



# Town of Barnstable

## Board of Health

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### **BOARD OF HEALTH MEETING MINUTES**

#### **Thursday, April 26, 2012 at 3:00 PM**

#### **Town Hall, Hearing Room, 2<sup>ND</sup> Floor**

#### **367 Main Street, Hyannis, MA**

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, April 26, 2012. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul J. Canniff, D.M.D and Junichi Sawayanagi. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

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

- A. Lili Seely, owner – 33 Candlewick Lane, Hyannis, housing and septic issue (continued from Dec 2011 and Feb 2012).

Lili Seely was present. She stated a septic permit was taken out. She is working on her list of housing items to repair. An inspection is set up with Health Inspector, Jim Parziale, for next Thursday, 5/3.

At this time, the deck stairs have not been fixed because they must be removed to put in the new septic. They will be fixed after the septic is in. The baseboard covers are still missing because she is getting a new boiler and that person will do the baseboard at the same time. The other item undone is the ceiling tiles.

Mr. McKean spoke of the continuous delays at this property. The septic is in hydraulic failure and was given 60 days to repair. It has been two years and the system is still not in. Ms. Seely has taken a great deal of time to repair the items on the list and has expended a lot of the health inspector's time.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to have Ms. Seely return to the Board of Health at the July 10, 2012 meeting if the septic permit has not been completed or if the list of housing repairs has not been completed. (Unanimously, voted in favor.)

- B. Kenneth Carey, owner – 439 (a.k.a. 441) South Main Street, Centerville, 3 units, housing violations (continued from Dec 2011 and Feb 2012).

Kenneth Carey was present. The Building Department inspected the new porch last week and it passed inspection. The septic system has been engineered and is on the agenda for next month – May 8, 2012. The Board will review the septic plans at that time.

**II. Hearing – Show Case: Housing (Cont.):**

Cancelled. Craigville Motel, 8 Shootflying Hill Road, Centerville, insufficient heat to  
Repairs occupants and use of space heaters, operation of motel without a valid  
Completed license for 2012 (Continued from March 2012).

**III. Hearing – Connect to Sewer (Cont.):**

30 Thornton Drive – Business Condos. Barnstable.

Owners:

A. William and Rita Amaral	1 Unit	Map/Parcel 296-008-00A
B. Richard Fleming	2 Units	Map/Parcel 296-008-00B & 00C
C. Bert Mosher	1 Unit	Map/Parcel 296-008-00D
D. Michael Michnay	2 Units	Map/Parcel 296-008-00E & 00F

Sean Enright was present and represented William and Rita Amaral. Also present were owners Richard Fleming and Bert Mosher.

Richard Fleming said his attorney researched and learned that the property never had condominium papers filed. He is looking into having the units subdivided so they each can hook up to the sewer independently.

Sean Enright said two septic systems were located -one in the front and one in the rear. Units D, E and F are connected to the septic located in the rear. Mr. Mosher in unit D is going to relocate his toilet facility to the front of the building and then hook up to sewer in the front of the building once the subdivision is created. Mr. Fleming said that only one of his two units has a toilet facility and that is hooked up to the septic in the front of the building and he will hook up the units to the sewer once the subdivision is all set.

Mr. Enright said that Mr. Amaral is also willing to hook up to the sewer and his toilet facility is in the front of the building and currently piped to the septic system in the front.

This would leave only Michael Michnay's units (E&F), piped to a septic system in the back, to be resolved.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to the August 21, 2012, meeting to allow the legal matters to be worked out. (Unanimously, voted in favor.)

**IV. Hearing – Housing (New):**

Fisherman's Village Condo Association, violation – draining, grade is slanting down towards foundation.

Paul Baron, management for complex, and Linda Stevens, Trustee, were both present. The violation was identified as a result of an inspection to investigate a complaint received. The inspector noticed the ground along the exterior wall of Unit#15 pitches back towards the foundation. This has allowed for the accumulation of water.

Paul Baron said he has spoken to a landscaper for solutions. The recommendation is to put in a dry-well to collect any water. Mr. Baron had requested a hearing because he had understood the violation letter to specify that they needed to re-grade and he did not know how he was going to accomplish this. He would be happy to install a drywell as a solution, if acceptable. He has already replaced the rug in the common area which was also requested in the violation letter.

Mr. McKean explained that the method of fixing the violations is up to the condominium as long as water does not collect and pitch back into the foundation. All were in agreement that a drywell would be acceptable.

The Board acknowledged that the drywell would be a good solution to correct the violation and management will move forward with the installation of a drywell.

**V. Hearing – Septic Failure:**

Peter Sullivan, Sullivan Engineering, representing Richard Callahan, owner – 120 Bridge Street, Osterville, septic failure, house is not in use, requesting an extension.

Peter Sullivan was present and said the property is in the marine zone. The lot rents space out to Oyster Harbors Marine to park boats there and there is also the house at the location.

The owner is trying to figure out the best use for the property without losing the flow associated with it right now.

The water has been left on because it was heated this past winter. The house is vacant and will remain vacant for a year – as they determine the use.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board granted an extension for one year on the septic repair; or, until the house is occupied – which ever is sooner. (Unanimously, voted in favor.)

**VI. Variances – Septic (Cont.)**

Peter Sullivan, Sullivan Engineering, representing C. William Carey, owner – 986 Sea View Avenue, #A, Osterville, Map/Parcel 091-002, 2.72 acre parcel,

proposal to grandfather the four bedroom house without installing new septic system (continued from June 2011).

The Board reviewed the prior minutes pertaining to this property and did not have any issue with the house referred to as Unit# A to be a four bedroom. The Board was aware there is another house on the property – the other house was not discussed at this meeting.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the existing septic system as a grandfathered four- bedroom system for Unit # A at 986 Sea View Ave, Osterville. (Unanimous, voted in favor.)

**VII. Variances – Septic (New):**

- A. Peter McEntee, Engineering Works, was representing Richard Largay, owner – 75 Indian Trail, Barnstable, Map/Parcel 336-002, 3.55 acre parcel, septic repair of failed system, three variances.

The staff has no objections to the plan submitted. They believe it meets the maximum feasibility criteria.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the plan with the following conditions: 1) a three bedroom deed restriction will be recorded at the Barnstable County Registry of Deeds, and 2) a proper copy of the deed restriction will be submitted to the Health Division. (Unanimously, voted in favor.)

- B. Theodore Skirvan, owner – 114 Long Pond Rd, 0.49 acre parcel, Marstons Mills, discrepancy of bedroom count on septic permit in file.

Thomas McKean recused himself.

Dr. Miller read the comments from the Health Inspection David Stanton who reviewed the file.

Mr. Skirvan explained the time log of events leading up to today. His original permit had a mark on it as a 3 bedroom which was changed to a 2 bedroom and the rest of the permit was filled out completely listing the flow to be 220 (consistent with a 2 bedroom). He stated that it was his understanding when he took a building permit out in 2005 to add a living room and a bedroom that he needed to expand his leaching system to allow the third bedroom or to remove the third bedroom. He said he requested the building permit be left open as he intended to bring the septic up to compliance for a three bedroom. He did increase his leaching system this month, April 2012.

The Board explained that the property is in the State Zone Two and the only way the property can be increased to a three bedroom is to install an innovative alternative (I/A) system per the State requirements.

Theodore Skirvan pointed out that of the 16 homeowners in the neighborhood, thirteen have smaller lots and all have three bedroom households.

The Board explained that unfortunately, the original permit was specified as a two bedroom and was designed as a two bedroom. Then the State Zoning took place before anything further was done with his house. The only way to increase to a 3 bedroom as it is in a zone two, state restricted zone is to put in an innovative alternative (I/A) system. This does not require sending out abutter's notices as it is not a variance request.

The property is confirmed to be a 2 bedroom with the existing septic and they want to meet with an engineer to discuss putting in an innovative alternative (I/A) system in place of the 1,000 gallon tank, to bring the system up to a 3 bedroom.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to the May 8, 2012 meeting to present an innovative alternative system. (Unanimously, voted in favor.)

**VIII. Informal Discussion:**

- A. Peter Sullivan, Sullivan Engineering, representing Michael Barnfield, owner - 233 Bay Lane, Centerville, Tight Tank Modification, discuss grey water system possibility.

Peter Sullivan discussed the possibility of having a greywater system added to the property. The house would have to be re-plumbed to separate water into the two systems but hopefully, the slab is still open from the interior work done. It is a tight tank system and the only one on Bay Lane. In 2011, the water was shut off as the owner was out of the country. The property has a lengthy record of pumping showing they have been responsible with their tight tank. Peter can meet the State setback but the Town setback is greater. There is 60 feet of setback to the wetlands. The Board said that as long as there is not an increase in flow, the setback of 50 feet has been allowed.

Peter spoke with Brian at DEP and he will consider the idea. Dr. Miller said he had been told by DEP in the past that unless a Title V system could be put in, then the option to add a separate greywater system was not available. The Board was happy to hear the State may be changing their views towards greywater systems.

Mr. McKean mentioned there is a similar split system with greywater near Weaquaquet Lake.

Mr. Sullivan will take the next step and speak to DEP in more detail.

**IX. Variance – Food (New):**

- A. Jason O’Toole, owner – Pizza Barbone, 390 Main St, Hyannis, toilet facility variance.

He had originally asked for 10 seats outside but he decided that it is actually too tight and adjusted the request to 8 seats outside. He said that each of the businesses rents the sidewalk space from the Town.

Jason adjusted his total seating request down from 59 seats to 57 seats. He has two restrooms to be used for both the customers and the staff. Two restrooms must be provided for 49 seats. The Board approved a maximum of 55 seats. If Mr. O’Toole is able to obtain a letter stating that the other bathrooms are available to Pizza Barbone during their working hours, the seating could reach 57.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the toilet facility variance with the condition that the maximum number of seats at any one time is 55 seats with the two restrooms available. The owner may submit a letter to Thomas McKean stating that the other restrooms are available during the working hours of Pizza Barbone, at which time Mr. McKean will grant 57 seats. (Unanimously, voted in favor.)

WITHDRAWN B. Temporary Food Event: Ragnar Relay Series – May 11- May 12, 2012, mobile truck at Dowses Beach, Osterville.

**X. Policy/ Regulation:**

- A. Touchless Faucet – modification for automatic shut-off button type.

The Board did not have any issues with a faucet with an automatic shut-off button which allows the user to wash their hands after turning it on and not needing to make contact with faucet after that.

Upon a motion duly made by Dr. Miller and seconded by Mr. Sawayanagi, the Board voted to approve the modification to the touchless faucet regulation. (Unanimously, voted in favor.)

POSTPONED. B. Ban on Pharmacy Tobacco Sales.

The Legal Department is working on this. It will not be available for the May meeting.

**XI. Correspondence:**

- Fred Safford, Esquire, representing Zale Corporation at Cape Cod Mall. regarding violation of piercing ear cartilage.

Correspondence discussed study done where piercing with piercing gun was at odds with Board of Health's stricter rules. However, the study listed serious issues of concern if an infection were to happen to the cartilage.

**XII. Old / New Business:**

A. Cooper – 131 Skating Rink Road, Hyannis, septic has been replaced.

**Addition:**

**Lifeguards:** Dr. Canniff mentioned the recent state regulation of requiring access to public pools for the handicap. He mentioned his concern that this type of equipment next to and in a pool would give more necessity to requiring lifeguard coverage.