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# Town of Barnstable

## Board of Health

200 Main Street, Hyannis MA 02601



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

### BOARD OF HEALTH MEETING MINUTES Tuesday, June 8, 2010 at 3:00 PM Town Hall, Hearing Room 367 Main Street, Hyannis, MA

Rev.2

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on June 8, 2010. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Junichi Sawayanagi and Paul J. Canniff, D.M.D. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

#### **I. Hearing (Cont.):**

Requested by motel owner, George "Skip" Simpson, Anchor-in, One South Street, Hyannis – continued discussion of qualified swimmers and lifeguard requirements at pools.

Dean Melanson, Deputy Fire Chief – Hyannis Fire Dept., said that he pulled the data available from all the Fire Departments in the town. In the past five years, there was one reported near-drowning which was in Hyannis in August 2007. The one rescue was a lifeguard who pulled an unconscious person (48 yrs old) from the deep end of pool and began reviving the person.

There were five other calls which were all hot tub related – people who had overused the hot tub along with sauna/steam room all at once.

Deputy Melanson mentioned that a lot of distractions exist when watching people at the pool and now, added to it, are texting, internet use, iPods, etc.

Dean stated that lifeguards are trained in observation skills to prevent people from overdoing it and becoming a risk. Lifeguards are strong swimmers and are trained in preventing a victim from pulling them down and risking their lives as well. Deputy Melanson highly recommends the use of lifeguards at a pool and believes their special training is very helpful.

There is no data available of near-drownings which were avoided by lifeguards.

Dr. Miller brought up the public beaches where the Town allows swimming at one's own risk after hours.

He suggests we create a regulation which applies to everyone fairly so that there is proper signage, rescue equipment, etc.

Dr. Canniff supports the requirement of qualified swimmers be increased.

The Board will review more in-depth and will speak to the Legal Department as well (for potentiality of lawsuits).

**II. Hearing - Proposed Regulation:**

**Tight Tanks at Beauty Salons and Barber Shops.**

Levine Klur, Roots Hair Salon, to be opened at Windmill Square, Cotuit, spoke of his industry. He stated that the professional salons have good products and the home products bring a higher percentage of chemicals to the groundwater.

The past studies done on chemicals from hair salons were found to be inconclusive.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to continue with the current policy and to include the requirement to add a Holding Tank to a Hair Salon with the following conditions: 1) if the septic fails, 2) if there is a change in ownership / licensee, or 3) an increase in flow, or if there is a new facility. (Unanimously, voted in favor.)

**III. Hearing – Septic:**

Sullivan Engineering representing J. Robert Casey, Trustee, Pickwick Realty Trust, owner – 71 Ocean View Avenue, Cotuit, Map/Parcel 034-045, 4.7 acre parcel, Re-circulating Sand Filter System.

Mike Ford, Attorney, spoke on the matter. John O'Dea, Sullivan Engineering, went through the septic plan with the Board. The septic will be designed for greater than 1650 gallons/day.

The property will continue to be used for single family use. There are multiple properties and multiple kitchens with a total of 27 bedrooms on the parcel.

In January 28, 2008, the Planning Board endorsed the house plan. This was a pre-existing lot. They filed a "Perimeter Plan which is an Approval-Not-Required Plan (meaning it was not a Sub-Division, however, the plan allows protection under the State Code Chapter 111 Section 127P to allow them a three year period to freeze the regulations.

Therefore, they do not fall under the Feb 2009 regulation until January 28, 2011. The Board would like to have this reviewed by the Legal Department to verify this is accurate filing.

Mr. Thomas McKean stated a quarterly monitoring plan must be submitted.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan dated May 3, 2010, pending the submission of (1) Quarterly Monitoring Plan and (2) Operating and Maintenance Agreement for the system and (3) vote is subject to the approval of the Town Legal Department. (Unanimously, voted in favor.)

**IV. Hearing – Septic Failed (Cont.):**

Michael Santos, owner – 26 Bishops Terrace, Hyannis, Map/Parcel 251-215, septic failure.

Mr. Santos was not present.

Dr. Miller mentioned there were apparently certain situations which caused the flowing of the system.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to allow Mr. Santos to continue with the current system with the following conditions: 1) the septic must be inspected yearly for the next three years and the reports will be submitted to the Health Division, 2) if the property is sold within five years from today (June 8, 2013), then Mr. Santos must replace the septic system at his own costs or he must inform the buyer of the Board of Health's concerns and the buyer must sign off on such a statement, and 3) prior to renting, Mr. Santos must undergo a rental inspection and register it as a rental to meet regulations. (Unanimously, voted in favor.)

**V. Variance – Septic (New Item):**

A. Linda Pinto representing Marsha Alibrandi, owner – 4093 Route 6A, Barnstable, Map/Parcel 335-02, 15.0 acre lot, 2 setback variances requested.

Approved without any additional conditions from the plan.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the proposed plan dated 05/07/10 with the two variances: 1) setback of 124 feet of SAS from a drinking water well (26 foot variance), and 2) setback of 88 feet of SAS from the edge of wetlands (12 foot variance). (Unanimously, voted in favor.)

- B. Peter McEntee, Engineering Works, representing Mary Schoebel, owner – 11 Nyes Point Way, Centerville, Map/Parcel 233-069, 0.5 acre parcel, multiple setback variances.

Peter McEntee presented plan with six variance requests for setbacks.

House is currently occupied and is a rental. The property is in the Weaquaquet Lake area.

Dr. Miller expressed that he would prefer an enhanced nitrogen removal due to the wetlands. The Board asked the engineer to rework the plan and see if some of the distances of the setbacks can be improved on – trying to maintain as a minimum, the distance of the current setback of 70 feet.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to Continue it to the July 13, 2010 Board of Health meeting. (Unanimously, voted in favor.)

ADDITIONAL NOTE ON A SEPARATE TOPIC:

Peter McEntee gave the Board an update on the situation at Fancy's Market, Main Street, Osterville, at the aerated system. The system is working well.

- C. Linda Pinto representing Justin and Martina Larhette, owner – 10 Flowing Pond Circle, Osterville, Map/Parcel 146-066, 0.36 acre lot, septic failure, one-bedroom deed restriction, increase flow to 2 bedroom capacity using I/A system.

Linda Pinto and person from Ready Rooter were present and reviewed the proposed plan. There are constraints of a tight lot. The proposed plan asks for two variances: 1) variance of 4 feet from abutting property line (road), and 2) does not have a reserve area – this needs to be approved by DEP as well.

Dr. Miller stated that by increasing the septic to a two-bedroom, it now falls under a requirement to have a reserve area. Linda disputed that Title V states that if the system provides a better environment than the increase in flow is approved. She feels the variance requested is very minor in comparison to the great improvement of the system.

The original system failed within eight years and without an increase in size of the system, Ms. Pinto believes it will fail in less time than eight more years.

Dr. Miller asked Ms. Pinto to work out some numbers to prove, statistically, that it will be more beneficial to the environment with the I/A system.

Staff comments were (1) the lot needs a reserve area, (2) the Deed Restriction currently is for a one-bedroom and the plan proposes two, and (3) the plan

originally did not show a leach pit – This has been adjusted with the plans the Board has now. The staff recommended non-approval.

Dr. Miller also suggested Ms. Pinto contacting Brian Dudley at DEP for suggestions also, keeping in mind that DEP will have to approve the final plan.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to Continue to July 13, 2010 Board of Health meeting.  
(Unanimously, voted in favor.)

**VII. Variance – Pool:**

- A. Allyn Hall representing Sandy Terraces Trust – 570 Wakeby Road, Marstons Mills, MA, variance to pool requirements of specific ladder/stairs, and variance to lifeguard requirement.

Tom Kearns, Anchor Pools, spoke of the pool. The pool is 20 feet wide at the steps and there is currently a hand-railing in the center which is 10 from the sides.

Tom Kearns, pool contractor, said he had received a verbal Cease and Desist the construction of the pool from the Health Division. The Board gave the contractor the approval to continue with the pool construction without opening the pool until a pool permit is issued.

Dr. Miller stated he was in agreement with the Health Inspectors' interpretation of the wording of the regulation.

Two conditions should be met to receive a variance approval: 1) they prove manifest injustice, and 2) the situation will be just as safe as if the regulation was met.

- 1) Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve with the following conditions: the applicant receive in writing from the pool installer that he certifies the pool will now afford the same amount of safety as recessed stairs – both in structural stability and in safety. The pool contractor will install additional hand-railings and whatever else he deems necessary to satisfy the certification he signs. (Unanimously, voted in favor.)
- 2) Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve the applicant for qualified swimmers (a variance to the lifeguard requirement) with the condition that all requirements for qualified swimmers are met. (Unanimously, voted in favor.)

**VIII. Variance – Food (New):**

- A. Temporary Food Event: David Kuehn for Rhythm and Roots Festival to be held at the Cotuit Center for the Arts, 4404 Falmouth Road (Route 28), Cotuit, on July 10, 2010.

Sara Edick spoke for the Cotuit Center for the Arts. The Board suggested she may be able to use a handwash station from Richard Bibeault of the Mid-Cape Farmers Market or from Spanky's, if having difficulty getting one.

There will be three different sandwiches: Hot Panini Sandwiches (1) Roast Beef, Cheddar Cheese and Tomato Sandwiches, and (2) Portabella Mushroom, and cold wrap sandwiches.

The equipment of handwash station, cooler, electric grill must be brought in the day before (or thereabouts), to the Health Division for inspection.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve with the use of a handwash station and the submission of the specific menu. (Unanimously, voted in favor.)

- B. Temporary Food Event: George Soars, Barnstable Youth Hockey, for Cotuit Fourth of July Event to be held at 140 Old Oyster Road, Cotuit, on July 4, 2010.

No one was present.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to approve the permit provided the applicant discuss the event with Mr. McKean and satisfy any concerns Mr. McKean may have regarding it. (Unanimously, voted in favor – Mr. Sawayanagi was not present for the vote.)

- C. Arif Yilmaz, Sweets Garden – Kiosk at Cape Cod Mall, 793 Iyannough Road, Hyannis, 5 variances.

Arif Yilmaz spoke about their strategy.

Mr. McKean spoke of the concern of the scoops being unprotected.

Mr. Sawayanagi said the design of this display is designed to be self-serve food and he shares Dr. Miller's concern that the scoops are exposed and do not afford the protection of people in mall.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted on the application for variances, as presented, on the food permit. (DENIED, unanimously.)

With further discussion, the Board specified two concerns are to protect the public from the air contaminants and from contaminants through touch.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve with the following conditions: 1) they provide a

satisfactory cover for each section, meeting Mr. McKean's approval, 2) disposable scoops are used, and 3) the handwash portable sink shown to the Board is used at the location. Mr. McKean must be satisfied with the products mentioned in the conditions or the applicant can revisit the Board.  
(Unanimously, voted in favor.)

**IX. Old/New Business:**