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Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



Wayne Miller, M.D.
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BOARD OF HEALTH MEETING MINUTES Tuesday, February 10, 2009 at 3:00 PM Town Hall, Hearing Room 367 Main Street, Hyannis, MA

I. Hearing - Tobacco:

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

- A. Mid-Way Garage, 981 Main Street, Osterville – First Offense, tobacco products sold to a minor.

Marco was present and explained it was a new employee who, seeing everyone busy, jumped in and waited on the customer. All employees have to review the guidelines and the new customer has been instructed he will be let go if it happens again.

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

- B. CVS #2322, 176 North Street, Hyannis – Second Offense, tobacco products sold to a minor.

Store Manager Christine said that they have strict policies on the selling of tobacco and they have now taken the step to put cigarettes behind a locked glass door and only management can issue them.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to issue a \$100 fine. (Unanimously, voted in favor.)

- C. Additional Tobacco Item:

Bob Collet recommended allowing his personnel to purchase other items with the cigarette sales as they have been told that the owners are aware the policy is to only purchase cigarettes when doing the spot checks. The Department of Tobacco allows this.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the purchase of additional items when doing the tobacco checks. (Unanimously, voted in favor.)

II. Hearings – Property Owners Ordered to Upgrade Septic Systems:

- A. Christine A. Jenness, representing Carstensen Realty Trust, owner, 250 Smoke Valley Road, Osterville, Map/Parcel 097-002, requesting extension of time to repair failed septic system.

Letter from Attorney Jenness asked for a one year extension from the original date of order, 11/4/08, stating the owner will keep the house vacant and the water turned off.

Mr. McKean suggested the Board write a letter to the water company and ask to be notified once the water is turned on. The Board agreed.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the extension of the deadline for the septic repair for one year or until the water to the property is turned back on, whichever is sooner. (Unanimously, voted in favor.)

- B. John L. Kowalski, representing Linda Peterson, owner of 38 Rosewood Lane, Cotuit, Map/Parcel 025-048 requesting extension of time to eliminate two (2) bedrooms, septic system designed for three (3) bedroom, not five (5).

No one was present for the hearing. A letter from Mr. Kowalski stated his client, Ms. Peterson, is in Florida and the letter addressed whether the deadline to resolve the issue is correctly stated at 1/9/09 as they received the notice late.

Mr. McKean explained the issue is that all items in the Public Health Division's file show the septic system is designed for three bedrooms. At the time of inspection, five bedrooms were observed (one of the five was an office which qualified for a bedroom). There is no apparent failure of the septic system at this time.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to request two bedrooms be removed within six months and if the owner wants to appeal the Board's decision, she must notify the Board of her request within 30 Days. As no letter was submitted asking for a continuance, the meeting continued as scheduled (the Board would like this mentioned in their letter). (Unanimously, voted in favor.)

- C. Roberta E. Mauch, owner – 80 Greenwood Avenue, Hyannis, Map/Parcel 289-139-001, inadequate septic system, requesting two year extension for completion of town sewer project.

Roberta Mauch presented her situation to the Board.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the continued use of the house with the current septic system until the town sewer arrives there with the following conditions: 1) limited to two residence and any short-term visitors, 2) no washing machine be connected, and 3) the owner will inform Mr. McKean, Director of Public Health, each time the septic

system is pumped. The septic is to be pumped as needed. (Unanimously voted in favor.)

III. Hearings – Housing (New):

John Lasota, representing Valeria Medeiros, owner - 572 Main Street, Hyannis, one (1) variance from ceiling height (6'9" in lieu of 7').

John Lasota explained that the house is very old. The ceilings are 6'9" and it would be very expensive to raise the ceiling.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a variance for ceiling height due to the ceiling being above 6'8" and the high cost to raise the ceiling height. (Unanimously, voted in favor.)

IV. Septic Variance (Cont.):

POSTPONED Michael Ford representing Michael and Gisa Belanger, owner – 100
UNTIL MARCH Cross Street, Cotuit, Map/Parcel 033-032, 0.9 acre lot, four (4)
BOH MEETING variances for repair (continued from Oct and Dec 2008).

Postponed until March Board of Health Meeting due to illness – M. Ford.

V. IA Monitoring Plan Review (continued):

A. Thomas Fehnel, 195-A, Route 149, Marstons Mills, requesting discontinuance of testing of RSF system and he will continue quarterly Operation and Maintenance inspections.

No one was present and no new test results have been submitted.

Dr. Miller requested a letter be sent stating the quarterly monitoring plan must stay in effect until 8 good test results have been completed at which time the applicant can appear before the Board of Health to request a reduction in monitoring.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board agreed the Quarterly monitoring plan must remain in place. (Unanimously, voted in favor.)

B. David Walsh, 195-E, Route 149, Marstons Mills, requesting discontinuance of testing of RSF system and he will continue quarterly.

No one was present and no new test results have been submitted.

Dr. Miller requested a letter be sent stating the quarterly monitoring plan must stay in effect until 8 good test results have been completed at which time the applicant can appear before the Board of Health to request a reduction in monitoring.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the

Board agreed the Quarterly monitoring plan must remain in place.
(Unanimously, voted in favor.)

VI. Septic Variances (New):

- A. Stephen Haas, Eagle Surveying, representing Joyce Wheeler, Judith Deveney and Jeff Wheeler, owners – 120 Main Street, Centerville, M/P 208-058, 29,000 square foot lot - five (5) variances requested.

Stephen Haas explained the location of the property is between Main Street and Long Pond in Centerville. The property slopes down from the street to the pond and has two buildings on it. Mr. Haas proposes a plan where the two buildings will be tied together to the same system consisting of a pump chamber which will pump the septic up to the septic tank then into a leaching field. He is suggesting a pump chamber first because of the difficulty of the slope. It would be too difficult to set the septic tank down at the lower level. It also would require much bigger equipment to do this and the space is unlikely able to handle the size of the tank. Mr. Haas is requesting a setback variance from all components to the wetlands as all will be less than 100 feet, a 5 foot setback variance from the leaching field to the road, and a 5 foot setback variance from the pump chamber to DPW to 20 feet in lieu of the required 25 feet.

Two issues have come up:

- 1) Title V requires only pumping 25% into a septic tank. However, it does allow >25% if certain conditions are met:
 - A) At least a day's flow or provide alternative power to the pump chamber. Here, they provided a full day's storage in the pump chamber above the working level, and
 - B) They provided a two-compartment septic tank with a baffle wall in the middle to provide a little extra protection

- 2) The other issue is that Title V says it is only allowed for single family dwellings. Mr. Haas said the smaller building has one bedroom, one incinerator toilet, a small (3 feet) cube refrigerator and a bar sink. The larger building has one bedroom, a full bathroom and a kitchen and the larger house has been the house used for food and showers, etc, with the smaller house used only for sleeping. Mr. Haas feels this could to be viewed as a single dwelling property with two bedrooms. Mr. Haas is asking to hook up, in the smaller building, a shower with a gray water collector. Dr. Miller said the regulations require the gray water system to be Title V compliant. He also said his interpretation of the ruling is that the Board of Health does have authority to issue a variance from the 25% pumping. However, he does not believe the Board has authority to issue a variance on the single dwelling. He understands the regulation to mean that in order to qualify for the variance from 25% pumping, the application must meet all the other criteria including being a single dwelling.

Bill Deveney spoke of the history of the property stating he is unaware of any changes at the property for many years, he believes the larger building was used at all times for the toilet facility of both buildings, and the buildings appear to have been built at the same time over 60 years ago. He stated the proposed plan will be a great improvement because the septic system will be moved to the furthest point away from the pond. Currently the system is a cesspool near the pond and in

groundwater. This property, per Dr. Canniff, is part of the area to be put on sewer soon (it is part of the Weaquaquet and Long Pond area.)

Dr. Miller will check with Brian Dudley, MA DEP, for clarification. The Health Division will review the files again for any possible records including any septic inspection which should be available as the property just sold in September, 2008. The Board will also review whether there will be an increase in flow as two toilets will be used instead of one on the septic system. It may depend upon the configuration of the kitchenette in the small building.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a Continuance until the March 10, 2009 meeting. (Unanimously, voted in favor.)

- B. John O'Dea, Sullivan Engineering, representing Oyster Harbors Club, Inc., owner - 170 Grand Island Drive, Oyster Harbors, M/P 053-012-001, 9.44 acre lot, two (2) variances from (a) coastal bank and (b) tidal waters.

John O'Dea, Sullivan Engineering, presented his plan for the septic system down at the beach for the bathhouses and changing rooms. There is no change in flow and no additional use associated with this system. John stated he met with the Public Health Division staff and the Conservation staff prior to drawing the plans. The septic tank is water-tight and will hold the solids before the leaching portion is pumped up to the existing leaching field of the main system.

Karen Malkus, Coastal Waters Resource Specialist – Town of Barnstable, expressed concern in a correspondence of the ability to pump if a big storm approaches. She also asked whether the system can be located outside the Zone 11 – shifting sand and if not, an additional variance must be requested.

John O'Dea explored the concerns of Ms. Malkus. An additional variance for shifting sand will be required. He suggested it be written in the variance letter that the system is to be pumped when a bad storm is expected. The Board agreed the plan meets the maximum feasible compliance.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the variances including a variance for shifting sand with the following conditions: 1) the tank that services the cabanas and the bathhouses must be pumped when an impending catastrophic storm is expected. (Unanimously, voted in favor.)

- C. Brian Grady, GAF Engineering, representing Joan Remmes-Foy, owner - 536 Shootflying Hill Road, Centerville, Map/Parcel 193-029, 17,420 square foot lot, two (2) variances requested.

Brian Grady presented his plans. This is a straight upgrade to the septic system. There is no increase in flow. It is a three bedroom dwelling. The location is at Lake Weaquaquet and the sewer is expected to be there soon (within five years now due to the economic times). The property is seasonal use and, thus, an I/A system would not work well. The owner is interested in renting out in the summer.

The system includes a two compartment system. The first compartment is the tank and the second compartment will be a pump chamber to pump the liquid to the leaching field five feet from the road/property line. They are requesting a variance to the property line and setback variances for the tank (36 feet in lieu of 100 feet) and the leaching field (51 feet in lieu of 100 feet).

Dr. Miller discussed an option the Board is willing to do. The applicant may install a much larger septic tank in and use as a tight tank eliminating the leaching field at this time. The owner would have to pump it regularly. This would be allowed to use for three years in the hopes that the sewer would arrive by then. The applicant could then come back to the Board. The applicant must calculate which scenario would work out least expense depending on intended use. This alternative may save the owner the cost of a full septic system.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the submitted plan and also approved an alternative septic system. The alternative system, if desired, would be to install a 3,000 gallon septic tank to be used as a tight tank and pumped regularly for a three year period. After three years, the situation must be reviewed and the original plan may be completed at that time or an extension may be granted for the tight tank. (Unanimously, voted in favor.)

VII. Six (6) or More Bedrooms

- A. Michael Borselli, Falmouth Engineering, Inc., representing Miki and Steven Hirsch, owners - 149 Ocean View Avenue, Cotuit, 1.6± acre lot.

Michael Borselli, Falmouth Engineering, presented the plans for eight bedrooms in the event that they desire eight bedrooms in one of the dwellings in the future as they must dig up the landscaping, etc, at this time to replace the current system. No variances are needed. Previously, they received a permit for a three bedroom dwelling on the same lot which has not been constructed at this time. The total number of bedrooms for the parcel would be 11 bedrooms.

Mr. McKean stated it appears the Estuary line falls right down the middle of the septic system. The map must be magnified to determine it. If this is the situation, the property would be limited to the existing five bedrooms in one dwelling and the permitted three bedrooms of a second dwelling. Michael Borselli will confirm with GIS that the location for the septic system is outside the Estuary Zone.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan for 8 bedrooms in the main dwelling (in addition to the three bedrooms previously permitted for a second dwelling) with the condition that a septic plan is submitted showing the septic will be outside the Estuary Zone. (Unanimously, voted in favor.)

- B. Stephen A. Wilson, Baxter Nye Engineering, representing Vincent A. Wolfington, owner - 586 Scudder Avenue, Hyannis, 49,074 square foot lot.

Stephen Wilson, Baxter Nye Engineering, presented the owner's plans of moving a two-bedroom cottage onto their lot and installing a septic system for it. On June 12,

2007, the Board approved a nine-bedroom plan for the main house, along with the two new bedrooms would be a total of 11 bedrooms on this parcel. There is no kitchen in the cottage.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the total of 11 bedrooms on the parcel of land (9 bedrooms in main house and 2 bedrooms in cottage). (Unanimously, voted in favor.)

VIII. License: Disposal Works (Septic Installer):

A. Manny Cabral, Mashpee, MA

Manny Cabral passed the exam. He is licensed in several other towns as a septic installer and all his references were positive.

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

B. Jason Edward Rogers, Orleans, MA

Jason Rogers passed the exam. He is also licensed in Harwich. We have not heard back from all the references at this time.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Jason Rogers as a Disposal Works Installer provided all his references are positive.

IX. Old Business/New Business:

A. Brad Pfeifer, Director Hyannis Athletic Association, requesting permission to renovate and increase size of press box, not connected to public water or sewer system, 120 High School Road, Hyannis.

Brad Pfeifer and Bob Trout, operator of snack bar. There is no running water. The food is all purchased pre-cooked and frozen and is simply re-heat and serve. The renovations will not include running water; therefore, the menu will not change. They no longer prepare any foods in St. John's kitchen.

The current menu includes hot dogs, pizza (delivered from Dominos) meatball subs, pulled pork, and serve chowder. They have a hand-wash station and heat the water up using electricity.

Dr. Miller said there are two issues. Currently, they are only expanding the press box. The second issue is the necessity of renewing the food permit. At the five year period, the Board will review whether to continue to allow the serving of clam chowder which is customarily not a temporary food permit item.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Public Health Division may sign off on the building permit for the press box and the food permit renewal will be limited to a five-year maximum period until they bring in sewer/septic and water. (Unanimously, voted in favor.)

- B. Mark Corliss, Spilt Milk, presenting information regarding degree requirements for body artists.

Mark Corliss was not present. Continued to the March 2009 meeting.

- C. Letter in support of Barnstable County Department of Health Innovative/Alternative On-site Treatment System Management Program.

The fee voted on at the coalition meeting was option# 3 combined with option# 5. The first year it will be \$25 per system. It will be phased in and additional years will be \$50. This is to fund the County program in keeping track of our I/A systems.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the letter in support of the management program for our I/A systems. (Unanimously, voted in favor.)

X. Saltwater Estuary Protection Ordinance, Section 360-45

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to accept the Saltwater Estuary Protection Ordinance to include both residential and commercial property.

XI. New Business/Old Business

- A. Pools - indoor.

There is a new federal regulation for pool drains. The Public Health Division has taken active steps since Mid-November when the regulation was announced. Letters were sent, calls made, and inspections to each open establishment. Currently there are only two pool owners in need of full compliance. Both are in the works. One has the same required cover but has a previous year's manufacturing date. They will submit a letter to the Public Health Division from the manufacturer stating such. The same diligent steps will be conducted for the seasonal pool openings as well.

- B. Prescription Pills in drinking water.

Dr. Canniff and Dr. Miller expressed a concern and a desire to start a Educational Campaign on the best method to dispose of prescription pills, and push to eliminate the disposal of medicine into the septic and sewer systems as they leach into the drinking water.

Mr. McKean said Karen Malkus brought up this concern to him three months ago. It is expensive to test the water for validation of this as one must know what type of drug(s) you are testing for.

Dr. Miller asked Mr. McKean to contact the VNA and Hospice to obtain what their protocol is for disposing of medicine. This will establish what is happening

out in the field. Then, the Board will check with Mark Ells, Water Pollution Control and see whether it is possible to have the medicine put in an incinerator as this is probably the best method for the waste.

C. Touchless Faucets – use of elbow and wrist faucets.

The Cape Cod Community College asked Mr. McKean whether the faucets with elbow and wrist bars to use to turn the faucets on and off.

Mr. McKean had concern as the bar was rather short and thought people may grab the bar with their hands.

The Board stated the elbow and wrist bars are acceptable as touchless faucets.