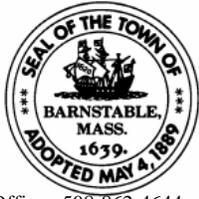


# Town of Barnstable

## Board of Health

200 Main Street, Hyannis MA 02601



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



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

### BOARD OF HEALTH MEETING MINUTES

**Tuesday, January 12, 2016 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, January 12, 2016. 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. Show Cause Hearing: Food Code Violations:**

Bhom Banta, International Inn Bar and Grill - 662 Main Street, Hyannis  
Failure to maintain requirements set forth by Board.

Attorney David Lawler and Mr. Banta were present.

Mr. McKean reviewed the past events that were brought to the Board and the Licensing Authority's meeting with International Inn. He stated the inspector, Donna Miorandi, was unable to attend the meeting.

One criteria the Board of Health had given the Inn in order to stay open was to supply a work schedule of who is working and who is in charge of the kitchen and that person must be certified in food handling safety.

There was an issue over the time period from September to early November 2015. Donna had not received work schedules for this period. The International Inn stated the schedules were sent from their cell phones and provided a view of their message. Technical issues may have been to blame. They will resend the work schedules to Donna Miorandi and Sharon Crocker.

Attorney David Lawler said they have been following the Board's instructions and Donna Miorandi has been inspecting regularly. David Lawler said they may have been under a misunderstanding in thinking they were to send one schedule and then, they were to only send notification when a change occurred.

The International Inn said they parted ways with the consultant due to the fees and that they were not given the report submitted to the Health Division.

Dr. Miller suggested the owner and/or management meet with the Health Department to go over the consultant's report and retain a copy for their records. The Board was agreeable to continue without a consultant unless problems arise.

Attorney Lawler proposed the submission of a monthly report instead of a weekly report as it is logistically difficult for the owners. He also asked that the Board reconsider the monitoring needs at their September review as there have been many constant inspections from both the Health Division and the Fire Department.

Dr Canniff and Mr. Sawayanagi expressed that they still have a lack of confidence in the operation of the restaurant.

David Lawler stated fruit flies are normal this time of year and heavy chemicals can not be used to eliminate them as they are right near food. David said he will be included in future emails hoping to prevent any confusion in receipt.

Mr. McKean brought up the topic of the unused indoor pool and suggested it be filled in or removed. Attorney Lawler said it has been secured with an alarm system on it to make sure no one goes in there. This is a more economical solution at this time so that their resources can be directed to more pressing items.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a modification to the August 18, 2015 decision of procedures regarding the reporting to Health Division to be as follows: Must submit (1) a monthly list of who the on-site person is responsible for the operation every day of the month, (2) if there is a change, they must keep a log so the Health Division can see the changes, 3) if someone is sick or out for one day, it would only be necessary to note this on their log and they must keep this log recording current and available to the health inspector when stopping in, (4) any time the person in charge is out for more than one day, then they must notify the Health Division promptly (email will be an acceptable method of receipt). The Board "dismissed without prejudice" today's show-cause hearing pertaining to the missing schedule(s) as there was no finding. Any future issue(s) would fall under the purview of the August 18, 2015 hearing. The International Inn must come before the Board at the September 13, 2016 meeting to review their situation. (Unanimously, voted in favor.)

## **II. Hearing – Sewer Connections:**

Stewart Creek Properties overdue for sewer connection

### Continued:

A Matthew & Catherine Conley, Hyannis owner – 35 Point Lane, Hyannis

No one was present nor notified the Health Division.

The Health Division had been told that they were working with Doug Brown. Mr. McKean will check with Doug Brown for verification.

Upon a motion duly made and seconded, the Board voted to continue this item to the March 8, 2016 meeting and requested a letter be sent stating the Board's disappointment of their absence and inform the owner that the Board will consider additional action be taken if they do not attend. (Unanimously, voted in favor.)

B. Rui Miranda, Hyannis owner – 61-65 Nautical Road, Hyannis

Mr. Rui Miranda stated he was not receiving the notices until last spring as they were going to the property address which is a rental. The fact that it is a rental disqualified him from the loan through Growth Management. He applied through the County and did not get approved due to some late fee on mortgage payment.

Mr. Miranda is working on resolving the issue. He received one rough quote at \$7,300 for the duplex (No grinder pump was required here; however, there is higher cost associated with his property because his plumbing is in the back of the house). He will be getting additional quotes.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant an extension of six (6) months to July 12, 2016 and return to the Board on July 12, 2016 with the current status and quotes. The owner must also register the rental with the Health Division. (Unanimously, voted in favor.)

C. Adrien & Rosanie Joseph, Hyannis owner – 83 Nautical Road, Hyannis

Rosanie Joseph's daughter Chantal spoke to the Board. The property is a rental. (Rentals do not qualify for the loan through Growth Management.) Chantal said they applied to the County Loan program but were not approved because of mortgage payment(s) due from Adrien Joseph. Mrs. Joseph is waiting to hear from another loan service. Rosanie received quotes of \$6-8K.

In response to the Board's inquiry, Chantal said the property is a duplex and they pump the system approximately three times a year.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board granted a six-month extension and would like this item returned to the Board at the July 12, 2016 meeting for status. The owners are to register the property as a rental. (Unanimously, voted in favor.)

D. Thomas Russell, owner – 44 Betty's Pond Road, Hyannis

Mr. Russell was present and explained he has been injured, unable to work at this time, and is in financial hardship. He is trying to modify his current mortgage to lower payments as he is in danger of losing his home. The initial assessment he paid had a big impact on his financing and increased his mortgage by approximately \$200/month.

Upon a motion duly made and seconded, the Board granted a six-month extension and would like this item returned to the Board at the July 12, 2016 meeting for update. (Unanimously, voted in favor.)

New:

A. (Shirley) Thomas Holmes, Hyannis, Trustee.– 38 Woodbury Avenue, Hyannis

Thomas Holmes said he has 4 houses in the Steward Creek group and has hooked up 3 of the 4 houses. He has spent \$60K already and there is only one person (his daughter) living at 38 Woodbury. He may be able to connect it down the road, 5-6 years from now but can't spend the money at this time.

Dr. Miller recognized that the owner has already spent a lot of money and has honored our requests. Dr. Miller said he would like an inspection of the system by a private septic inspector and as long as it is working fine, he would feel comfortable to extend the deadline into the future or until the property sells.

Dr. Canniff believes the owner should get some relief and he would be satisfied with extending it until the property sells.

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to grant a five year extension to January 2021, unless property changes hands first, with the following condition: 1) within six months, by July 2016, a septic inspection must be done to see whether the septic is still working fine. The situation may be reviewed in five years. (Unanimously, voted in favor.)

B. Altair & Shinzo Miyagusuku, Hyannis, owner – 81 Woodbury Ave, Hyannis

Mrs. Miyagusuku notified the Board that she was not able to attend due to her medical appointments. She will try to reschedule her March appointment. (Mr. and Mrs. Miyagusuku speak Portuguese and having a translator would be helpful.)

Upon a motion duly made and seconded, the Board voted to grant a continuation to the March 8, 2016. (Unanimously, voted in favor.)

C. Oswald Jordan, Brockton, owner – 54 Point Lane, Hyannis.

Mr. Jordan stated he applied to the County Loan program. He did not qualify due to past due taxes. He has now paid off prior year taxes and will need to work on the current year. Mr. Jordan has obtained one quote, at this time, for \$7.8K and will get additional quotes. Dig Safe has already marked the property and the house is not usually lived in except in the summer.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant an extension for three years until January 2019, or at such time the property is sold if prior to January 2019. (Unanimously, voted in favor.)

D. Jeffrey Coombs & Gail Clear, Connecticut, owner – 23 Keating Road, Hyannis

The owners are from Connecticut and no one was present for this item.

Upon a motion duly made and seconded, the Board voted to continue this item to the March 8, 2016 meeting and requested that a letter be sent 1) asking if their two properties (86 Seabrook and 23 Keating Road) are both rentals and if so, please register, and 2) to state in the letter that the Board did not receive a response from the owners for the January meeting and the Board will need the owners' presence at the March meeting or an update of the status. (Unanimously, voted in favor.)

E. Amy Loi Everett, Ohio, owner – 56 Seabrook Road, Hyannis

Amy Everett was not present as she lives in Ohio. She emailed the Board and explained she has two properties in this area and was turned down for the loan through Growth Management due to her income level. She did not have enough money to connect both so she has connected one up and is trying to obtain a separate loan and will apply to the County loan, as well.

Upon a motion duly made and seconded, the Board voted to 1) continue to March 8, 2016 meeting for update and 2) if this is a rental, they request the owner to register it. (Unanimously, voted in favor.)

**III. Septic Variances (Continued):**

- A. Sean Riley, Coastal Engineering, representing David Samra and Erica Pearson, owners – 265 Seapuit Road, Osterville, Map/Parcel 095-004, 87,010 square feet lot, house addition, multiple variances, continued from December 8, 2015 meeting.

Sean Riley said the three page plan (showing the revision date of January 11, 2016, has addressed the comments from the Health Division.

Mr. McKean noticed that the second page of the plan does not have the break-line showing for leaching field to identify there are 22 lines.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the variances with the following conditions: 1) The plan will be revised. The current plan does not have the leaching field to scale, it is designed to have 22 lines, but has only 11 showing. The new plan must be revised to show a "break line" and place a notation there to state it is 22 lines, 2) the septic system must be installed in accordance with DEP's certified letter for General Use dated March 15, 2007 and revised March 20, 2015, 3) a seven bedroom deed restriction must be recorded at the Barnstable County Registry of Deeds and an official copy must be submitted to the Public Health Division, and 4) the designing engineer must supervise and attest that the installation is done in accordance with the revised plan and meeting the above specifications. (Unanimously, voted in favor.)

- B. Daniel Ojala, Down Cape Engineering, representing Fletcher Booker, III, owner – 74 Summerbell Avenue, Centerville, Map/Parcel 226-064, 3,713 square feet lot, septic repair, multiple variances, continued from December 8, 2015 meeting.

At the December 2015 meeting, the Board had requested the applicants hire a certified arborist to determine whether or not the installation of the septic system would de-stabilize the maple tree and arborvitaes bordering the neighbor's property.

Dan Ojala said he met with neighbor and it was determined the big maple tree was rotten through the center and would be best to remove it altogether. The arborvitaes were removed for ease of installation and will be replaced after the system is installed.

A letter from neighbor Joanne Hartunian was read into the minutes (see Exhibit A attached). The neighbor was concerned about sewage flowing down gradient to her property. Mr. Ojala explained there is very good, sandy soil at the property which will handle the sewage on the property itself.

Jim Lane, another neighbor, spoke of the concern with contractors interfering with other property owners' rights. In the past, they have had contractors place soil on neighbors' property, block roads, etc. and the association has rules prohibiting this.

Mr. Ojala agreed with the suggestion that the contractor meet with the group of owners to ensure a smooth procedure.

Neighbor Martha Sheehy expressed concern of her gas line which was moved in 2003 and is near the tight area available for installation. Dig Safe should have this information already but to ensure safety, Mr. Ojala took a picture of her plan showing the new gas line. She was also concerned with drainage may go into her basement. Again, Mr. Ojala said the downspouts and the system's design will handle everything on its own property.

Mr. Sawayanagi asked how high the wall will be which is listed on the plan. Mr. Ojala stated it will be 27"-29" high.

Upon a motion duly made and seconded, the Board voted to grant the variance(s) with the following conditions: 1) the system be installed in compliance to the engineering plan revised December 30, 2015, 2) the engineer will supervise the installation, 3) a four bedroom deed restriction will be registered at the Barnstable County Registry of Deeds and an official copy will be submitted to the Public Health Division, 4) prior to any construction, the designing engineer and the installer will meet with the Christian Camp Association in order to identify reasonable restrictions on the work process (i.e., not to infringe on private property), and 5) construction will be after Labor Day and before Memorial Day. (Unanimously, voted in favor.)

#### **IV. Variance – Food:**

- A. Gary Sadler, Upland Architects, Inc, representing Charles White Management, owners of 7-Eleven, 696 Yarmouth Road, Hyannis, grease trap variance, adding one item to menu approved at December 2015 meeting.

Mike Cost, Upland Architects, was present and said they are returning to the Board to include one more item onto the 7-Eleven menu: a pre-cooked pizza.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the additional item of a pre-cooked pizza to the menu approved on December 8, 2015. (Unanimously, voted in favor.)

**V. Old / New Business:**

A. Minutes.

Upon a motion duly made and seconded, the Board approved the minutes for the September 29, 2015 Board of Health Meeting. (Unanimously, voted in favor.)

B. Policy: Enforcement of Septic Tanks / Properly Sized Septic Tank and Two Compartment Tank Enforcement.

The Board recommended revising the proposed to mention how to interpret a building with 2 or more dwellings in it which would fall under this policy. It would pertain to buildings with 2 or more dwellings which each have their own kitchen, bath and sleeping facility. They suggested eliminated the words “without any internal connection” to the description of a second living space with a separate entrance and a kitchen, bath and living room.” The proposed policy will be continued to the February 9, 2016 meeting.

C. Proposed revision to “Variances Which May Be Granted by the Agent or Health Inspector”.

The Board recommending only one change on proposed revision (Exhibit B) under item “1)” ...with the Director or his/her nominee...is changed to...with the Director ‘or his Acting Director’. The Board said they still want the notation on the bottom that requires the application to come before the Board if there are two or more variances. The Board agreed to adopt this policy with the one change of ‘Director or his Acting Director’.

Additional Items:

- 1) The Board would like to see as many organizations, community groups and companies train people on the updated CPR technique which uses compressions and no longer requires mouth-to-mouth. Currently, there is only a 10-20% chance of survival with a cardiac arrest outside of a hospital situation. The more people trained, the higher the survival rate will climb. There are states which have pushed to get the instructions out to the public and they have seen an increase in their state’s survival rate up to 60%.
- 2) The Board suggests hearings are placed at the end of the agendas to avoid others on the agenda being held up.

The Board voted to adjourn at 5:55 p.m.



## EXHIBIT A:

**To:** Health

**Subject:** Request for variance denial of 74 Summerbell Avenue, Centerville

Dear Mr. McKean: I am an abutter to 74 Summerbell Avenue, Centerville, which is in the Craigville Village. I am unable to attend in person as we are awaiting the birth of a grandchild out of town.

Said property is uphill from me and I live in the abutting gully, which is a pertinent feature of my neighboring property.

Said property is in the historical district of Craigville Village, located *on* the historical Midway, and in close proximity of Craigville's onsite EPA protected herring run, Lake Elizabeth and Red Lily Pond.

I request the Board of Health recommend that "Down Cape Engineering, Inc" continue to research a way protect the cape for the future by looking at ways to upgrade the property to a Title 5 system *without a reduction in the leaching area.*

A 25% reduction in a leaching area

1. will not adequately drain. Dishwasher, washing machine, toilets, and showers will significantly and adversely affect the drainage, land and degradation of present conditions; and create a health and safety problem with less than adequate leach field.
2. will create problems in the future should the present owners "flip" the property and resell it after renovations; or use it as rental property for seasonal use possibly shared by multiple families to share the cost of rental fees; thereby significantly increasing usage above and beyond present expectations. The leach field variance could then become inadequate if granted; but, after the horse is out of the barn, it's a done deal.
3. does not take into consideration modern life style which uses more water, not less. Proper drainage is necessary for health and safety in the short term; and of our water, ocean, fishing industry, and tourism, long term.
4. in order to complete the variance successfully, the contractor may create a larger 'mound' or 'hill' than usual which will create the run off and drainage to flow downhill to my property. The property owners will not want run off toward their foundation and therefore the pitch will be aimed at mine.
5. will not adequately handle wastewater which is documented and known to transfer diseases to animals and humans.
6. will not adequately process what flows into the leach field thereby it may slowly leak bacteria and adversely affect Craigville's on site EPA Herring Run, Lake Elizabeth, Red Lily Pond and ocean. The run off from the leach field has to flow somewhere and be reabsorbed somehow; and, it will.

The bottom line and what we're addressing here, as the letter from the engineers stated is "disposal of sewage" and it should be handled as such and should comply with the Board of Health regulations.

The Cape is a natural resource that is protected by rules set forth by the Board of Health to protect the common good and health of its people. We have no control over the future except to do what we can to ensure clean drinking water and a clean ocean for the present. Without either, we forfeit our health, industry, and homes.

Additionally, I kindly request that the Craigville Cottage Owner Association's guidelines be respected for property work to be done before Memorial Day and after Labor Day.

Thank you. Respectfully submitted,

Rev. Joanne Hartunian

84 Ocean Avenue, Centerville, MA

**Exhibit B:**

Revision to “Variances Which May Be Granted by the Agent or Health Inspector” with requested modification (above) during meeting.

August 4, 2009  
Revised January 12, 2016

**Counter Variances, Approvable By a Health Inspector**  
**Listing of Blanket Variances Granted by the Board of Health**

- 1) FOR ALL SYSTEMS THAT HAVE NO INCREASE IN FLOW - Septic system component to foundation setback- but in no case, no more than a 50% reduction in the required separation distance. A future reserve area shall be shown on the plan for proposals to increase or change foundation size on parcels when, in the opinion of the health inspector [or, if the health inspector is not able to make a determination, after consulting with the Director or Acting Director] the proposal appears to provide very limited space for the proposed construction, septic system, and a future reserve area.
- 2) FOR ALL SYSTEMS THAT HAVE NO INCREASE IN FLOW- System component installations proposed more than three feet below grade with proper venting (piped to the atmosphere) and with H-20 loading, but in no case shall the SAS be located more than six feet below grade.
- 3) FAILED SYSTEMS ONLY – SAS to private well separation distance variances, if located in the same general location as the old SAS and more than 100 feet separation is proposed, both from the on-site well and any and all wells on adjacent and neighboring parcels.\*
- 4) FAILED SYSTEMS ONLY – Septic tank or pump chamber proposed to be located less than 100 feet but more than 75 feet away from wetlands or a water course.\*
- 5) Additional seating at existing food establishments, if no more than 25% above the maximum grease trap capacity.
- 6) Proposals for six or more bedrooms, without any variances, are no longer reviewed by the Board.

\*NOTE: If there are two or more variances requested from #3 and/or #4 listed above, the applicant shall instead seek variances from the Board of Health at a public meeting.

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