



# Town of Barnstable

## Board of Health

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F.P. (Thomas) Lee, P.E., Chair  
Donald A. Guadagnoli, M.D, Vice Chair  
Daniel Luczkow, M.D.  
Paul Canniff, D.M.D.  
Stephen Waller, M.D. Alternate

### BOARD OF HEALTH MEETING MINUTES

**Tuesday, August 27, 2024 3:00 PM**

James H. Crocker Jr. Hearing Room, Town Hall

367 Main Street, 2<sup>nd</sup> Floor, Hyannis, MA

**A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, August 27, 2024. The meeting was called to order at 3:00 pm by, F.P. (Thomas) Lee, Chair. Also in attendance were Board Members Donald Guadagnoli, M.D., Daniel Luczkow, M.D., Paul Canniff, D.M.D., and Stephen Waller, M.D. Thomas McKean, Director of Public Health, was also present.**

**1. Septic Variances:**

- A. Daniel Ojala P.E. Downcape Engineering representing Joan and Mark Delnegro- 99 Rosemary Lane, Centerville, Map/Parcel 147-7, repair of a failed septic system, no increase in flow proposed, variance requested for a reduction from the required separation distance from groundwater, from 5' to 4'

Daniel Ojala was present. He stated he recently received additional context on area well readings and high groundwater adjustment data from a representative of the Cape Cod Commission. He stated this site is very close to the boundary of two other monitoring wells and the boundary line mapping is it known that this calculation adjustment method is not an exact science. Mr. Ojala stated he took an average of three area well adjustments for June. The difference between the average and the adjustment used in this application (4.1' applied adjustment versus 2.6' average reading adjustment) is 1.5 feet, which is greater than the 1.0 feet variance requested. The Board of Health members agreed that this appears to be a reasonable approach to calculating the high ground water table in the area.

Mr. McKean stated the staff has no objections. He indicated this method of averaging of high groundwater well readings method has been used at other properties in the Centerville area,

Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to grant a variance from Section 310 CMR 15.104 (1h) of the State environmental code to construct a soil absorption system four (4) feet above the calculated adjusted high groundwater table, in lieu of the five (5) feet minimum setback required construct an onsite sewage disposal system at 99 Rosemary Lane, Centerville Massachusetts.

- B. John O'Dea, Sullivan Engineering representing Robert and Terry Madden- 340 North Bay Road, Osterville, Map/parcel 072-004, proposed replacement of a failed septic system, variances requested for a reduction in setback to a coastal bank, greater than three (3) feet of soil cover over top of septic component(s).

Mr. O'Dea was present and stated the existing physical constraints at this property restrict the location of the pump chamber, specifically due the existing home location, physical septic system design and its proximity to wetlands

Mr. McKean stated the staff has no objections to this request.

Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to grant variance from Section 360-1 of the Town of Barnstable Code: To install a pump chamber 32 feet away from a coastal bank, in lieu of the 100 feet separation distance required by the Town Code, and from Section 310 CMR 15.221 (7): To provide greater than 51 inches of soil cover above the pump chamber, in lieu of thirty-six inches maximum of soil cover allowed by the State Code, in order to construct an onsite sewage disposal system at 340 North Bay Road, Osterville, Massachusetts

- C. Lana and Edward Lukatsky- 129 Hayes Road, Centerville, failed septic system, located within Phase 1 CWMP Plan, requests a variance to maintain existing failed system until public sewer becomes available.

Mr. John O'Dea P.E. was present and explained the current septic system is failed and has been required to be pumped several times in recent months. This site is located in Phase 1 of the Comprehensive Wastewater Management Plan (CWMP). Mr. O'Dea explained the property owner is looking at various options in order to rectify the situation in the meantime (i.e., installation of a holding tank, scheduled pumping contract, or upgrade system components).

Mr. McKean stated, that according to Ansley Lanier, Town of Barnstable Sewer Connection Program Manager, in her email dated August 20, 2024, public sewer will be available to this property in approximately six years, during the summer of 2030.

After some discussion and Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to continue this matter for two months in order to provide the applicant more time to evaluate several viable options to rectify the failed septic system problem until such time public sewer becomes available at this site.

- D. Daniel Griffin- 10 Wianno Avenue Osterville, Map/parcel 117-91, 3,495 square feet parcel, request variances to increase flow, to add 8 seats (35 gals/seat) where no seats were provided during the past forty plus years), increase in wastewater discharge flow, variances requested from State Environmental Code, Title 5 to not provide a soil absorption system reserve area, to install component(s) greater than three feet

below grade, and from the Saltwater Estuary Protection Regulation; site is located within a nitrogen sensitive area.

Daniel Griffin was present and requested eight seats at this new food establishment which will mostly be for take-out service. Mr. Griffin stated he would be willing to sign an agreement to monitor water meter readings, similar to what another food establishment agreed to in this area in the year 2013, limiting the daily wastewater discharge flow to the restricted amount.

Mr. McKean stated there are environmental concerns regarding the proposal to provide a new food establishment with seating, at a location which was previously used as an office and/or retail space for many years, on a very small parcel located within a nitrogen sensitive area, which is restricted to a wastewater discharge flow. This 3,495 square feet parcel is located within a nitrogen sensitive area, identified by the Town as a Saltwater Estuary Protection District regulated under Section 360-45 of the Town of Barnstable Code.

After some discussion, and upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to grant variances to construct an onsite sewage disposal system, allowing 6-seats with a written agreement to monitor the water meter readings at 10 Wianno Avenue, Osterville MA. The following variances were granted:

**Section 360-45 of the Town of Barnstable Code:** To discharge 245 gallons of wastewater per day on a parcel of 3,495 square feet, located within a Saltwater Estuary, which is an identified nitrogen sensitive area.

**310 CMR 15.405(1) (b) & (f):** To provide 4.1 feet of soil cover over the top of the soil absorption system, in lieu of the three feet maximum cover allowed.

**310 CMR 15.248:** To construct a septic system without providing a reserve area, in lieu of the requirement to provide a reserve area.

**310 CMR 15.211:** To construct a soil absorption system six (6) feet away from a foundation wall, in lieu of the twenty (20) feet minimum separation distance required by the Title 5.

**310 CMR 15.211:** To construct a soil absorption system five (5) feet away from a property line, in lieu of the ten (10) feet minimum separation distance required by the Title 5.

**310 CMR 15.211:** To install a septic tank three (3) feet away from a foundation wall, in lieu of the ten (10) feet minimum separation distance required by the Title 5.

**310 CMR 15.211:** To install a grease trap six (6) feet away from a foundation wall, in lieu of the ten (10) feet minimum separation distance required by the Title 5.

These variances are granted with the following conditions:

- 1) The engineering plan shall be revised to reflect six (6) seats maximum.
- 2) Due to certain extenuating circumstances and based upon 1) DANIEL GRIFFIN expressed willingness to work out a long term solution to address the nitrogen-loading challenges at this Property and 2) DANIEL GRIFFIN expressed a willingness to provide water usage records documenting the average daily water use, the Director of Public Health agrees to issue a temporary permit to operate a food establishment with a total of six (6) seats. The temporary permit is conditional upon DANIEL GRIFFIN providing the Board of Health with certified quarterly water usage readings for one year, beginning from the opening date of the business, performed by the Centerville-Osterville-Marstons Mills Water Department at DANIEL GRIFFIN's expense. Said water usage readings shall be submitted to the Board of Health no later than fifteen days after each quarter.
- 3) The overall wastewater discharge flow for this site is limited to 245 gallons per day.
- 4) DANIEL GRIFFIN shall acknowledge, by written agreement, that nothing herein shall preclude the Board of Health from requiring DANIEL GRIFFIN, after taking evidence on this request for a variance under Section 360-45, to upgrade the onsite sewage disposal system on the Property to include an innovative/alternative (I/A) technology (or secondary treatment technology) as a condition of allowing a new food establishment with six (6) seats at this property.
- 5) Prior to construction and operation of the food business, a written agreement shall be signed by both the applicant, DANIEL GRIFFIN and the Director of Public Health that acknowledges the above conditions.

**2. Sewer Connection/ Extension Requests:**

- A. Leonard and Laurie Carr, owners – 121 Strawberry Hill Road, Centerville, Map/Parcel 247-137, Phase 1, Project 1, requests a different stub connection, requests postponement of connection to public sewer until change in stub location can be made.

Louise DiCecca was present. He stated he needs some additional time to connect to public sewer, an additional six months, due to the installed stub location which is further away from his home than he originally anticipated

Upon a motion duly made by Dr. Guadagnoli, seconded by Dr. Luczkow the Board voted to grant a six-month extension, until May 1, 2025, to connect the home to public sewer at 121 Strawberry Hill Road Centerville, Massachusetts.

- B. Marianne Pappas and Linda Stevens, officers of Fisherman's Village Condo Association – 855 West Main Street, Centerville, Map/Parcel 249-031-003, Phase 1, SEWH-24-144, total 22 units, requesting extension to connect to public sewer.

Marianne Pappas and Linda Stevens were present. Ms. Pappas stated she is requesting an additional eighteen (18) months to locate and hire a professional engineer and to provide all of the condominium owners additional time needed to obtain funding for the required sewer connection work. Ms. Stevens stated the cost to abandon three septic systems and to connect the two condominium buildings is estimated at \$100,000.00. She also stated the Department of Public Works (DPW) classified these buildings as “commercial.” Thus, the DPW is requiring her to hire a professional engineer to design a sewer connection plan for your property

Health Agent, Thomas McKean, stated that there has been a shortage of engineers available to take on this required design work.

Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to grant an eighteen-month extension, until January 31, 2026, to connect the condominium buildings located at 855 West Main Street to public sewer.

**3. Food- Variances:**

Paulo Paraguay, owner of Kandy Korner – 474 Main Street Hyannis, Map/Parcel 308-078, requesting variances to provide 24 seats outdoors; variances requested from Section 322-5(3) of the Town of Barnstable Code (one toilet facility provided for male and female employees and patrons), Section 322-5 (5) (no air curtains/screens provided at entranced doors), and from Section 322-3 of the Town of Barnstable Code (no inground grease trap provided).

Paulo Paraguay was present. He stated he currently provides an onsite restroom, available to employees and patrons. There is no external grease trap provided onsite; however the menu is very limited to the same items that the previous owner provided.

Mr. McKean stated Griffin Beaudoin, Town Engineer, did not object to the grease trap variance request with the limited menu items (fudge, ice-cream, and frozen yogurt) with this new request to provide some outdoor seating.

Mr. McKean also stated the Town of Barnstable Plumbing Inspector, Robert Duffy, advised him that the applicant needs to seek a variance from the Massachusetts Plumbing Board. The single toilet facility proposal requires a variance from the State Board.

Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to grant Mr. Paraguay variances to provide outdoor seating at his food establishment., Kandy Korner, located at 474 Main Street, Hyannis, Massachusetts. The variances granted are as follows:

**Sections 322-5(3) of the Town of Barnstable Code:** Only one toilet facility (one restroom) is provided for male and female customers. The same single toilet facility is provided for male and female employees.

**Section 322-3 of the Town of Barnstable Code:** No inground grease trap provided.

This variance is granted with the following conditions:

- (1) The applicant shall seek a variance from the Massachusetts Plumbing Board regarding the single toilet facility for employees and customers.
- (2) The menu is restricted to fudge, ice-cream, and frozen yogurt. No other food items are authorized to be prepared.
- (3) The existing in-line grease interceptor must be maintained and cleaned on a regular basis.
- (4) These variances may be revoked anytime the operator fails to comply with the conditions of these variances or anytime unsanitary conditions are observed.

This variance is not transferable to another owner or leasee of this food establishment.

**4. Temporary Food:**

Alina Patrana representing Cirque Entertainment for Paranormal Cirque III Event to be held at the Cape Cod Mall side parking lot – 180 Falmouth Road, Hyannis for four days, August 29-September 1, 2024, from 6-10 pm weekdays and 12-10 pm weekends. Food items include popcorn, cotton candy, snow cones, slushes, nachos, hot dogs, lemonade, bottled water and bottled soda. Applicant also requests written permission to allow occupancy of temporary housing (25 mobile trailers) onsite as may be requested per State Sanitary Code, Chapter II, Section 105 CMR 410.440.

Louise DiCecca was not present. However, Mr. McKean stated the staff has no objections to these requests.

Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to grant the applicant permission to provide temporary housing of workers onsite in camping trailers and to prepare and serve foods at 180 Falmouth Road, Hyannis, at the Cape Cod Mall parking lot, on August 29, 2024 through September 1, 2024. The permission was granted with the following conditions:

- (1) Each temporary food permit vendor was required to obtain a temporary food permit from the Health Division Office at least four days prior to the event.
- (2) The menu was limited to popcorn, cotton candy, snow cones, nachos, hot dogs, lemonade, bottled soda, and bottled water.
- (3) There shall be at least one trained Allergen Awareness person and one Servsafe certified food handler at mobile food truck/food station/table. Copies of Servsafe certification shall be submitted to the Health Division prior to obtaining temporary food permits from the Health Division.
- (4) There shall be handwash stations provided at each food station/table. Each handwash area shall be equipped with dispenser soap and paper towels.
- (5) Each food handler shall wear disposable gloves during preparation, handling and serving of ready-to-eat foods. Gloves shall be changed often during the event.

- (6) The temporary food permits issued from the Health Division Office shall be posted at each food station/table at an easily accessible location to be viewed by a health inspector during site inspections.
- (7) All the other regulations contained in 105 CMR 590.000: State Sanitary Code, Chapter X - Minimum Sanitation Standards for Food Establishment and of the Town of Barnstable Board of Health sanitation regulations shall be strictly adhered to.

5. **Septic Installer: New**  
Marcelo Alves, Franklin, MA

Mr. Marcelo Alves was present. Mr. McKean stated Mr. Alves passed the septic exam and his references were good. Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Dr. Daniel Luczkow, M.D, the Board voted to grant Marcel Alves a septic installer's permit.  
(Unanimously, voted in favor.)

6. **Memorandum from Town Attorney's Office**  
This item is postponed. A memorandum was not yet completed nor received from the Legal Department.

7. **Minutes:**  
Minutes  
This item is postponed.

**Adjourn – 4:23 pm**

Upon a motion duly made by Donald Guadagnoli, M.D, seconded by Daniel Luczkow, M.D, the Board voted to adjourn. Roll Call: Donald Guadagnoli M.D. -Yes, Daniel Luczkow, M.D,- Yes, Steven Waller M.D. -Yes, F.P. (Thomas) Lee-Yes.  
(Unanimously, voted in favor.)