr. Canniff, seconded by Mr. Sawayanagi, the Board declined. (Unanimously, voted NOT in favor – the variance was denied.)

- B. Terri Perry, owner, Café Crumb, 846 Main Street, Osterville, proposing additional pre-made items to menu and use of a heating element.

Dr. Miller asked what is under the sink right now. Mr. McKean stated there is only a standard plumbing drain in the floor, no in-ground grease trap outside and no grease recovery device is used at this time. Mr. McKean pointed out that the sign posted outside the establishment lists many more foods than the Board had originally approved of.

Terri Perry was present. She explained that nothing is going down the drain. The soup kettle is just wiped out. The coffee grinds are wiped out of the coffee maker, as well. She said she is following the requirements specifying no foods are put down the drain. She does have a three-bay sink, and hot water and soap is used after the food is wiped out.

Mr. Sawayanagi believes the three-bay sink is only large enough to wash glasses. It is not suitable to adequately wash pots and pans. Mr. Sawayanagi stated that there is still grease going down the drain. Dr. Miller agreed.

Terri said she is using the paper plates and plastic utensils as required on her current variance. She had interpreted the variance to mean she was just not allowed to prepare foods on location. She stated she found a commercial kitchen and went there to prepare the foods, then brought them in.

The Board believes a minimum of a grease recovery device is necessary to handle the presented menu.

Upon a motion duly made by Dr. Miller to grant the addition of the listed items to Café Crumb's approved menu (Exhibit 3), seconded by Dr. Canniff, the Board declined. (Unanimously voted to not grant the additional menu items)

If Terri Perry is interested in bringing in other menu items, not listed today, or if she is interested in installing a grease recovery device and applying for a variance for that, she would need to come back to the Board.

IV. Food – Temporary Food Event:

Lachlan Youngs for Baybridge event "Community Gathering" on Town Green, 367 Main Street, Hyannis, on Saturday, April 13, 2013, with one vendor, Common Grounds, serving vegetarian stew and baked goods.

The Board requested that the Health Division receive the servsafe of the person who attends (if different from the submitted servsafe), along with an allergy certificate for that person.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant the temporary food event with the condition that the Public Health Division receives the servsafe and allergy certificates for the person who will be present at the event. (Unanimously, voted in favor.)

V. Old / New Business:

A. Approval of the Minutes February 12, 2013.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Caniff, the minutes were accepted with two changes: 1) under page 5, item #A, Perry's – first sentence should read...to operate a business with a toilet facility variance (not grease trap variance), and 2) bottom of page 2, second sentence, legal suggests we hold off as it is unclear. (Unanimously, voted to accept minutes with changes.)

B. Correspondence – Stewart Creek Project – Jeanne Walsh Fisher

To the Board:

Thank you for your hard work and consideration for the residents of Stewarts Creek. This is very refreshing particularly the much improved communications that have

resulted with your input at meetings. It is nice to view my town as friendly to me instead of an adversary. Keep up the good work. Sincerely, Jeanne Walsh Fisher.

C. Correspondence – Craigville Cottage Owners Association, gas leak unresolved by National Grid.

The Board received acknowledgement from the Association that the matter has been resolved and National Grid replaced over 700 feet of pipe.

D. Correspondence – Asim Jamal proposing different kinds of Middle Eastern Herbal Teas and Middle Eastern Hydro Herbal Hookah.

Asim Jamal was present and read his letter to the Board stating that he is interested in bringing some Middle Eastern culture to the town and suggests a tobacco free hookah lounge with Middle Eastern music and hydro-herbal hookah and belly dancing. Hookah is the name of a large water pipe that originated in India but gained popularity in the Middle Eastern countries. Smoking the hookah is a social event. Hydro-herbal infuses herbal senses. It is 100% tobacco free.

David Wood, owner of Puff the Magic was present. Puff the Magic is the only smoking bar in town as it was established before the non-smoking regulation came out. David spoke of how he worked with the Board at the time the original tobacco regulation went in. He stated that Article 371.15 defines smoking as “having in your possession, or lighting, a pipe, cigar or cigarette”. So it doesn’t matter what is in the pipe, it all falls under “smoking”. Mr. Wood said they had introduced a hookah pipe to his establishment, then, decided against it. He was not comfortable with the sharing of the pipe and the possible sharing of illness. He said they are very hard to keep clean as they have long hoses, etc. They have discontinued the use of it.

Mr. Wood said he has two concerns: 1) if someone is permitted to have a hookah pipe, how could the Town enforce it if that establishment started using tobacco in the hookah pipe? Secondly, he is concerned anything which may tarnish his good reputation.

Dr. Miller said he researched the internet, etc, and believes our local regulation governs anything smoked through a pipe under it. He will have the Legal Department review it as well. Dr. Miller said that the State’s definition of smoking is any inhaling of a combustible material.

Dr. Canniff and Mr. McKean agreed with Dr. Miller’s interpretation of the smoking regulations. They agree it does not matter whether there is tobacco or herbal. Anything inhaled through a pipe falls under the tobacco regulations.

Mr. McKean said that the only place where it would be allowed would be on a designated patio/area outside. He is aware that there is a person who is currently considering proposing hookah be smoked on a patio area. Dr. Miller said the Board will have to review any health issues which may exist using a hookah pipe.

Dr. Miller said that he will have someone from Legal get back in touch with Asim Jamal upon their review.

E. General Law – Meeting Minutes, Records.

Dr. Miller mentioned that the new State law is going to require we have more documentation of the meetings. No additional comments made.

F. Discussion – Liquid level in leaching pit.

There is confusion in the field as to how to measure the liquid level. Mr. McKean said the staff is working on a revision to specify the number of inches remaining between the liquid and the top of the invert. Any change in regulation would require proper notice in the newspaper.

G. Proposal to include boats in the mobile food guidelines.

Mr. McKean said he is still hoping to receive some feedback from the Legal Department before addressing this. Therefore, he suggested postponing this until April 2013. Mr. McKean said the proposal would address any boat which prepares food as it should be prepared in a commercial / licensed kitchen. The Steamship does do this. It is noted the smaller boats would have difficulty with this. Mr. McKean mentioned it would be nice to have some input from the smaller boats.

H. Status Report – Craigville Motel, 8 Shootflying Hill Road, Centerville

As of 2/25/13, the Health Inspector submitted the list received in the Board's package of the status of items at the motel. (Exhibit 4).

ADDITIONAL:

The Board of Health Meeting has changed from June 11 to June 18, 2013.

Upon a motion to adjourn by Dr. Canniff, seconded by Mr. Sawayanagi, the Board adjourned at 5:15pm.

LIST OF EXHIBITS: Exhibits 1-4

Exhibit #1 - Abutters Cards for 16 Route 130, Cotuit

Exhibit# 2 – State Definition of a Coastal Bank handed out by Arlene Wilson regarding 250 Smoke Valley Road, Osterville.

Exhibit# 3 – List of Additional Menu Items Proposed at Café Crumb, 846 Main St, Osterville.

Exhibit# 4 – Health Inspector's List / Comment Status regarding Craigville Motel, 8 Shootflying Hill Road, Centerville.