



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES Tuesday, December 19, 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, December 19, 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. Mark Ells, Town Manager - Update on Town Sewer

Mark Ells, Town Manager presented a comprehensive water management update to the Board on the activities occurring, future planned activities in relation to protection of our water resources, quantifying the challenges facing the community and what are viable changes including changes in zoning areas that may arise.

The Town has five major coastal / bay areas: 1) Popponessett and Shoestring Bay, 2) Three Bay, 3) Centerville River / East Bay, 4) Lewis Bay, and 5) Barnstable Harbor. Four of the five share coastal resources with other towns. The Centerville River / East Bay is unique as it is totally within the town.

Mr. Ells said he understands what is occurring in these areas. The areas in the south (Areas# 1-4) exceed nitrogen loads and the challenge is to remediate. In the north, the challenge with Barnstable Harbor is to protect it so that it doesn't exceed nitrogen loads. He said one of the results of 208 planning was to give us options, traditional and non-traditional.

Mark said that we have a municipal agreement pending with Town Council which is between Mashpee, Sandwich and the Town of Barnstable to move forward to remediate those waters to the far west (Area #1). Mark emphasized this is a significant accomplishment as it is the first of its kind as a watershed permit that brings all the towns involved into an agreement to fully manage the waterway. He pointed out without the cooperation of all the towns located within the water way, the management would not be successful. The agreement will be finalized shortly. The Town is in the early stages of a similar agreement with Yarmouth in handling Lewis Bay (Area #4). The Three Bays (Area #2) is expected to have an agreement with all parties. Mark projects these will also be in place within the year.

The Centerville River / East Bay (Area #3) is completely within our town and our Department of Public Works (DPW) has been working on additional sewer connections for this area. In its thorough planning, the Water Management group is also looking at the ponds in the Town.

There are five proposed capital improvement projects which will be presented to Town Council and then proceed through design, permitting and construction. Ridgewood Avenue/Center Street is one and leads into Pleasant Street where the existing infrastructure needs improvements with the goal of handling more housing. The area of Willow Street and heading west is a significant business area and is a proposed sewer expansion. A third is for DPW to install a new sewer main south off Route 132, down Phinney's Lane, down Route 28 and back to the sewer collection plant so there is an ability to handle more neighborhoods. This improvement will have a positive impact in Centerville and Osterville as it will improve the affluent from Phinney's Lane on that side of Wequaquet which travels down the Centerville River and flows into the East Bay. The next project is to go south of Route 28 along Long Pond area to improve this sensitive area with small lots and high groundwater.

The Town has a lot of people coming to them trying to address commercial growth and housing needs (senior housing and workforce affordable) and had been unable to make the necessary progress currently with the density requirement. Mark Ells said he wants to make sure of good communication with the Board so they have the knowledge while making decisions on future septic replacements. He brought up that the Saltwater Estuary Interim policy was actually put in place for the interim in the absence of a plan to move forward with solutions to address nutrient loading in our coastal embankments. He said we now have those plans in place and the added infrastructure will be there. He also said the shortcomings of onsite septic systems are known.

Mark Ells believes the Board should take another look at the Saltwater Estuary Interim regulation and consider removal of it especially in connection with progress going forward relative to addressing nutrient loading. He said the comprehensive water management group is here to be supportive to the Board and will be available to help quantify the project so the Board of Health can move forward with decisions. Mark would like to sit down with the Chair and/or the Board within the next couple weeks and discuss the action items.

Mr. McKean said he liked what Mark had to share and agrees that with the knowledge of where the expansions are going, he would like Health to consider allowance of more time for repairs of failures and apply minimal repairs needed prior to connection to sewer.

Dr. Canniff said it would have to be a case-by-case situation. He noted this is how the Wequaquet Lake area was handled and unfortunately, the sewer did not come to the area so there are some parcels not up to par there.

Mr. Ells said there is a lot more information available now than was 5 or 10 years ago when the interim regulation was put in place and he asks the Board to bring any questions they have to him and he will provide whatever they need to move on this.

II. Variance – Septic:

Dan Ojala, Down Cape Engineering representing William and Krista Murphy, owners – 104 Wild Goose Way, Centerville, Map/Parcel 167-048, 41,214 square foot parcel, new house, multiple variances.

Dan Ojala explained that the owner’s son had planned to make his home on that property. While he was in the military, the variances expired. Mr. Ojala is proposing the same variances for re-approval.

The only State variance is the one which resulted from Conservation’s request that the house be moved three feet.

Upon a motion duly made and seconded, the Board voted to grant the variances in accordance with engineering plan dated November 29, 2017 with the following conditions: 1) Record a three (3) bedroom deed restriction with the Barnstable County Registry of Deeds and 2) provide an official copy of the deed restriction to the Health agent prior to being issued a septic permit. (Unanimously, voted in favor.)

III. Variance – Food:

Zahid Rashid, owner of Centerville Food Mart – 1149 Falmouth Road, Centerville, Map/Parcel 229-100-002, requesting a toilet facility variance.

Zahid Rashid is the new owner and is hoping to run it the same as the previous owner. There will only be two employees.

Upon a motion duly made and seconded, the Board voted to grant the toilet facility variance to allow one unisex toilet facility for the staff in lieu of the required two toilet facilities, a male and a female facility, as there is no seating in the establishment. (Unanimously, voted in favor.)

IV. Pool – Variance for Lifeguard Deregulation Modification

For Off-Season: Jay Patel, General Manager/Owner, Best Western – 1470 Iyannough Road, Barnstable, requesting no lifeguard during off-season as units fall below the 75 unit tier.

Jay Patel was present. He had supplied the Board with verification of the rooms rented during the periods of Oct 1st and April 30th for last two years. The average monthly rentals during this period were far below the 75 unit count and all months were below the 75 unit count which is currently the maximum number of rooms an establishment may have in order to qualify for the deregulation of lifeguards. Best Western does not meet the requirements during their summers; however, they are asking for the ability to have no lifeguards during their off-seasons as it is very slow.

When asked about the pool membership for local residents, Mr. Patel stated they only have five or six members now as many went away while they were closed for the pool renovations and the pool is only four feet deep.

Mr. McKean noted that Best Western received a variance in the construction of the pool when it was renovated in July 2017 because the stairs go into the water. The condition the State had recommended and which was placed on that variance was a requirement to have a lifeguard always present when the pool is open. Mr. McKean will have to speak with the State for their support with the granting of this current variance.

Upon a motion duly made and seconded, the Board voted to grant a conditional variance from the lifeguard regulation and, thus, allow them to follow the deregulation of lifeguards policy during their off-season of Oct 1st through April 30th with the following conditions: 1) the establishment must update the Board each year with the occupancy numbers for the prior Fall and Winter to verify they do not exceed the count used in the regulation (currently, no more than 75 rooms) during that period, and 2) this is contingent upon receiving approval from the Director of Community Sanitation Program at MA Department of Public Health due to the variance previously granted regarding the construction of this swimming pool. (Unanimously, voted in favor.)

V. Hearing – Dumpster:

Robert Murphy, Portside Tavern, 72 North Street, Hyannis, dumpster issue.

Robert Murphy was present and said he thought the location where he moved the dumpsters to is part of his lot and had not heard any issue from the property owner next door. The older plot plan in Health's file does not show the location to be part of his land. Mr. Murphy will research into plot plan.

Upon a motion duly made and seconded, the Board voted to continue to the April 24, 2018 meeting. (Unanimously, voted in favor.)

VI. Motel (Follow Up Review):

Tara and Dilip Patel, Knight's Inn (a.k.a. Craigville Motel) – three month review and report, as required per the settlement of March 2017.

Three reports were submitted to the Board in their paperwork – Fire Department, Building and Health's. All three are satisfied with their current quarterly inspections. The only note made was that there is an open plumbing permit pulled in Building for the water temperatures in the rooms. Health had been in the rooms and was able to verify the water temperatures are correct.

The Board would like the motel to have a plumber close out the plumbing permit.

The next quarterly update will be March 27, 2018. The quarterly reporting was set up for two years ending December 2018. Attorney Connors informed the Board he is not available in April but will be at the March 2018 meeting.

In regards to the recording of the Order of Judgement at the Barnstable County Registry of Deeds, Assistant Town Attorney Charles McLaughlin explained to the Board that he understand it is not Attorney Connors error as the Land Court is having some issues with it.

VII. Policies / Regulations:

Regulation 310 CMR 15.305 - Proposed revision to Section 360-20(C) of eliminating the word “observed” and by inserting the words “maximum adjusted” groundwater elevation. (Two public notices were published in the Barnstable Patriot-December 5th and 12th.)

The revision to the regulation was published twice as stipulated in the State codes for Title V.

Upon a motion duly made and seconded, the Board voted to adopt the elimination of the word “observed” and insert the words “maximum adjusted” groundwater elevation. (Unanimously, voted in favor.)

VIII. Minutes:

Minutes – November 28, 2017 meeting.

Upon a motion duly made and seconded, the Board voted to adopt the minutes for the November 28, 2017 meeting. (Unanimously, voted in favor.)

IX. Old / New Business:

Temporary Food Inspections– Raw Oyster Bar and Wolf Pizza events at Cape Cod Beer.

Mr. McKean gave the Board an update on the temporary food events approved last month. The Raw Bar event went off very well, all regulations followed. The pizza event had some issues, Mr. McKean was happy the pizza event was limited to one-time as the vendor had to be corrected on a number of items and was about to bring a gas tank into the building.

Additional:

Peter Martino representing the Chamber of Commerce spoke to the Board about the lifeguard regulation policy. He was unhappy to learn that the lifeguard deregulation has now been continued for a five-year period using the maximum count of 75 units at an establishment and felt the Board was not listening to the owners.

The Board stated that the lifeguard item had been continued to the November 2017 meeting and none of the motel owners had attended. The Board informed him that the Board voted on it and also placed it back on the agenda for public comment at their February 27, 2018 meeting and will be publicizing it after the holidays.

Board voted to adjourn at 4:45pm.