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# 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, April 8, 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 April 8, 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.

#### I. Hearing- Tobacco:

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

##### A. Hearing:

1. CVS # 2322, 176 North Street, Hyannis – First Offense, tobacco products sold to a minor.

Jennifer Drowski, General Manager and Store Manager Christine were present and acknowledged they were interested to have the hearing proceeding today without the presence of Mr. Collette. They stated that the employee was fired and they reviewed the requirements with employees and had them sign the regulation sheet again.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to issue a warning as the First Offense. (Unanimously voted in favor.)

2. Christy's #610, 317 Falmouth Road, Hyannis – First Offense (in six years), tobacco products sold to a minor.

Jennifer Daritol, Manager of Operations, was present and acknowledged she was interested to have the hearing proceeding today without the presence of Mr. Collette. She noted the employee was suspended for a week without pay and reviewed the requirements with all employees again. They noted they have sold 24,000 cigarettes without a violation.

Upon a motion duly made by Junichi Sawayanagi, seconded by Dr. Canniff, the Board voted to issue a warning as the First Offense. (Unanimously voted in favor.)

3. Sav-On, 590 Iyannough Rd (Rte 132), Hyannis – First Offense, tobacco products sold to a minor and smoking inside building.

Jay Imad was present and acknowledged he was interested to have the hearing proceeding today without the presence of Mr. Collette.

Upon a motion duly made by Junichi Sawayanagi, seconded by Dr. Canniff, the Board voted to issue a warning as the First Offense. (Unanimously voted in favor.)

- Requested Postpone to May 13
4. Big Daddy's Pizza (formerly Cotuit Pantry), 4120 Falmouth Road, Hyannis – Second Offense, tobacco products sold to a minor.
  5. Hess Express, 149 North Street, Hyannis – Second Offense, tobacco products sold to a minor.

Mr. Pat Dudley was present and acknowledged he was interested to have the hearing proceeding today without the presence of Mr. Collette. His company policy required termination of the employee and she was terminated.

Mr. Dudley spoke of their new incentive program. Employees are given the opportunity to answer the tobacco regulation questions daily and the first to answer correctly receives \$20 which goes into a pool to be rewarded to the employee that has the most correct answers per month.

\*The Board also mentioned in general that businesses might consider not terminating people on their first error. They might have good success by adjusting the policy to possibly suspend an employee for a week without pay as seen above (Christy's), or something in that fashion. This would allow a business to keep a good employee and the employee would be careful to avoid the consequences again.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to issue a \$100 Fine as the Second Offense. (Unanimously voted in favor.)

## **II. Hearing – Housing (Cont.):**

Can not Attend Sent Status. Deborah Packard, owner – 226 Long Beach Road, Centerville, MA – housing violation(s).

S. Crocker, Division Assistant, stated Deborah Packard stated she would not be able to attend (she is out of town). Ms. Packard faxed a statement saying that two bedrooms have been eliminated and the work is complete.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to Continue to the May Board of Health Meeting and have an inspection by the Health Division to verify the work is complete. (Unanimously voted in favor.)

## **III. Septic Variances:**

Postponed until A. Whitney Wright, owner – 4308 Main Street, Barnstable, 145,800

**May 13 MTG**

square feet parcel, one variance (postponed from Feb 2008 meeting).

- B. Lisa Lyons representing James and Valerie Lane, owners – 86 Summerbell Avenue, Centerville, 0.11 acre parcel, 4 variances for septic repair.

Lisa Lyons and James Lane were present. They presented their data. The original system was a 2 bedroom. Then in 1991, a septic permit 91-446 was issued for a remodel of dormers, etc. the permit was to add three infiltrators to the cesspool. The Board states that the system was never built for four bedrooms as three Infiltrators would work for four bedrooms. At this time, the system is in failure and the number of bedrooms is four. The owner is firm on his belief that he had done everything appropriate to have the four bedrooms years ago, and they are not interested in eliminating a bedroom.

If they can get an I/A system (which allows for a reduction in SAS field), then they may be able to have enough space to improve the situation.

Bob Silva spoke for his technology, White Night Treatment System (which will be presented later in the meeting). His technology allows for a 50% reduction for SAS.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to 1) allow Thomas McKean to allow a septic permit to proceed with a plan that allows only setback variances without a reduction in SAS size, or 2) that allows the currently proposed reduction in size SAS system, or an I/A system with setback variances, or to put in a standard system for three bedrooms and adjust the fourth bedroom to eliminate it as a bedroom. (Unanimously voted in favor.)

- C. Peter McEntee, Engineering Works, representing Harold Gramse, Trustee – 98 Vanduzer Road, Barnstable, 22,280 square feet parcel, seven variances due to site constraints.

Peter McEntee presented his plan which included a sieve analysis. They had dug down 36 feet and put in pipes to judge the elevations. The elevation maximum level was at 12.03 feet. The cellar floor is at 14.25 feet. There is only a couple feet difference. Currently the ground water is above the invert to the tank, however, it still flushes out the septic.

He is interested in digging down to 12 feet and have four feet to Infiltrators. Peter McEntee said he has shown the plan to Brian Dudley, DEP, who also recommended some items, ie, pressure dosing.

This is a failed system. There are six bedrooms. He interprets Title V to read that the two-compartment tank required with two kitchens applies only when there are 1) multi-users and 2) when more than 1000 gallons of water is used daily. His plan does not contain two-compartment, however, he did choose the tank size with this in mind and met the requirements of the top tank (1,500 gallon pump

chamber) to handle 48 hrs of use (660 gal x 2 days= 1300), along with the second tank (1,000 gallon storage) to handle 24 hr (660 gallons)

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to Continue to the May 13, 2008 Board of Health meeting to allow time for the Board to discuss the plan with Brian Dudley, DEP. (Unanimously voted in favor.)

- D. Peter McEntee, Engineering Works, representing Ernest and Dianna Bovi, owners – 14 Briarcliff Lane, Centerville, 11,000 square feet parcel, M/P 208-105, I/A system with five variances due to site constraints.

Peter McEntee presented his plan and reviewed the sieve analysis on this high elevation. He had revised plans with minor variations. There is now a retaining wall where the shed is and the shed will be moved to another location.

He proposes a timber wall around the outside of the mound.

Susan Simon spoke for her aunt, an abutter. Ms. Simon spoke of concern of whether heavy equipment will drive over her septic as the lots are small. Mr. McEntee said the dog's chain link fence will be removed and they will access through there. Ms. Simon explained the only concern her aunt will have is the looks of the mound and appreciates vegetation being placed above the timber wall.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the revised plan dated 4/08/08 with four variances: 1) variance for sieve analysis in lieu of percolation test, 2) a reduction to the requirement of a 12" separation between inlet and outlet pipes servicing the septic tank/pump chamber and high groundwater, and 3) a setback variance from the 100 feet to 66 feet from SAS to wetlands, and 4) a setback variance from 100 feet to 84 feet from septic tank to wetlands, with the following conditions: 1) a two-bedroom deed restriction will be recorded at the Registry of Deeds, 2) a proper copy will be submitted to the Health Division, and 3) vegetation will be planted along the top of the timber wall to high the mound which will be planted every three feet or according to the nursery instructions. (Unanimously voted in favor.)

- E. David Coughanowr, R.S., representing Elisabeth Margaret Ricci, owners – 8-10 Sunset Avenue, Centerville, 5,800 square feet parcel, four variances requested.

David Coughanowr and Mr. Ricci presented the plans. David used a more restrictive determination of the groundwater. Mr. McKean would recommend a monitoring of the groundwater or the use of high tide as the tool for groundwater. This would reduce the size of the retaining was of 4.35 feet. A two-compartment tank will be needed.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan pending the final Growth Management Determination based on a test well for the height of the foundation and wall., 2) a revised plan be submitted to show a two-compartment tank. (Unanimously voted in favor.)

- F. Patrick Page, Trustee - 21 Buttonwood Lane, West Barnstable, 41,300 square feet parcel, Map/Parcel 217-031, variance for percolation test.

Patrick Page presented his plan.

Dave Linsell spoke to the Board. He has been a state inspector and witnessed over 200 percolation tests.

Dr. Miller said he will go to the DEP and review the case for Mr. Page and see what the DEP's opinion is before Mr. Page spends any more money.

Mr. Munsell is someone Mr. Page would accept being involved with the process.

#### **IV. Variance – Food (New):**

#### **Withdrawn Request**

- A. Elizabeth Wurf Bain representing Hyannis Farmers Market – change in location to Village Green next to the School Building, same schedule as prior years: weekly on Wednesdays in summer.
- B. John Cotellessa, owner, Original Gourmet Brunch at 517 Main Street, Hyannis, requesting grease trap variance and expansion in seating from 70 to 94. Also, a variance request from toilet facilities from 4 to 3 toilets.

John Cotellessa presented the issue that the restaurant does not have any additional space which would be needed to put a grease recovery device as a supplement to the 1,000 gallon grease trap outside. Normally, it would be required for the additional seating.

Mr. Cotellessa is proposing that the Board grant the variance with the condition that the restaurant pump the outside grease trap more often to meet its needs.

Mr. McKean read the regulations which states that prior approval by the DEP is required in this situation, whenever the person is not capable of expanding the grease trap.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted on the toilet facility variance. (Unanimously voted in favor.)

The Board will continue the variance for a grease trap to allow the owner to speak with DEP.

- C. Peter Sullivan, Sullivan Engineering, representing Hyannis Harbor Tours (HyLine Cruises), 230 Ocean Street, Hyannis, requesting toilet facility variance.

Peter Sullivan and Hy-Line owner presented the plan. A discussion took place regarding an additional double-compartment sink needed. This will be dealt with at a later time once the owner is able to review.

On the first floor is the kitchen preparation and the employees will be required to go upstairs. They will be using touchless faucets. One unisex toilet will be used upstairs. All the toilets are handicap and an outside 1,000 gallon grease trap is in place.

The second floor outside dining area must be separated by a partition and screening / air curtain from the raw bar food preparation area to prevent the entrance of insects and rodents from entering into the parent establishment.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plans with three toilet facilities with the condition that the raw bar and outside dining area must be separated by proper screening to prevent entrance of insects and rodents. (Unanimously voted in favor.)

- D. Hal Choubah, Choubah Engineering Group, representing Khalil Naoum of West Main Gas, 577 West Main Street, Hyannis, requesting toilet facility variance and grease trap variance.

Hal Choubah represented the variance request. A 50 pound grease trap was installed. The food is all pre-packed except for the hot dogs (approximately 200 sold per year.) The main business is not the food. The store is 1,170 square feet. The regulation states that a business with less than 1,200 square feet

- E. Nancy Magnuson representing Paul Mazzeo of Kandy Korner Gifts, 474 Main Street, Hyannis, map and parcel 308-078, requests a grease trap variance.

No grease trap or GRD required. Only an interceptor.

**V. Disposal Works Installer Applicants:**

- A. James Zarella, Marshfield, MA

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve James Zarella as a Disposal Works Installer. (Unanimously voted in favor.)

- B. Christian D. Turner, Sagamore Beach, MA

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Christin Turner as a Disposal Works Installer. (Unanimously voted in favor.)

**Meeting Room change:**

6:45pm The Board of Health announced that the Hearing Room is not available to continue the meeting. There were no objections to continue the meeting in the Selectmen's Room without the taping of the meeting. The clerk will record the minutes.

**VI. Subdivision # 817 - Definitive Plan:**

Michael Dunning, Attorney representing Peter Jenkins, Jr., Definitive Plan at 361 Parker Road, West Barnstable, Map and Parcel 176-021, private wells, on-site sewerage disposal system, requesting a variance from the Board of Health's Decision of March 11, 2008 to individual I/A systems on each lot.

Michael Dunning said he seeks reconsideration from 1650 Ruling and prefers individual I/A systems instead of a Shared I/A System for the development. Lot 5 has an existing house which will be required to change the septic to an I/A system only once the system has failed or if the owner wants to increase the flow. Mr. Dunning stated there are only four empty lots to be developed and they are not expected to be developed simultaneously, along with the fact that the number of bedrooms may vary. Mr. Dunning proposed the developer will put wording in the deeds and in the government of the group of properties and in the plan that each property desiring more than two bedrooms will require an I/A system. A quitclaim deed will be recorded with each lot to reflect this.

Arlene Wilson spoke of her concern and asks that the Board of Health also require the system(s) be fully compliant to Title V and fully compliant to all town regulations as well to ensure it would require more setback to the wetlands.

Ms. Wilson stated the Planning Board has not been given any percolation information and the plan designer has been asking for all waivers from everything pertaining to the percolations.

The engineer spoke and said the above statements are not correct. All percolation information has been given and all waivers have been dropped.

The question arose "How is the owner of the cranberry bog allowed to flood the bogs and impact Lot 1"? The Board explained there are long-existing agricultural farm rights that are granted more rights than ordinary land holders.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to make the following recommendation to the Planning Board with the following conditions:

- Prior to obtaining a disposal works construction permit, the applicant shall obtain a well construction permit for each lot. Each well shall be sampled and analyzed for pH, coli form bacteria, nitrate-nitrogen, VOC's, and all the other parameters required per Board of Health standards.
- Each septic system shall be designed and constructed in compliance with Title 5, the State Environmental Code, and all local Health Regulations.

- Innovative-alternative (I/A) nitrogen reduction technology, such as sand filter systems, shall be incorporated into the design and construction of the septic systems on Lots 1, 2, 3, and 4. However, I/A technology will not be required on any specified lot(s) which will contain two (2) bedrooms or less.
- Wastewater effluent testing shall be conducted at each I/A testing port in accordance with the established standards of the Board of Health.
- The existing septic system located on Lot #5 may be used and maintained as it currently exists. However, when/if this system fails and/or when/if an increase in flow is proposed at this particular lot, innovative/alternative (I/A) nitrogen reduction technology shall be incorporated into the design and construction of the new or upgraded septic system on this Lot.
- A quitclaim deed shall be recorded for each lot individually identifying the fact that innovative/alternative technology was incorporated into the septic system construction, requiring proper operation and additional maintenance and testing.
- Each lawn area created must be covered by at least four (4) inches of loam.
- All tree stumps, brush and building debris removed when clearing lots or roads must be disposed of at a licensed solid waste disposal facility. Chipping brush and tree stumps is an acceptable alternative. Burial on site is prohibited.
- The Board of Health recommends that all drainage be contained onsite at each lot.
- The applicant must receive an Order of Conditions from the Conservation Commission, where applicable.

(Unanimously, voted in favor.)

The Board voted unanimously to adjourn.

Adjourned at 7:30pm.