



Office: 508-862-4644
FAX: 508-790-6304

Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



Wayne Miller, M.D.
Paul Canniff, D.M.D.
Junichi Sawayanagi

BOARD OF HEALTH MEETING MINUTES Tuesday, March 11, 2008 at 3:00 PM Town Hall, Hearing Room 367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on March 11, 2008. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul Canniff, D.M.D. and Junichi Sawayanagi. Thomas McKean, Director of Public Health and Sharon Crocker, Division Assistant, were also present.

OLD BUSINESS/NEW BUSINESS:

- A. Joseph Dunn, Island Merchant regarding grease recovery device and testing.

Test done showed that the removal of grease is being done successfully. The results show 126 per meter. The Board brought up the desire to have the log maintained.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to change the grease trap variance condition. The new condition does not require any additional testing. The new conditions are (1) to maintain a daily log which lists the amount of grease removed from the grease recovery device, and (2) the daily log will be kept easily accessible for the health inspectors to view. (Unanimously voted in favor.)

I. Show- Cause Hearing – Housing (New):

Marilyn Higgins and Cindy Gold at 92 County Seat, Hyannis – Housing violations.

Ms. Higgins was not able to be present. It was reported by the Health Division that the property's trash has been cleaned. The remaining antiques are being handled.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to dismiss the violation. (Unanimously voted in favor.)

II. Hearing – Housing

James Madru, Manager, Breakwater Condominiums, dumpster setback to property line.

James Madru, Manager, explained that the dumpsters are not used much during the off-season and thus, are only dumped monthly (or as needed).

A neighbor spoke against the dumpster often being open and that it is not large enough during the summer.

Mr. McKean stated the property has three different locations to relocate the dumpster within 10 feet of the property line, however, it would require fencing all the way around.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant a six-month temporary allowance to have the dumpster 5 feet from the property line until the September 9, 2008 meeting, during which time they will consider new locations if necessary, and they will keep the dumpster properly emptied, and the area clean. (Unanimously voted in favor.)

III. Discussion:

Stephen Wilson, Baxter Nye Engineering, representing Hyannisport Club – 2 Irving Avenue, 156 Acre parcel, pertaining to building closest to Merchant's Mill Way, just west of Hall's Creek.

Stephen Wilson presented his report. The total approved flow for the entire 156 acre parcel was 7,900 gallons. Five years ago, a pressure dose system was installed. With the proposed plan, it is estimated to bring the flow up to 8,500 gallons (spread over 156 acres would mean only 54 gallons per acre.)

The Board said they would not have a problem with the proposed plan. The Title V would require a two-compartment tank and the Health Division would need floor plans.

IV. Septic Variances:

A. Whitney Wright, owner – 4308 Main Street, Barnstable, 145,800 square feet parcel, one variance (postponed from Feb 2008 meeting).

Mr. Wright was not present.

The Board needs corrected plans and variance request revising the map and parcel number, along with specifying the desired variance. They would appreciate the owner to be present at the April 8, 2008 meeting.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to Continue until the April 8, 2008 meeting. (Unanimously voted in favor.)

V. Six or More Bedrooms (Cont.):

Darren Meyer representing Jamison DaSilva, owner – 47 Suffolk Avenue, Hyannis, 11,000 square feet parcel (continued from Jan 2008 BOH).

Mr. DaSilva was present. He had hoped his engineer would be present.

The Board expressed that he has not met the requirements for 6 bedrooms.

The obstacles he must overcome for approval would be: removing the two illegal bedrooms. They do not have proper egress. They must comply with the occupancy ordinance regarding the size of the parking (so it is not too wide). If they want a kitchen in the downstairs, Title V requires him to put in a two-compartment septic tank.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted on approval of the six bedroom application. **(The vote was unanimously Denied).**

VI. Correspondence:

Letter from William and Myrna Elkins regarding 47 Suffolk Avenue, Hyannis.

Letter read opposing the application of 47 Suffolk Avenue, Hyannis.

VII. Six or More Bedrooms (New):

A. Glen Harrington representing Paul Dauphinee, owner – 80 Evans Street, Osterville, 12,800 square feet parcel.

Glen Harrington and Paul Dauphinee were present. The Assessor's list it as 4 bedrooms, and the septic plans in the file show it had been six bedrooms (4 plus two studies). The septic would be installed before the sale of the property.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the six bedroom plan. (Unanimously voted in favor.)

B. Sullivan Engineering representing John and Ann Marie Cotton, owners – 161 Marquand Drive, Marstons Mills, 5.08 acre parcel. Proposed seven bedrooms.

Peter Sullivan presented the plan. The staff did not have any problems with the plan.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the seven bedroom plan. (Unanimously voted in favor.)

VIII. Variance – Food (New):

John Kenney, Attorney, representing David Lancaster, owner of Nirvana Coffee Company, proposing to operate from 3206 Main Street, Barnstable, requesting one toilet facility variance and one grease trap variance.

CORRECTION to Agenda: Mr. Field and Ms. Bearse are the property owners. The owner of Nirvana Coffee is David Lancaster.

John Kenney and David Lancaster were present. The business is not a food preparation business. It is a food retail business. In order to install a grease trap

outside, it would be required to be 50 feet out behind the property, however, that would be too close to the marsh land.

The property has been on town sewer since approximately 1990. Mr. McKean said the present owner of the property itself must have the original grease trap removed.

Two votes were taken:

1) Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the variance of the grease trap with the following conditions: 1) it is approved with the menu filed, 2) they will use a grease recovery device, and 3) they will maintain a daily log listing the amount of grease removed, and the daily logs will be easily accessible for the health inspectors. **(Unanimously voted in favor.)**

The second issued discussed is the toilet facility issue. The total cost of an additional bathroom is \$7,000 and is a difficult amount for a start up cost. There would be 8 seats (and 3 employees) not intended for eating but for drinking. The Board was concerned it would set a precedent that other food establishments would want to waiver the toilet facility requirement of two. The regulation has been on the books for over 20 years.

Lynn Mederios owns the Barnstable General Store and spoke on the issue of the toilet facilities. The reason their store does not serve food is because the Board of Health has held her to the requirement of putting in a fourth bathroom which is not feasible to her (this is for 50 seats or more). She asked that the Board consider upholding the regulations to their competitors.

2) Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted on approval of the toilet facility variance. **(The vote was unanimously DENIED).**

IX. Subdivision # 817 - Definitive Plan:

Cape & Islands Engineering representing Peter Jenkins, Jr.,
Definitive Plan at 361 Parker Road, West Barnstable, Map and
Parcel 176-021, private wells, on-site sewerage disposal system,
continued from Oct 2007 meeting (Postponed from Jan 2008 BOH).

John Slavinsk, Cape & Islands Engineering presented a summary of the plan's development through to the present. On January 9 meeting with Steve Seymour and Joanne, they were asked to do many revisions. The plan lists the five well locations, each being 150 feet radius. They tried to maintain the rural-ness of the location.

The Board had a question on Lot#1. This lot is over 400 feet away and is at a higher elevation through the lot.

Arlene Wilson, A.M. Wilson Associates, spoke of her concerns including missing notations to indicate most recently revised plans. She questioned the water quality of the well water on the lot with wetlands on and near it.

For Lot # 5, the entire road drainage is in the setback radius for that well. The southern lot is at a high elevation. The elevation given is 52 feet and it gets flooded every winter. The Bog across Parker Road is within 200 feet and will affect this property and it is not listed on the plan. The well on Lot# 1 doesn't conform because the cart paths should be considered as a right-of-way. The well, also, is not 50 feet from utilities right-of-way.

There was talk of a Fire Suppression System being installed and the reason was because of the lack of access to the furthest lot. This would put a larger strain on the well system and may pull in undesirable water from wetlands.

Ms. Wilson recommended adding a test for herbicides and pesticides to the well water testing requirements. Ms. Wilson said the houses are three-bedroom houses and the 1650 rule would come into play. She believes the community septic system would be desirable.

Dr. Miller commented that this property would be a good one to invoke the 1650 Rule and require a community septic system.

James Jenkins, a neighbor, spoke and explained he hired Arlene Wilson because of his concerns on the lots. He believes there are a lot more wetlands than are listed especially on Lot# 2.

The Board of Health stated their role is not to approve or disapprove the plan. Their role is to make recommendations to the Planning Board.

A well expert spoke for Cape & Islands Engineering. He stated the wetlands on plan are accurate and that Lot 4 has vegetation consistent with dry areas. Therefore, even though it is low elevation, it is not a wetland.

- THE BOH will recommend to the Planning Board that the BOH wants to invoke the 1650 Rule and use a shared system unless they reduce the flow. THE BOH will also state that if the total flow for the Subdivision is greater than 1650, a new plan showing a revised plan identifying where a shared system will be located.
- THE BOH would add to the requirements of the well testing to include herbicide and pesticide. There are cranberry bog(s) nearby and seasonally the testing may differ.
- Floor plans must be submitted to the Board of Health.
- THE BOH would also note to the Planning Board that the Fire Department wrote a letter stating their concern with the accessibility for Lot# 1.

- THE BOH will acknowledge the revised plan is the one where the five wells are shown with circles identifying the radius. The plan the Board reviewed is identified as “Revd Jan 14, 2008 40 Ft Wide Road and Dated Dec 6, 2007”.

X. Correspondence:

Letter from A.M. Wilson Assoc. regarding proposed Subdivision# 817

XI. Old Business/New Business/Correspondence:

A. Joseph Dunn, Island Merchant regarding grease recovery device and testing.

The Board approved the continued use of the grease recovery device with the requirement that a log be kept with the dates and quantity of grease removed and the log will be kept in an easily accessible place for the health inspectors to view, similar to dishwashing logs.

B. Ed Pesce, Pesce Engineering, and John Kenney, Attorney, representing 381 Old Falmouth Road, Marstons Mills –septic system discussion regarding failure (continued from BOH Jan. and June 2007, and Jan 2008).

Ed Pesce explained his plan is based on the calculations of January 6, 2008 letter and wherever there were 0 - 3 employees, it was assumed to have 3 employees in the space. Wherever there are less than 55.8 gallons, it is assumed to use a minimum of 55.8 gallons.

There is an error on unit#1 and did not use the 70 gallons (thus, he is off by a couple of gallons).

He will put a flow meter on the American Tent (Unit F) on Jun, Jul and Aug so they can see if they are correct in the estimate.

Units B & E septic systems are to be repaired for now and they can hold off on the American Tent section until either: (1) it fails, or (2) it is reviewed after the summer flow meter readings.

Per Ed, Units B & E showed evidence that it did not appear in failure. However, the inspection showed an old stain line on the top of the riser. The Board discussed the time frame and agreed on a deadline of January 1, 2009 to have Units B & E repaired.

Unit F is not in failure. However, with the deadline of Jan 1, 2009, the owner may decide to do all three in September.

Mr. Pesce will have a hydraulic inspection of the leaching system done in Mid- to-End July 2008. He will come to the September 9, 2008 meeting with the results.

A Decision was decided by the Board on this property with the following conditions:

- 1) They will not invoke the 1650 rule - if the Unit F proves to be ok.
- 2) The design flow in the plan is dated 2/09/08.

- 3) He will replace two systems Unit B & E by 1/1/09.
- 4) Further discussion will be done at the Sep 2009 Board of Health meeting.
- 5) The Board will waive the need for a percolation test before the permit is issued because there are already percolation tests done on the lot. The percolation is to be witnessed at the time of the inspection.
- 6) Mr. Pesce amended Units 1 & 14 to 2,988 gallons per day.

On Next Month's Agenda - 226 Long Beach Road, Centerville, a follow-up on the Jan 2008 BOH meeting.

Action: Mr. McKean will email the BOH members of the availability of the Hearing Room in Mid-April for the estuary project and revise draft.