



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, May 23, 2017 at 3:00 PM
Town Hall, Hearing Room
367 Main Street, 2nd Floor, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, May 23, 2017. The meeting was called to order at 3:00 pm by Chairman Paul Canniff, D.M.D. Also in attendance were Board Members Junichi Sawayanagi and Donald A. Guadagnoli, M.D. Alternate Member Cecile M. Sullivan, RN, MSN was unable to attend. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

I. Hearing – Tobacco Violations

Tobacco violations as reported by Bob Collette of Barnstable County Tobacco Control.

- A. Hyannis Food Mart, 18 Center Street, Hyannis – First Offense, tobacco products sold to a minor.

Upon a motion duly made and seconded, the Board determined to assess a \$100 fine for this first offense in three years. (Unanimously, voted in favor.)

- B. North Street Automotive, 228 North Street, Hyannis-First Offense, tobacco products sold to a minor.

Upon a motion duly made and seconded, the Board determined to assess a \$100 fine for this first offense in three years. (Unanimously, voted in favor.)

- C. Sam's Food, 4738 Falmouth Road, Cotuit – First Offense, tobacco products sold to a minor.

Upon a motion duly made and seconded, the Board determined to assess a \$100 fine for this first offense in three years. (Unanimously, voted in favor.)

- D. Cotuit Liquors, 3858 Falmouth Road, Marstons Mills, Second Offense, tobacco products sold to a minor.

The owner explained his programs which are in place for tobacco and alcohol sales. It is a very thorough plan. Among other items, he has a new ID scanner which verifies if the ID is genuine. The employee was put through the training again, as well. The

Board felt Cotuit Liquors' tobacco program was a thorough one and did not opt to assess a suspension.

Upon a motion duly made and seconded, the Board determined to assess a \$200 fine for this second offense in three years. (Unanimously, voted in favor.)

II. Hearing: Show Cause – Food

Thai House, 304 Main Street, Hyannis, no certification for food managers, no log kept for low temperature dishwasher, no soap at handwash sink, insecticide kept in kitchen area, food temperatures, recurring violations.

The new manager, Louie, was present and said he has been in charge of the kitchens for the Princess Cruise for the past 18 years. He has moved to the Cape and is training the staff at the Thai House. They are now maintaining the required logs, as well. He said he will have at least one person, servsafe certified, on hand at all times.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Guadagnoli, the Board's findings are that the servsafe certification issue has been corrected and they may continue their operations. (Unanimously, voted in favor.)

III. Hearing: Show Cause – Housing:

Nathan Lampert, Power of Attorney for Lucienne Lampert, owner – 59 Kelley Road, Hyannis, Failed septic system, serious housing violations, tenants, consideration of condemnation.

Mr. McKean gave a summary of the events leading up to meeting. The owner moved into a nursing home in 2014. Nathan Lampert, the owner's son and power of attorney told Mr. McKean in a phone conversation that his mother had not given anyone permission to live there so he was surprised to receive a call informing him the septic is overflowing in the yard. His mother does not have a will so the State will be taking over the property.

Tenant Harvey Powell said he and his girlfriend were asked to move in by the owner's daughter JoAnne Curran, who has now passed on. He did not have a lease. There has been septic problems during the full time he has lived there (three years) and he said he is the one who called the Health Department for help with the issue. He has been paying money to pump the system periodically and has had work done on the house. and stated there are four tenants.

Neighbor John Wade of 49 Kelley Road said that the property has been affecting his ability to enjoy his property over the past year with the continuous odor of sewage and with the overgrowth of the yard and items in it. He has helped out where he could but the property is in disrepair.

Mr. McKean said this is the same property which came to the Board in December 2016 because the water had been shut off. At that point, the water did get turned back on

with a promise of payment. The property now has further problems and the Board must determine whether the house should be condemned.

Lamar Anderson, tenant, stated that the tenants are all willing to work on the house in order to stay there. The Board recognized that they do not have the responsibility nor the legality to replace the septic system.

Upon a motion duly made and seconded, the Board issued a finding that the property is unfit for human habitation and will be condemned. With the condition that the septic system will be pumped immediately, as needed, without allowing the septic to overflow, the four occupants will be permitted to stay there for up to 60 days while finding another location to live. (Unanimously, voted in favor.)

IV. Variance – Lifeguard Regulation:

David Lawler, Attorney, representing Wayne Kurker, Hyannis Marina / Trader Ed's, 11 Willow Street, Hyannis, variance – sign/alcohol.

Attorney David Lawler stated that the applicant is unique in that they do not have any units and by nature of the business as a restaurant/bar, it serves liquor. The applicant is asking for a waiver to the regulation and explained that whenever the gate to the pool area is open, it will be monitored by staff/security and the remainder of the time, it will be locked.

Attorney Lawler also explained the pool is not open to the general public who come to the restaurant/bar. The only people allowed in the pool are the private boat owners at the marina boat slips and the signs at the pool, "Pool Use Dockage Guests Only", state this. The pool hours are generally 11 am until 4-6 pm depending on whether guests are using it. The restaurant is open from 11:30 am until midnight. There is a four foot walkway around the pool. The marina owner, Wayne Kurker, and his manager are both CPR certified, as well as all boat captains and their crew.

Upon a motion duly made by Dr. Guadagnoli, seconded by Junichi Sawayanagi, the Board voted to grant a waiver to the lifeguard requirement allowing them to operate without a lifeguard and following the list of requirements with the exception that liquor may be allowed in the pool area with the following conditions: 1) at least one person must be on the premises who has CPR training for both adult and child, and 2) the gate to the pool will be closed unless monitored as pool is only for the boat slip guests. (Unanimously, voted in favor.)

V. Innovative Alternative (I/A) Septic System (Cont. from April)

CONTINUE TO JUNE 27, 2017 MEETING Steve Wilson, Baxter Nye Engineering and Surveying, representing Michael Walsh, Trustee 224 Pine Lane Extension, Osterville, Map/Parcel 117-075-002, 0.28 acre lot, Micro Fast 0.5 proposed.

VI. Variance – Septic:

David Coughanowr representing Eric Winer, owner – 31 Hiram Road, Hyannis, Map/Parcel 242-011, lot size 9,336 square feet, request septic variance(s).

Upon a motion duly made and seconded, the Board voted to grant the variances with the following conditions: 1) the plan shall be revised to show that a 1,500 gallon monolithic septic tank shall be used and will be installed 41 feet away from the edge of the wetland, and 2) a three bedroom deed restriction must be recorded at the Barnstable County Registry of Deeds and an official copy of such must be given to the Health Division. (Unanimously, voted in favor.)

VII. Bedroom Count Determination:

Nancy and Albert Brown, 34 Horatio Lane, Centerville – bedroom count.

Albert and Nancy Brown discussed the history of the home and showed documentation of the four bedrooms prior to the zone restriction.

Upon a motion duly made and seconded, the Board voted to recognize the property at 34 Horatio Lane, Centerville, as a four (4) bedroom property due to the history of the property. (Unanimously, voted in favor.)

VIII. Variance – Food:

Jamie Surprenant, owner, Crisp Too Express – 770 Main Street, Osterville, variance – pocket door to restroom is not self-closing as required per Federal Food Code.

Mr. Surprenant discussed the floor plan with limited space and his plan to install a pocket door for the restroom. He will have personnel monitoring the door to ensure the door is closed before and after any person is accessing and/or exiting the restroom in order to satisfy the food code.

Upon a motion duly made and seconded, the Board voted to grant the variance with the following conditions: 1) the restroom door shall be kept closed whenever the restroom is used and whenever not in use, 2) the only times the pocket door shall be allowed to be open is whenever a person is in the process of accessing and/or exiting the restroom, c) staff will closely monitor to ensure the door is closed, and 3) they will install a mirror in the hallway to the restroom to assist the staff in easily viewing and monitoring the door. (Unanimously, voted in favor.)

IX. Food – Temporary:

A. Laurie Young, Osterville Village Library, 23rd Annual Osterville Village Library Cape Cod Clambake, 43 Wianno Avenue, Osterville, on July 9, 2017 at 5:30pm.

Laurie Young presented the paperwork for their fundraising event of a clambake on the side lawn at the Osterville Village Library.

Upon a motion duly made and seconded, the Board voted to grant an annual temporary food event for a clambake with the menu to include: lobster, steak, chicken, clam chowder, mussels, steamers, corn, potatoes, liquica, coleslaw, dinner rolls and watermelon. (Unanimously, voted in favor.)

- B. Josh Richards and Mike Lyons, Sail Cape Cod, for “Scoops for Sloops” Event on Saturday, June 17 from 12:00 – 5:00 pm at Aselton Park, 135 South Street, Hyannis.

Mike Lyons, owner of Ben & Jerry’s Ice Cream and representing Sail Cape Cod, described the fundraiser which will be used to fund Community Outreach and Adaptive Sailing programs, partnering with local groups focused on disabilities, disadvantaged youth and military families. Local ice cream shops will be donating their ice-cream and their trained food handling staff. One admission price will allow the customer to sample the different ice cream on site.

Upon a motion duly made and seconded, the Board voted to grant an annual temporary food event with the following food item: ice cream. (Unanimously, voted in favor).

- C. Kathleen Walker representing Hyannis Sprint 1 Triathlon to be held at beginning and ending at CBA, 915 Craigville Beach, Centerville for two events: June 17th and September 9th, to serve bagels and oranges to athletes at finish line.

Ms. Walker said their triathlon will occur twice a year starting and ending at the Craigville Beach Association. They would like to hand out food for the athletes at the finish line.

Upon a motion duly made and seconded, the Board granted the two temporary food events (Triathlons on June 17th and September 9th) with the following foods: bagels, peanut butter packets and oranges. (Unanimously, voted in favor.)

X. Variance – Body Artist Permit (Cont. from April 2017)

Vanessa Ristow, Hyannis, applying for Body Art variance to work at Lash Boutique for microblading without completing an Anatomy and Physiology Class as required per Regulation.

Vanessa Ristow and Ekaterina Morozova, owner of Lash Boutique, were present.

In discussing the microblading procedures, the Board inquired whether an anesthetic is injected in the client prior to microblading. Ekaterina said no, she only applies a topical anesthetic and it is applied with a Q-tip.

The Board said they want someone with Anatomy and Physiology to be a mentor for the trainee. Ekaterina Morozova was granted a variance from the Anatomy and Physiology requirement and has only been working in the town for four months. The Board was not comfortable allowing Ms. Morozova to mentor Ms. Ristow as a trainee.

Upon a motion duly made and seconded, the Board voted to grant a variance which would allow Vanessa Ristow to work under Ekaterina Morozova as a trainee. (Unanimously, DENIED.)

XI. Correspondence:

- A. Jessica Sylver, President & CEO, Greater Hyannis Chamber of Commerce –letter dated May 10, 2017.

The letter requested the Board considerate adopting a change to signage regulations at a swimming pool which would make reference to State Code 105 CMR 435.23. The Chamber would like the word “should” changed to “shall” so the required signs would include “Children under age 16 shall not use swimming pool without an adult in attendance” and “Adults shall not swim alone”.

Peter Martino, representing Greater Hyannis Chamber of Commerce, said the purpose of the letter was to put the item back on the agenda and reopen the topic and reopen the vote taken last month on lifeguard regulations. They proposed returning the lifeguard regulations back to the State Code along with the two changes in the wording of signs mentioned above using “shall” instead of “should”. He did not feel the Board had voted on any of the discussions brought up.

Upon a motion made by Dr. Guadagnoli, seconded by Dr. Canniff, the Board voted to put the lifeguard regulations back on the agenda for a vote at next month’s meeting. (Vote results: one in favor (Dr. Guadagnoli), two were opposed.

The Board will address the regulations on this topic at the November 2017 Board meeting.

- B. Kris Clark, Clerk, West Barnstable Water District – letter dated March 20, 2017 herbicide in area of potential future well.

The West Barnstable Water Commissioners sent a copy of their letter to Clayton Edwards, MA State Pesticide Bureau, concerned with Eversource Energy scheduled herbicide application in area of a future potential well head.

Upon a motion duly made and seconded, the Board will write a letter to MA State Pesticide Bureau in support of protecting and preserving the quality of the water in the potential well head along with copies to the Town Council and the Town Manager. (Unanimously, voted in favor).

XII. Minutes:

Minutes – April 25, 2017

Upon a motion duly made and seconded, the Board voted to approve the minutes with the correction on page 2 ... 34.8 elevation. (Unanimously, voted in favor.)

Motion to Adjourn – 5:25 pm