



Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601

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

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

BOARD OF HEALTH MEETING MINUTES Tuesday, September 13, 2011 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, September 13, 2011. 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. Hearing – Housing / Pool:

James Connors, Esq., representing Donna LaRose, requesting a hearing for Oak View Condominium Trust, Thomas Benton, Trustee, at Oak Neck Road, Hyannis, pool violation – abandonment.

Attorney James Connors, Donna LaRose and Thomas Benton were present.
Attorney Connors read his letter to the Board into the minutes as requested:

Dear Board of Health:

Please be advised that I represent Ms. Donna LaRose who owns a condominium located in Hyannis at Oak View.

The basis for the hearing request is as follows:

- 1) The swimming pool is in such a condition that it is a breeding ground for mosquitos which bring with it West Nile Virus, Eastern Equine Encephalitis virus (EEE), and other health hazards.
- 2) The swimming pool and surrounding facilities is an attractive nuisance, is a cause of foul odors, and is a place where dead and decaying animals and other forms of detritus have accumulated.
- 3) The swimming pool and surrounding facilities are a safety hazard to both people and animals.
- 4) The building facilities have become a haven for chewing rodents and other wildlife that are a safety concern, including a fire hazard to the residents at the condominium complex as well as causing a substantial health risk to its occupants.

I kindly ask that you schedule a hearing for August 23, 2011 at 3:00 pm.

Very truly yours,
James P. Connors
Attorney at Law

Mr. McKean stated a notice to abate was sent to the Condo Association. A letter in response was received Thomas Benton, Condo Association Trustee who stated this was handled at their June 26 Board meeting. A contractor, Arch Construction was hired in early July and paid a \$3,400 deposit to demolish the pool. This has been verified and they are obtaining the necessary permits. The water and gas companies have both documented (as of this am) that there are no lines in the way. This will allow them to now receive the permits.

Mr. Connors mentioned the Condo Trust has dragged their feet in the past. Last year-June 2010, the Board had also voted to demolish the pool. This is why they have asked the town to step in. The Board discussed a 30-day allowance.

Robin Gararo who lives at the complex said the fence is not a tall fence and only has screening on top of it and is a terrible sight.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to order (1) the swimming pool be removed and filled in by October 15, 2011 and (2) the fence around the pool will be fixed immediately so the pool is safely secured and closed off. (Unanimously, voted in favor).

II. Variances – Septic (New):

- A. Richard Tabaczynski, Atlantic Design Engineering, representing Fiat of Cape Cod –500 & 504 Yarmouth Road, Hyannis, Map/Parcel 344-006 & -007, 1.61 acre lot, design flow for service bays and requesting the Board lift the restrictions dated 9/8/88 which includes no more than 6 employees, no washing or repair of vehicles.

Richard Tabaczynski was present and stated that they are requesting a variance for the design flow from 150 gallons/day/bay. They feel a more appropriate and realistic formula is the one they had also used for 460 Yarmouth Road, which is 2 people/bay x 15 gallons per day. There will be six bays. (Currently, there are two buildings on the lot. They will both be taken down and one new one will be constructed with six bays total). The water usage records show that the actual use is much less than even their calculations. Richard's method would be 576 gal/day. The Title V method would be $(150\text{gal} \times 6) + \text{retail area} + \text{office} = 1,300$ gallons/day.

Richard also brought water flows from other car dealerships located down Cape. Upon review, Dr. Miller stated the comparisons are fluctuating across the board, some calculate much higher than water usage when using the engineer's formula, some are right on target, and others are much below the water usage.

Dr. Miller said the Board will need clarification from Brian Dudley, MA DEP, as to why he was willing to approve the design flow rate next door to this property. Brian Dudley's letter sounds as though he had thought it was an emergency repair.

Dr. Miller does agree that the applicant's adjusted calculation is well within the design flow used next door at that car dealership (which the applicant also owns).

Dr. Miller also said he has a great problem with the doing of repairs here and washing of vehicles here. He asked the applicant how cost prohibitive it might be to install a similar method of water reclamation similar to cash wash facilities – as this is in the Zone of Contribution.

Joe Laham, Premier Companies, explained that they have investment an exuberant amount of money to do what they feel is the most environmentally sound method of operations by purchasing the additional property and moving the work out of the Water Protection zone. They are now under a very constricted time line to complete the construction by December to avoid losing the franchise and would request a determination before the next scheduled meeting in October.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a continuance until Monday, September 19, 2011 at 3pm the Town Hall Hearing Room, 2nd Floor. The Board would like (1) to clarify with Brian Dudley, MA DEP, why he was willing to approve the design flow rate next door to this property and to obtain Mr. Dudley's view on #3, below, (2) the dealership uses a machine, "the tenant", to clean their floors of excess water in the shop and the Board would like to know where they will be discharging the water vacuumed up from the floors and, (3) a determination must be made of whether an impervious surface or a pervious surface is more desirable for the parking lot. If an impervious surface is more desirable, then a letter would be sent to the Zoning Board requesting the allowance of such a variance be granted. (Unanimously, voted in favor.)

III. Innovative / Alternative (I/A) Septic Plan:

Linda Pinto, CSN Engineering, representing Cape Commerce Nominee Realty Trust – 86 Old Farm Road, Centerville, Map/Parcel 251-005, 18,072 square feet parcel, requesting approval for alternative treatment.

Linda Pinto was present.

Mr. McKean reviewed staff comments and noted four items to be corrected on the plan.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to approve the I/A system provided the following four corrections are made: 1) correct the map/parcel to 251-005, 2) correct the actual size of the lot to 17,424 square feet, 3) the calculation of the number of gallons per day should be 306.2 gal/day, and 4) improve the topography on the plan as it is difficult to see and read, and with the following conditions: 1) a 2-Bedroom Deed Restriction is recorded at the Barnstable County Registry of Deeds, and 2) a proper copy is submitted to the Public Health Division. (Unanimously, voted in favor.)

IV. Variance – Food (New):

- A. Rodney Desimone, owner, TJ's Deli Sub's – 1070 Iyannough Road, Hyannis, Map/Parcel 295-019-X01 + X02, grease trap variance.

Rodney said they can not afford to put in an in-ground grease trap. They would have to walk away from the property.

Dr. Canniff feels it is courteous to pass this by the DPW to see if they are comfortable with the grease trap situation.

There are two toilet facilities (male + female, handicap accessible). Next Monday, they have a Licensing Hearing to determine the seating. However, they are hoping to open this weekend without any seating – until Licensing has made that approval.

Dr. Miller said he too feels it would be proper to pass it by the DPW as well. Mr. McKean explained that DPW at this time has not yet created a regulation allowing them to take on the work of approving grease traps. Once they do that, the Board of Health can, then, process the removal of their authority on the grease trap variances.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the grease trap variance for the submitted menu with the condition that DPW is in agreement with the grease trap variance. (Unanimously, voted in favor).

Mr. McKean will obtain an answer as quickly as possible as the owner is trying to open for the weekend. (The owner would be limited to “no seating” until he is approved at his Licensing Hearing next Monday.)

Later: Mr. McKean spoke to Roger Parsons, DPW, and he stated he is comfortable with this grease trap variance.

- B. Sam Mazzeo, Palio Pizzeria – 441 Main Street, Hyannis, Map/Parcel 308-080, grease trap variance with increased seating capacity.

Paul Mazzeo attended the meeting. The “to go” counter has six seats and is 18” deep. This would bring the total count to 88 seats. Mr. Mazzeo stated that they currently have an in-ground 1,000 gallon grease trap. They do not have a fryolator, they bake all their uncooked foods, except the soup which they boil and they use all plastic and paper for serving their foods.

The normal calculation for seating with the current grease trap(s) would be 67 seats. The Board has the ability to increase it by 25%, bringing it up to 84 seats.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board approved the seating of 84 seats and offered the owner the option of either: (1)

including the counter as 6 of the seats or, (2) the counter / "waiting" area will be used for waiting only – no food consumption there and no seating there. (Unanimously, voted in favor.)

V. Old / New Business:

A. 45 Straightway, Hyannis – inspection report.

A third inspection report was done and passed. The original inspection was done by a bank in 2008 and failed. This owner disputed it, did a second inspection in Sep. 2010 which passed, and on August 28, 2011, the owner had the third inspection done which passed and he also had pictures taken. He has lived there for three years and only pumped it once, and has not had any problems with it.

Upon a motion duly made by Dr. Miller, seconded by Dr. Caniff, the Board voted to approve the acceptance of the inspection of the septic system as a pass (after 1 fail and 2 passes), the inspections will be viewed as passed. (Unanimously, voted in favor.)

Mr. McKean asked that the Board recognize as a standard for the future, when there is conflicting inspection reports, a total of three inspections will be performed; the third preferably to be done by an engineer and if two are passing the Board will vote on the acceptance of a passing determination. The Board agreed that this method can be used as the general protocol but it will not be written as a code, each situation will be viewed individually.

B. 94 Holly Point Road, Centerville – extension of septic replacement expiring September 15, 2011 – status: signatures on deed restriction are being gathered as a number of owners are abroad. Septic has been installed.

The Health Division is withholding the Certificate of Compliance until the Deed Restriction is submitted.

Dr. Canniff wanted to say that Strawberry Hill Condominiums are working on their project. In 2006, the Board spoke with Ed Pesce to have the inspection done. It had been done and passed a number of times. The most recent inspection at the condo complex was in July 2011.

In March 2006, the Board had requested the units 1-7 be tested every year and this has not been followed. The file is showing that the condo association is also not keeping up with the inspections every three years required for the other buildings.

Dr. Miller suggested the file be reviewed and the Board will determine whether they would like to invite the condo association to a meeting.

Voted to adjourn the meeting 5:00 pm.

Immediately after the adjournment vote, the Board mentioned a letter shall be mailed to the condo association stating that they have failed to adhere to the Board of Health requirements in the letter dated 3/15/06 (see attached). Given the status of the sewer plans in the town, the Board is interested in having the condo association replace the septic system at this time. As an alternative, another facility on Old Strawberry Hill Road is examining the cost of installing a sewer line in the area and if the condo association would like the Board to facilitate the meeting between all parties interested in joining in and sharing the cost of the sewer line, the Board would be available to do so.

Additional:

Dr. Miller asked Ms. Crocker to review the minutes regarding the most recent Body Art Establishment and verify whether an addition is to be made to the regulation pertaining to approval of establishments/artists that the Board would consider approving people with out-of-state licenses. If so, what were the conditions or, did the Board stipulate that it would continue as a case-by-case situation.