



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES **Tuesday, December 10, 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, December 10, 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. I/A Monitoring: No Maintenance Contracts.

- A. Miguel Gomes, – 42 Tonela Lane, Barnstable, Map/Parcel 336-066, contract expired prior to August 2006.

Withdrawn. Board of Health received the operating & maintenance contract prior to the meeting. Thus, the issue was resolved.

- B. Lauren Needham – 549 Huckins Neck Road, Barnstable, Map/Parcel 234-039, contract expired April 1, 2007.

Withdrawn. Board of Health received the operating & maintenance contract prior to the meeting. Thus, the issue was resolved.

- C. Brian and Shelby Powers - 32 Hemeon Road, Hyannis – contract expired December 8, 2006, eight consecutive monitoring reports from original monitoring with satisfactory levels were requested.

Mr. and Mrs. Powers were not present. At the November meeting, Brian Powers had said he thought he had eight good results in the past for his septic system and was to submit them to the Board of Health prior to this meeting.

Mr. McKean said only four test results were located and they were not all meeting the standard level.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to maintain the required quarterly testing requirement and send the owner a letter stating they (1) must do testing quarterly and (2) must submit a signed

maintenance contract prior to the January 14, 2014 Board meeting or must attend the meeting on January 14th.

II. Septic Variance (New):

- A. John Lavelle, Baxter Nye Engineering, representing Peter Bilodeau, owner – 29 Hathaway Road, Osterville, Map/Parcel 114-036, approximately 0.70 acre parcel, proposed Singulair Denitrifying System, existing 3 bedroom home, requesting to construct a 4 bedroom home, one variance requested.

John Lavelle and Peter Bilodeau were present. John Lavelle summarized the proposed plan with the singular Model 600 and stated it is expected to be used year-round.

There was discussion about the number of bedrooms. Mr. Lavelle explained there is a connector space between the upstairs and garage; however, the roof is too short to walk through. The room above the garage is one big room which has no plumbing or heating.

The Board said there are a few I/A septic systems which have been found to not produce the numbers they advertise and they asked Mr. McKean to check with the County to see whether they have any experience with Singular on the Cape.

The Board asked the applicant (1) to obtain a letter from the manufacturer speaking on their experience with the product, what can be expected from the system, and can the manufacturer assure the Board that the system can bring the numbers down to 19 ppm., and (2) provide some contingencies if the product does not work properly.

The Board and the staff need time to review the State approval letter for this I/A system.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this to the January 14, 2014 meeting. (Unanimously, voted in favor.)

- B. John Lavelle, Baxter Nye Engineering, representing Robert Cato, owner – 519 Scudder Avenue, Hyannis, Map/Parcel 287-017, 14,813 square feet parcel, 3 bedroom existing, no increase in flow, two variances requested.

John Lavelle presented the plan to the Board.

Mr. McKean said the staff did not have any issues with the plan.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variances on the plan with no conditions. (Unanimously, voted in favor.)

- C. Jack Landers-Cauley, P.E., representing Catherine Gahan, owner – 95 Summerbell Avenue, Centerville, Map/Parcel 226-059, 3,010 square feet parcel, variance required to cross the property line for the soil absorption system on the adjacent lot.

The Board determined additional time will be necessary for review. Among items to be addressed: (1) need wording of easement, (2) easement must be approved by the Town Attorney, (3) a copy of the letter from the neighboring lot authorizing approval for easement, (4) a 3-bedroom deed restriction on house lot# 95, (5) a notation on the Deed to # 95 regarding the location of the septic on the adjacent lot, (6) adjacent lot – a deed restriction that no building can occur on lot, and this would transfers to future owners.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to continue this item to the January 14, 2014 meeting. (Unanimously, voted in favor.)

III. Food Variance (Cont):

Peter Goulet, Morning Glory Café – 211 Route 149, Marstons Mills, status regarding installation of a grease trap, seating. (continued from October 2013).

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the food establishment with seating for 5 with the following conditions: all disposable paper / plastic plate ware and silverware, toilet variance to one unisex toilet for patrons provided allowed by the plumbing inspector; otherwise, the front toilet facility will be female and the rear toilet facility (accessed from outdoors) will be permitted. The variance letter for toilet facility will be granted to owner and will be posted next to food permit. Adirondack chairs will be allowed outside. (Unanimously, voted in favor.)

IV. Food Variance (New):

Rein Ciarfella and Sue Preston, for Hyannis Winter Farmers Market, 380 West Main Street, Hyannis, Map/Parcel 269-052, requesting permission to have a farmers market at Hyannis Country Gardens on Saturdays from January 11 – March 11, 2014 at 10:00 am – 2:00 pm.

Applicant withdrew prior to meeting.

V. Old / New Business:

A. Approval of the Minutes: July 9, 2013 – November 12, 2013.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to adopt the minutes for the period of July 9, 2013 to November 12, 2013 with the adjustments received at the meeting. (Unanimously, voted in favor)

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

Proposed Pilot Program Extension:

Lifeguard Modification Deregulation
Fourth Year of Trial Period

Vote in favor of removing the lifeguard and qualified swimmer requirements for only those semi-public swimming pools associated with facilities containing 50 units or less until December 31, 2014, which meet the following criteria:

- Signage shall be posted which reads as follows:

WARNING NO LIFEGUARD ON DUTY

- *Children under age 16 shall not use swimming pool without a responsible adult in attendance.*
 - *No alcohol allowed in the pool area.*
 - *Maximum occupancy of pool is limited to 20 persons.*
 - *Adults shall not swim alone.*
- Access to pool area by key or key card. The swimming pool gate shall be locked at all times.
- No diving boards, slides, or other such appliances in pool area.
- Pool hours no later than 9:00 p.m. *The pool may be open later if there is a lifeguard or qualified swimmer in attendance at pool site*
- No organized/scheduled children's activities (including birthday parties) *without a lifeguard or qualified swimmer in attendance at pool site*
- No variances needed or granted in regards to protruding steps or stairs.
- Staff member, with adult and child CPR certification, shall be on premises all times pool is open.

This deregulation shall continue to be in effect until such time alternative guidelines or regulations are provided by the MDPH in this regard; but in no case shall this deregulation continue after December 31, 2014 without approval by the BOH.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to adopt the above-mentioned lifeguard program and move the expiration of it to tie to the pool permit expiration of December 31st. (Two voted in favor, One abstained – Dr. Canniff)

C. Regulation: Proposed to adopt a new regulation – Section 360-47 Requirement to abandon other components of a septic system (other than a septic tank).

Proposed Regulation:

SECTION 360-47 of the Town of Barnstable Code: Abandonment of Septic System Components

- A. Whenever the use of a septic system is discontinued following connection to a municipal or private sanitary sewer or shared on-site system or following condemnation or demolition of a building served by the system, the system shall be considered abandoned

and any further use of the system for any purpose shall be prohibited unless, after inspection, the Board of Health determines the system is in compliance or can be brought into compliance with 310 CMR 15.000, State Environmental Code, Title V.

- B. Continued use of a septic tank or any other septic system component, where the component is to become an integral part of a drainage system or other sanitary system, requires prior written approval from the Board of Health.
- C. Any component of the septic system with a depth of one foot or greater shall be considered as a component which shall be properly abandoned in accordance with this Section.
- D. The following procedure shall be used to abandon septic system components:
 - (1) Within 14 days prior to discontinuance of use of a septic system, the facility owner shall apply to the Public Health Division to abandon the existing septic system components citing the reason(s) abandonment is necessary, and where connection to municipal or private sanitary sewer has been made, a copy of the sewer connection permit shall be submitted with the application;
 - (2) Upon receipt of a permit from the Public Health Division to abandon the system, the septic system components shall be pumped of their contents by a licensed septage hauler; and
 - (3) The septic system components shall be excavated and removed from the site, or the bottom of the septic system components shall be opened or ruptured, after being pumped of their contents so as to prevent retainage of water and the components shall be completely filled with clean sand or other suitable material approved in writing by the Board of Health.

This Regulation shall go into affect immediately upon publication in the newspaper, on December 20, 2013.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to adopt the above-mentioned regulation 360-47. (Unanimously, voted in favor.)

- D. Proposed Revisions to an existing Regulation: Section 360-3 –septic systems in flood zones, minimizing contamination.

Proposed Regulation Revision to Section 360-3:

Approval of systems in flood zones contingent on minimizing contamination.

Permits for on-site sewage disposal or water supply may be approved for construction when located within Zones A and V as designated on **the most up-to-date** FIRM Flood Insurance Rate Map on file with the Building Commissioner, when it is demonstrated by the applicant that in the event of flooding to base elevations, such facilities are designed to minimize contamination.

This Regulation shall go into effect upon publication in the newspaper, on Friday December 20, 2013.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to adopt the above-mentioned revision to Town of Barnstable regulation Section 360-3. (Unanimously, voted in favor.)

- E. Policy: Proposed Revision to Counter variances regarding placing a liner between a septic component and a foundation wall.

Proposed Revision to Policy:

Variations for Septic System Repairs Which May Be Granted by the Board of Health Agent or by a Health Inspector

- 1) FOR ALL SYSTEMS THAT HAVE NO INCREASE IN FLOW - Septic system component to foundation setback (but in no case, no more than a 50% reduction in the required separation distance).
- 2) FOR ALL SYSTEMS THAT HAVE NO INCREASE IN FLOW- System component installations proposed more than three feet below grade with proper venting (piped to the atmosphere) and with H-20 loading, but in no case shall the SAS be located more than six feet below grade.*
- 3) FAILED SYSTEMS ONLY – SAS to private well separation distance variances, if located in the same general location as the old SAS and more than 100 feet separation is proposed, both from the on-site well and any and all wells on adjacent and neighboring parcels.*
- 4) FAILED SYSTEMS ONLY – Septic tank or pump chamber proposed to be located less than 100 feet but more than 75 feet away from wetlands or a water course.*
- 5) Additional seating at food establishments, if no more than 25% above the maximum grease trap capacity.
- 6) Proposals for six or more bedrooms, without any variances, are no longer reviewed by the Board.

*NOTE: If there are two or more variances requested from #3 and/or #4 listed above, the applicant shall instead seek variances from the Board of Health at a public meeting.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to adopt the above-mentioned policy as the revision to the counter variances. (Unanimously, voted in favor.)

- F. Policy: Proposed Revision H-10 Components Discovered Beneath Parking Areas and Driveways During Septic System Inspections Conducted Under 310 CMR 15.301 State Environmental Code, Title 5.

Proposed Revision to Policy:

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 a "conditional pass." 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 in the case of leaching pit, replacing the top of the leaching pit with an H-20 slab top); 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 a "conditional pass". In this case, the seller must make the potential buyer(s) aware of the "conditional pass" status, the unknown construction of the septic system component(s), and it's safety concerns.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to adopt the above-mentioned revision to the policy for H-10 septic components under the driveway. (Unanimously, voted in favor.)

- G. Proposed Model - Fertilizer Application Ordinance – under consideration, extension for one year.

The Board continued this item to the February 11, 2014 meeting. The Board will speak with Karen Malkus on an educational component for the Website and for the possibility of informational handouts at point of purchase. Mr. McKean will obtain copies of Nantucket and Falmouth's regulations on this matter.

- H. Follow up status: Noel Santos, 305 Megan Road, Hyannis – must be pumping septic weekly and providing proof to Mr. McKean. Septic repair deadline was 30 Days.

Noel Santos the septic system repair will be completed Wednesday or Thursday, 12/11/13 or 12/12/13, depending on weather. The mold has been treated and the window is being repaired. The Board was satisfied that the repairs are being resolved.

- I. Follow up status: Carrie-Lee Touhey, owner – The Cape Cod Cookie Company, 569 Main Street, Unit# B, Hyannis, status regarding installation of a grease trap or connect to an existing tank.

Mr. McKean updated the Board that The Cape Cod Cookie Company is operating seasonally (summer) as a retail space.

Additional Items:

Discussion +on portable toilets and their handwashing facilities continued.