

Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, March 8, 2016 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 8, 2016. 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. Septic Variances – Repairs:

Earl Lantery representing Richard Grade, owner – 15 Edwards Road, Hyannis, Map/Parcel 328-173, 3,750 square feet parcel, repair of septic system, four variances.

Earl Lantery was present and discussed there are tight restrictions due to the small lot. There are currently two leaching pits: one is over the property line and one is directly below the proposed system.

Mr. McKean asked to have the Land Surveyor's wet stamp be placed on two copies of the plan for the office.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variances with the following conditions: 1) record a 3 bedroom deed restriction at the Barnstable County Registry of Deeds, 2) file with the Health Division an official copy of the deed restriction, and 3) have the Land Surveyor's wet stamp put on the plans. (Unanimously, voted in favor.)

II. Variance – Lifeguard (New):

Andrew Quinto, General Manager, Fairfield Inn – 867 Iyannough Road, Hyannis, Map/Parcel 294-017, new motel will open May 2016.

Andrew Quinto presented the necessary paperwork and insurance to meet the qualified swimmers variance.

Dr. Canniff mentioned that in general, he prefers to see the use of lifeguards at semi-public pools.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the variance. (Two voted in favor, Dr. Canniff was opposed.)

III. Variance – Food:

A. David Colombo, owner, Black Cat Harbor Shack – 159 Ocean Street, Hyannis, propose an increase in seating from 83 to 106 seats (all outdoors.), revise three variances: grease trap, toilet facility, and air curtain.

David Colombo and Attorney Daniel Creedon presented the renovation plans. David Colombo said the restaurant is open from Memorial Day to Columbus Day and proposes to have the 1,000 gallon grease trap pumped three times during their season in lieu of a larger grease tank as they do not have the space for such. He mentioned that he also has a Big Dipper Grease Recovery Device. Dave proposed to pump the tank in July, August and at the end of the season in October.

The establishment has three toilet facilities on site and two next door (20 feet from property line) at the Black Cat (same owner). On site, there is an employee bathroom on the second floor and there are two bathrooms on the main floor (one with access from inside and a second one, handicap facility, with access from the outside.

The upstairs deck will be full service with wait-staff. Dave is eliminating hard serve ice-cream which, in turn, will eliminate 2 employees; and with the wait-staff upstairs, there will be a net gain of 3 additional employees.

Mr. Colombo stated that an air curtain will be installed in the doorway.

Dr. Miller suggested approval for a trial period of one year.

Mr. McKean stated that Roger Parsons, Town Engineer said he was in support of the variance with the condition to pump three times during the season.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the three variances with 106 seats for a one year trial period with the following condition: 1) the grease trap will be pumped three times during the season (Memorial Day through Columbus Day) according to a schedule set by Roger Parsons, 2) an air curtain will be installed in the doorway, and 3) if there are no complaints during the upcoming year, the owner will be automatically be granted permanent variances without returning to the Board. (Unanimously, voted in favor.)

- B. Mike Putnam, owner of Mikey Mike's/Sweet Kiwi at Cape Cod Mall – 793 Iyannough Road, Hyannis, moving to new space in the mall, same menu with addition of smoothies (recently acquired Sweet Kiwi), prior location had grease recovery device (GRD), requesting grease trap variance.

Mike Putnam discussed that he had a Big Dipper at the other location and used paper goods. As he cannot take the Big Dipper Grease Recovery Device with him, he is submitting two choices of menus: 1) a combined menu of Sweet Kiwi's along with his original Mikey Mike's menu which includes foods such as fries and onion rings (and uses his auto fry unit), and 2) a combined menu of Sweet Kiwi's along with a restricted Mikey Mike's menu (submitted 3/8/16) in which he will not use the auto fry unit and the menu will not include fries and onion rings.

The staff recommended: 1) install a Grease Guardian (one is used at Tropical Smoothie Cafe's) or a similar type, 2) install a hand-wash station in the preparation area, and 3) have Servsafe certified personnel in place.

Mike Putnam proposed he would use the restricted Mikey Mike's menu along with Sweet Kiwi's at this time. He will come back to the Board to apply for the extended menu, if interested later.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board granted the grease trap variance with the following conditions: 1) the approved "combined" menu is Sweet Kiwi's with the restricted Mikey Mike's menu (which eliminates the items cooked with the auto fry unit – fries, onion rings, etc.), 2) the Board must receive a statement from Roger Parsons, Town Engineer, stating he supports granting of the variance, 3) a written statement from the Cape Cod Mall management stating they realize there is a potential risk to their plumbing pipes, and 4) install a hand-wash sink in front part of facility. (Unanimously, voted in favor.)

IV. Temporary Food Event:

Derick Axon representing Whole Planet Fundraiser at Whole Foods Market – 990 Iyannough Road, Hyannis, Saturday & Sunday, 3/19 & 3/20/16, 11am- 2pm, one vendor, Whole Foods, hot dogs, burgers, chips and drink.

Withdrawn by applicant.

V. Hearing – Sewer Connections:

Stewart Creek Properties overdue for sewer connection.

First Hearing:

A. John O'Neill, Sr., Hyannis, owner – 2 Keating Road, Hyannis

Postponed to the April 12, 2016 meeting. Applicant was unable to attend today.

B. Altair & Shinzo Miyagusuku, Hyannis, owner – 81 Woodbury Avenue, Hyannis

Mr. Shinzo Miyagusuku and his daughter Wanessa attended the meeting. The family had medical appointment in Boston at the time of the last meeting. Wanessa said they are in the process of filing this week for the County loan; citizenship has created an issue.

Upon a motion duly made and seconded, the Board voted to grant a 90-day deadline extension to June 30, 2016 to connect to the town sewer. If the loan is not in place at that time, they must return to the Board. (Unanimously, voted in favor.)

C. Matthew and Catherine Conley Hyannis owner – 35 Point Lane, Hyannis (from Old/New Business below)

Matthew Conley had submitted a letter stating financial issues and they have begun making installment payments to the contractor.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a deadline extension of 4 months which changes the connection deadline to July 31, 2016. (Unanimously, voted in favor.)

VI. Hearing – Housing:

Courtney Compeau, owner, and Robert Haag – 145 Oak Neck Road, Hyannis, without heating system, owner occupied, requesting extension from housing code, working on financing and replacing boiler.

Attorney Robert Bianchi and Courtney Compeau were present. Attorney Bianchi stated the yard has been cleaned up, there are three smoke detector/carbon monoxide detectors installed, the house needs a new furnace for the heat and hot water but the owner currently does not have any funds.. The furnace broke approximately 8 weeks ago.

He stated there is electric heat on the second floor and space heaters on the first floor and the electric heaters are a safe distance from any objects.

Courtney Compeau said she has applied to the Housing Authority for financial assistance due to the cost of the furnace (\$4,500) and for fuel assistance. Once she has enough funds to paint the house, she plans to paint and sell.

Attorney Bianchi stated his desire to prevent the house from being condemned and pointed out that the action would put two people out in the street (Courtney and her roommate) and would make it difficult to sell the house.

When the Board asked how the Town became aware of the furnace situation, Courtney said through a complaint from a neighbor stating it was overcrowded. She said there was a third person during the summer who rented a room. Since then, it has only been the two in the house.

Mr. McKean stated the goal of the Health Department is to rectify issues; not to impose fines. Attorney Bianchi asked for a continuance to allow her more time to get the boiler.

There have been a large number of complaints to the Police Department regarding this address due to noise late into the night, overcrowding and many drug issues. Ms. Compeau stated she is working to improve that situation. One complaint was as recent as March 3, 2016, where there were five people in the house at 3 am. Ms. Compeau explained her son's father had come over uninvited and caused issues. He was removed.

Neighbor Jen Cullum said the outside of the house does look great now. The police records show many drug issues and the traffic in and out of the house frequently lasts all night. She asked the Board to use their best judgment in handling this as someone who is concerned with safety in the neighborhood.

Dr. Miller said that if she has people repeatedly bunking in the property or partying, as in the past, the potential for disaster is great (with space heaters). The opium issues are in the town but from a health and safety issue, to avoid having the property condemned, Courtney must make sure only she and her boyfriend sleep there, make sure the space heaters are the type which automatically turn off if tipped, and that the amount of social activity is curtailed with no visitors after 11:00 pm.

Matthew Sonnabend, Deputy Chief of Police, said that the police are making inspections and will be reporting back to the Board. He will be watching the situation.

Upon a motion duly made and seconded, the Board voted to grant a continuance for 60 days to May 10, 2016 to allow Courtney Compeau and Matthew Murphy to live in the house with the following conditions in effect until the furnace has been replaced and there is heat and hot water: 1) no overnight guests, 2) any space heater in use must automatically turn off if tipped, 3) must curtail social visits at house - limit to family, when possible, and when visitors do come, make sure they leave by 11:00 pm, 4) there will be unannounced inspections from the Health Division and through the Police. 5) The Board will schedule an emergency meeting, if necessary, should there be any further issues, and 6) Courtney will supply an interim report to the Health Division in 30 days with the status of the boiler replacement. The Board requested the variance letter to be strongly worded prohibiting more than the two people sleeping there. (Unanimously, voted in favor.)

VII. Hearing – Food (Continued):

David Lawler, Attorney, representing Joann Lucas and Panagis Kappatos, owners of Egg & I Restaurant, 521 Main Street, Hyannis, review of food procedures prior to renewal of food permit 2016.

Attorney David Lawler said the owners have sold the truck and that is what the issue was based around. They will either buy a new truck or have products delivered to them. The owners are not ready to open for the season at this time - expect to open late April. They will be having their consultant (Kon Consulting) meet with the Health Division as previously requested.

Upon a motion duly made and seconded, the Board voted to grant a continuance to the April 12, 2016 meeting at which point, the owners anticipate they will have already received Mr. McKean's and the inspector's approval to operate. (Unanimously, voted in favor.)

VIII. Hearing – Show Cause: Motel:

David Lawler, Attorney, and Bhom Banta, owner of International Inn – 662 Main Street, Hyannis, lack of hot water to 20 rooms on 2/14/16.

Attorney David Lawler and Bhom Banta were present.

Health Inspector Donald Desmarais read the complaint into the record. He responded to the complaint on February 18, 2016 and was not given an answer as to why the hot water was not working for 20 rooms. Mr. Desmarais said he had checked on Trip Advisor website to see if there were other complaints logged there. He found the reported complaint.

Attorney Lawler said the management believes the complainant was searching for a free room. The management searched the initial room and found none of the items listed in the room or in the trash. The customer was given a 50% discount and moved to a second room. Here, they said they had no hot water – and were given a 100% discount.

Mr. Lawler stated this was the coldest day in 56 years, the hotel was completely full and, as it was Valentine's Day, all were filling their tubs and maximizing the hot water demand. The hot water ran out and only tempered water was available.

Mr. Banta said he believes the manager was just confused on what information the inspector was looking for and did not intentionally withhold.

Mr. Desmarais was satisfied with this explanation and no action was taken.

IX. Old / New Business:

A. Minutes for February 9, 2016.

Upon a motion duly made and seconded, the Board voted to adopt the February 9, 2016 minutes with the following changes: 1) P3 PP6, At present, the "State requires a 48" separation...Wequaquet Lake. And 2)

P6 PP4, ...and Portugal): “can be explained by the following statistics”: and remove % symbols. (Unanimously, voted in favor.)

- B. Status – Matthew and Catherine Conley, 35 Point Lane, Hyannis – Sewer Connection, contractor Doug Brown will be scheduling in approximately 3 weeks.

(see above – Item V, Stewart Creek Connections)

- C. Status – Miguel and Audrey Gomes, 42 Tonela Lane, Barnstable – IA Maintenance Plan is in place.

Update given to the Board that the owner now has a new Innovative Alternative Maintenance Plan in place and is in compliance.

- D. Policy and Guidelines: Determination of Section 360-20 Town Code - Four Feet Separation Between SAS and Groundwater

Dr. Canniff suggested an additional criteria of when to require a building permit applicant to appear before the Board for approval: Item “e. when the existing system is within 100 feet to a water resource.”

Dr. Miller suggested that the owner or builder would be the person to fill in the % amount that the proposed addition/structure represents compared to the existing habitable space...

Upon a motion duly made and seconded, the Board voted to adopt the guideline. (Unanimously, voted in favor.)

ADDITIONAL ITEM:

Proposed Smoking Regulations will be moved from the April to the May 10, 2016 meeting allowing Mr. Sawayanagi to be present.

The Board voted to adjourn at 5:05 pm.

Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



Public and Environmental Health Program Policies, Procedures, and Guidelines

Rev. March 2, 2016

Rev. March 8, 2016

Four Feet Separation Between SAS and Groundwater and Enforcement of Section 360-20 of the Town of Barnstable Code - When to Require an Applicant for a Building Permit to Appear Before the Board of Health for a Determination of Whether System Requires Repair or Replacement
No. 2016-001

Criteria for Determining System Repair or Replacement:

According to Section 360-20 of the Town of Barnstable Code, the Board of Health **may** require the repair or replacement of an on-site sewage disposal system if any of the following apply:
C. The bottom of the cesspool or leaching facility is less than four feet from the observed maximum groundwater elevation.

When to Require an Applicant to Appear Before the Board:

When an applicant applies for a building permit for one of the following projects, the Health Inspector shall inform an applicant that their proposal requires Board of Health review at a public meeting to determine whether a system replacement or repair is required:

- a. An increase flow (i.e. an additional bedroom); or
- b. a change in use (i.e. from a clothing store to a food establishment); or
- c. to raze and rebuild the building or dwelling; or
- d. to construct an addition or renovation involving 25% or more habitable space, compared to the existing habitable space of the building/dwelling; or
- e. when existing system is within 100 feet to a water resource.

The Board may consider proximity to wetlands, age of system, engineering plans and other documentation on file, location in regards to an estuary protection zone, groundwater protection zone, well protection zone, proximity to private wells, and other environmental factors when rendering a decision.

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Examples:

- A contractor is seeking a building permit to construct a 400 square feet second floor addition over a section of the home. The existing home contains 2,000 square feet of habitable floor space. There is no increase in flow proposed. The SAS is approximately two feet above the groundwater table according to a private DEP septic system inspector.

ANSWER: **No**, this applicant will not be required to appear before the Board because the proposed construction will be comprised of less than 25% in floor space compared to the existing dwelling size.

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- A contractor is seeking a building permit to construct a 768 square feet second floor addition over a section of the home. The existing home contains 2,000 square feet of habitable floor space. There is no increase in flow proposed. The SAS is approximately two feet above the groundwater table according to a private DEP septic system inspector.

ANSWER: **Yes**, the applicant must be informed by the health inspector that this proposal must be reviewed by the Board of Health at a public meeting because the proposed addition will exceed 25% of the existing dwelling size.

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- A homeowner is seeking a building permit to construct a 12' by 12' shed. The existing SAS is approx. two feet above the groundwater table according to a private DEP septic system inspector.

ANSWER: **No**, this applicant will not be required to appear before the Board because the proposed construction will not involve habitable space.

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- A contractor is seeking a building permit to change the use of a building from retail clothing to food sales. The project is estimated at less than \$100,000. There is no increase in flow proposed. The SAS is approximately two feet above the groundwater table according to a private DEP septic system inspector.

ANSWER: **Yes**, the applicant must be informed by the health inspector that this proposal must be reviewed by the Board of Health at a public meeting because there is a change in use proposed.