



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, May 14, 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, May 14, 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.

I. Hearings – Septic:

- A. Anna Dye, owner – 35 Norris Street, Hyannis, Map/Parcel , requesting extension on sewer connection deadline.

Anna Dye was present and explained that she had gone through steps to apply for financing. She has not received information back from Mr. Ayer. At this time, she has decided to sell the house and has just recently put it on the market. Anna said it will be harder to sell it if she must dig up her yard right now to put in a septic. Ms. Dye is asking for an extension.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant an extension until September 10, 2013 at which time this item will be continued to the September 10 meeting, with the status of how the sale is going, and have some type of documentation from Mr. Ayer on whether county loan will be processed. (Unanimously, voted in favor.)

- B. Douglas B. Farquhar and Ann Franklin, owners – 12 Oak Drive, Hyannis, Map/Parcel 266-012, requesting extension on septic repair deadline.

Jeanne Walsh, Realtor, represented the owners who were unable to attend the meeting. The septic inspection stated the cesspool was in poor shape. Mrs. Walsh said the house is used only seasonally and is in the process of being sold.

Mr. McKean said the staff recommended not granting the extension as the septic has a structural issue. Dr. Miller said there is a need to secure the septic area and noted that continued occupancy may further aggravate the structural issue.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a continuance this item until June 18, 2013 meeting with the following condition: 1) applicants must replace septic system by June 1st; otherwise, must secure the area around septic and have no occupancy after June 1st. If resolved

before this, the applicant may inform Mr. McKean and it would not necessary to be on the agenda. (Unanimously, voted to continue).

- C. Arlene Wilson representing Robin and Marcia Brown, Trustees – 250 Smoke Valley Road, Oosterville, Map/Parcel 097-002. Revocation of Disposal Works Construction Permit#2012-323.

Arlene Wilson was present. As the variance from the coastal banks was not included, the Board must revoke the permit.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board of Health voted to revoke the permit# 2012-323 the for reason stated. (Unanimously, voted in favor.)

II. Septic Variance – New:

- A. Arlene Wilson, A.M. Wilson Associates, representing Robin and Marcia Brown, Trustees – 250 Smoke Valley Road, Oosterville, Map/Parcel 097-002, 5.8 acre parcel, new plan, multiple variances, house addition.

Arlene Wilson presented her new plan which lists three local variances of setbacks of components from the top of coastal bank. All three are greater than 50 feet but less than the 100 feet required locally. One variance is for the tank connected to the existing cottage (“boat house”), and the other two are for the tank and the pump chamber to the proposed guest quarters.

Mr. McKean said the plans need to add a reserve area, the location of the existing components is not shown and the staff just received the plans and needs additional time to review as the percolation test was just performed today.

Dr. Miller expressed his view of wanting the two components of the guest quarters needing variances to be located on the other side of the building so they do not require variances. Arlene expressed that the tank is a tight tank and should not have an effect. The Board prefers they be relocated out of the resource zone and avoid the additional variances. Dr. Miller also would like to see the “boat house” remain as two bedrooms and not expand to three bedrooms as this is a large parcel where additional bedrooms can be located elsewhere.

Dr. Canniff and Mr. Sawayanagi were in agreement with Dr. Miller. Dr. Canniff suggested the use of a consultant for difficult plans as this.

Arlene Wilson requested a continuance to the June 18, 2013 meeting and she will add the revisions to the plan of moving the tank and the pump chamber to the guest quarters to the other side of the building and she will speak to the owners about keeping the “boat house” as two bedrooms.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant a continuance to the June 18, 2013 meeting. (Unanimously, voted in favor.)

- B. Peter McEntee, Engineering Works, representing Thomas and Patricia Patten, owners – 26 (a.k.a 20) Woodvale Lane, Centerville, 16,000 sq.ft. parcel, multiple variances, repair of failed septic system.

Peter McEntee was present. He is requesting three variances: 1) a setback variance of the SAS to slab foundation of 9 feet in lieu of 10 feet, 2) a setback of the septic tank to the wetlands of 64 feet in lieu of 100 feet, and 3) a setback of 92 feet from the SAS to wetlands in lieu of 100 feet. Using a polyliner for the slab foundation was mentioned. The Board and Mr. McKean agreed with Mr. McEntee that this will not be necessary as the SAS is at a lower elevation than the slab.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant the variances with the following conditions: 1) a 3-bedroom deed restriction will be recorded at the Barnstable County Registry of Deeds and, 2) a copy of the deed restriction will be submitted to the Public Health Division. (Unanimously, voted in favor.)

- C. Arlene Wilson, A.M. Wilson Associates, representing Salten Tide Realty Trust – Jeffrey Lindsey, Trustee – 71 Sand Point, Osterville, Map/ Parcel 073-014, 1.37 acre parcel, multiple variances, house renovation with failed septic.

Arlene Wilson presented the plan and said that currently the house has two separate septic systems consisting of a cesspool each. The Assessors lists the house as a six-bedroom. Arlene has submitted the floor plans and is proposing a five bedroom.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi the Board voted to grant the variances with the following conditions: 1) a 5-bedroom deed restriction shall be recorded at the Barnstable County Registry of Deeds, 2) a copy of the deed restriction shall be submitted to the Public Health Division, and 3) a monitoring plan shall be submitted to meet Mr. McKean's approval. (Unanimously, voted in favor.)

III. I/A Monitoring Plan:

Joyce Haseotes, Trustee – 293 Long Beach Road, Centerville, Map/Parcel 185-034, requesting reduction in monitoring plan.

The owner had informed the Board she would not be able to attend the meeting.

Mr. McKean said the staff reviewed the test results and the results were very low so the staff had no issue with reducing the frequency of monitoring.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a reduction in the monitoring plan to once a year – to be done in July or August, using all the usual parameters. (Unanimously, voted in favor.)

IV. Food Variance (Cont):

- A. Ted Schilling, Esq., representing James Surprenant, owner, Crisp Flatbread, 791 Main St, Osterville, variance from Title V for additional seating (310 CMR 15.203 / 15.204).

Ted Schilling and James Surprenant were present. They requested a continuation until October 8, 2013.

Dr. Miller said due to the new variance request and some of the issues involved in terms of prior letters of the Board of Health, he suggests to continue until the October meeting as well. Mr. Schilling has supplied the Board with water usage from the prior owner at this location and from Mr. Surprenant's other food establishment down the street and both locations show the water usage to be very low. In this case, well below the capacity of the septic system at 791 Main Street. The applicant is going to enter into an agreement which Town Attorney Ruth Weil is drawing up where the applicant is agreeing to certain monitoring requirements. Mr. McKean will grant a temporary food permit through October 8, 2013. The owner will continue to monitor the water at specific intervals and the Board will be able to determine, under Title V's regulation, whether the addition seating is acceptable or not with the current system.

The Board believes there will not be any damage to the public using this procedure.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a continuance until the October 8, 2013 meeting with a temporary seating approved of 35 inside and 14 outside for a total of 49 seats. (Unanimously, voted in favor.)

V. Food Variance (New):

- A. Terri Perry, owner of Café Crumb – 846 Main Street, Osterville, requesting a grease trap variance with a revised menu.

Matthew Eddy, Baxter Nye Engineering, and Terri Perry were present. They are proposing to add a grease recovery device (GRD).

Mr. Eddy said they are withdrawing the request for a GRD at this time, and the menu would be just prepared sandwiches and burritos. They are all individually pre-packaged items which are just put into the microwave oven and the packaging is thrown away. No washing is needed.

Mr. Eddy and Terri Perry stepped aside (to clarify their menu submittal and remove the soups and stew from it).

Upon return, the menu dated 5/14/13 contained the first two pages being the original pages approved when she started the business, the third page proposed contained the following pre-packaged items: chicken pot pie, breakfast burrito, calzones, and sandwiches (prepared at Pain D'Avignon).

After further discussion, it was agreed upon to eliminate the chicken pot pie, breakfast burrito and calzones until the GRD was discussed at a later meeting.

Mr. McKean asked whether the croissants and cookies on the original two page menu were prepared elsewhere. They are all prepared off-site. They are not individually wrapped. They come in a larger box and Terri places them on her trays.

- 1) Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to expand the menu from the original two pages to include sandwiches (pre-packaged). (Unanimously, voted in favor.)
- 2) Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant a continuance to the June 18, 2013 meeting to discuss a GRD with a more expanded menu. (Unanimously, voted in favor.)

B. Carrie-Lee Touhey, owner of The Cape Cod Cookie Company – 569 Main Street, Unit # B, Hyannis, grease trap and toilet facility variances.

Carrie-Lee Touhey was present and expressed her desire to open the shop on Main Street. The space is only 500 square feet and does not have enough room for a second bathroom. There are only three employees at one time and they are all family members. She is hoping to have a GRD approved for her space. If they were to hook up to the Veteran's grease tank, they would have to dig up the walkway down to the Vet's space.

The dough is prepared on-site. They are installing a dishwasher and they would be washing the bowl(s) in the sink prior to that. The pans will be covered with parchment paper which absorbs a good amount of the grease. The pans would still require a little bit of washing.

Mr. McKean said Roger Parsons was not willing to allow a GRD here. Mr. Parsons would want a grease trap for the food establishments on town sewer.

Carrie-Lee suggested she prepare the dough at her home licensed facility and then be allowed to operate without a grease trap. The Board said she should make an appointment with Mr. Parsons and see if he will agree to this.

The Board acknowledged that if she operates as a retail shop, she would not require the grease trap.

- 1) Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the toilet facility variance with the condition that 1) they are limited to three employees on site. (Unanimously, voted in favor.)
- 2) Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant a continuance of the grease trap variance until June 14, 2013 meeting. Currently, the applicant will operate as retail, with no food preparation, no re-heating, and no cooking. (Unanimously, voted in favor.)

- C. Brad Pfeifer representing Hawks Nest Concession Stand for the Hyannis Harbor Hawks – 120 High School Road, Hyannis, extension on temporary permit.

Brad Pfeifer and John Cotellessa (from Gourmet Brunch) were present. Both gentlemen run the concession stand. John said they are serving popcorn, nachos, chowder, chili, hot dogs, and sausage (hot dogs and sausages are fully cooked). He said the only thing he will be cooking at the location is the coffee. Everything will be heated up at the Gourmet Brunch, transported to concession stand and put in electric steam tables. The pans, etc, will all be brought back to the Gourmet Brunch for washing. There will be a handwash station there. It costs \$1,000 and it's a 17-gallon tank, and a 19-gallon grey water. He will fill it with hot water and it is foot controlled.

Mr. McKean has no objections to operating through the end of this season which will allow the original five years granted.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant an extension to operate with the condition that they must hook up to water and sewer before they will be issued a seasonal food permit next year (2014). This allows them to apply for additional funding. (Unanimously, voted in favor.)

VI. Food – Temporary:

Tracy Cassidy representing Gourmet Caterers catering Best Buddies Friendship Ride on Saturday, June 1, 2013 at Eunice Kennedy Shriver parking lot at Craigville Beach.

Their executive Sous Chef Glenn Boddie was present. He discussed the items to be fully cooked at location: chowder, steamers, mussels, chicken, lobster and the broth. Other foods will be prepared at their facility in Boston. They will be preparing meals for 1,500 people. They have a "field kitchen" which includes ovens, jet burners, lobster cookers, handwash sinks/set-ups, refrigerated trucks, and everything that is needed. All employees have servsafe certificates.

Mr. McKean mentioned there is a separate event operating across the street from this which is on the beach side. That event does not have any cooking at it. It will be catered by Rebecca's Café.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the temporary annual event for Saturday, June 1, 2013, with the condition that the servsafe certificates and allergen awareness certificates are submitted to Mr. McKean. (Unanimously, voted in favor.)

VII. Body Art Variance (New):

- A. Derrill Lazu, Hyannis, to work at Black Pearl, applying for variance-Quincy Skin Course and on-line Blood Pathogen Training.

Derrill Lazu was present. His application was complete, with the CPR taken through the Red Cross. Derrill has taken two of the three Hepatitis B series, and did the Blood Pathogen course. His references were fine. Derrill Lazu said the owner is there whenever he works, which is Thursday through Monday from 12pm to 10pm.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the 18-month temporary license to work as an apprentice with the direct supervision at the Black Pearl from the licensed Body Artist, Alex Travasso. With the condition he finish the Hepatitis B series. (Unanimously, voted in favor.)

- B. Neftali Vallejo, Hyannis, to work at Black Pearl, applying for variance-Quincy Skin Course and on-line Blood Pathogen Training.

Mr. Neftali Vallejo was present. He had not finished the application process before the Board packages had been sent out. The Health Division has now received all the paperwork. He has taken the CPR course with the Red Cross, the Blood Pathogen course was taken on line (as the Red Cross is no longer giving this course in person), and he began the Hepatitis B series today. He will have two more shots required down the road.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the 18-month temporary license to work as an apprentice with the direct supervision at the Black Pearl from the licensed Body Artist, Alex Travasso, with the following conditions: 1) Mr. McKean will give final approval after reviewing the application for completeness, 2) the feedback from all the references has been received and is positive, and 3) the applicant must continue to finish the Hepatitis B series. (Unanimously, voted in favor.)

VIII. Old / New Business:

- A. Approval of the Minutes March 12, 2013 and April 9, 2013.

Upon a motion duly made by Dr. Miller to approve the March 12, 2013 minutes, seconded by Dr. Canniff, with two changes: 1) under Café Crumb, clarify the establishment has a standard plumbing drain, 2) for items voted not in favor, clarify the wording to show "motion made to grant... (rather than a motion to vote). (Unanimously, voted in favor).

The April minutes will be available at the June meeting.

- B. Educational: Cyanobacteria blooms in fresh water ponds.

Mr. McKean said the town has seen a number of cyanobacteria blooms occur in the fresh water ponds. The Town currently does not have a protocol for the Coastal Health Resources Coordinator, Karen Malkus, to follow when the cyanobacteria in fresh water ponds reach a significant level. Currently, she has been following the MA Department of Public Health's guidelines for posting the public of how it is toxic to people and animals.

Mr. McKean suggested the Board establish a policy.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board adopted a policy for the Coastal Health Resources Coordinator to follow the MA Department of Public Health's guidelines for posting of warning of cyanobacteria in our fresh water ponds. (Unanimously, voted in favor.)

C. No Lifeguard on Duty Pilot Program – consideration of continuation of pilot programs.

Dr. Miller said CDC and the National Association of Local Boards of Health have finally developed a model aquatic health code that addresses all issues of swimming pools, beaches, etc. The part on swimming pools that have gone out to the public and has come back to the committee is 29 pages. The group is very adamant in requiring lifeguards when pools are over five feet in depth. There is also supporting information that gives the reasons for their recommendations. There is a meeting on July 9, 2013, for interested parties to go over the final proposal and vote. There is information on the CDC website under MAHC.

Dr. Miller expressed that the guidelines which list the situation when a lifeguard is recommended do not happen to be any of the situations the Board adopted under the No Lifeguard on Duty Pilot Program, so he is comfortable at this time, continuing the pilot program for another year. Dr. Canniff suggested taking a vote to continue the pilot program until September or sometime after the proposal is finalized.

Peter Martino, Heritage House, brought up the suggestion to try the pilot program this current year for places with more than 50 units to test them out. He stressed that the hotels are going to be protecting themselves and having lifeguards when there are large numbers of customers in the high season and during events. However, it allows the larger hotels to receive a similar financial break when they have low occupancy and not many at the pool. He has two pools and must hire two lifeguards at all times of the year. His view is that at times when occupancy is low and use of pool is low, there is more staff hired by the larger hotels and, therefore, more people available to help watch the pool.

Dr. Miller said he does not feel comfortable in expanding the program when we are so close to receiving the final proposal by the Local Boards of Health with the federal study, but he is willing to continue the pilot program this season.

Upon a motion duly made by Dr. Miller to continue the No Lifeguard on Duty Pilot Program, for 50 units or less, until October 2013, and seconded by Mr. Sawayanagi, the Board took a vote. (Two in favor, One opposed – Dr. Canniff).

D. Status – Strawberry Hill Condominiums, Mr. Kerry McNamara – are they connecting to Center Village Condominium's sewer system?

Mr. McNamara said one of their four systems had failed and they had had that fixed. Many of the owners are older and are concerned with cost but they do realize it's just a matter of time before the other systems have issues. Currently, the systems have

been monitored and are working. Bill Rabe, spokesman for Center Village, had come to the annual Strawberry Hill Condo Association meeting last year to inform the residents of the opportunity to tie in. He does not know what the actual cost will be but he did hear that the cost was below Center Village's original expectations.

Mr. McKean explained that Rodger Parsons, Town Engineer, said it is currently a privately-owned sewer line and, once the project is complete, the town may or may not accept it as a town sewer line. Therefore, the Board would not be able to require a condominium association to hook up to it until the town owns it.

Mr. McKean also noted that the Health Division did not have all the expected monitoring reports for the four systems. Mr. McNamara said he would make sure Mr. McKean received any that were missing.

Mr. McNamara said he also manages the Shallow Pond complex with 24 units, nearby Strawberry Hill Condos. Those septic systems were installed in 1980 but have been working fine. This past November, Mr. McNamara told the residents of Shallow Pond of the possibility to hook up with Center Village as well. He is sure that in both locations, he will need a pump station. Kerry McNamara said he will find out who the contact person is at this time for Center Village and get in touch with them to move forward.

Motion to adjourn 5:42 pm.