

# Town of Barnstable

## Board of Health

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### BOARD OF HEALTH MEETING MINUTES

**Tuesday, February 9, 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, February 9, 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. Septic Variances – Repairs:**

- A. Peter McEntee, Engineering Works, representing Richard Callahan, owner – 933- Unit # B Main Street, Osterville, Map/Parcel 117-186, 4,445 square feet parcel, failed septic, four variances, septic repair.

Peter McEntee was present and explained that the shared septic system is having issues and the owner has proposed having the individual septic system.

Mr. McEntee said the proposed tank is not monolithic and explained there will not be an issue as there will not be leaching laterally.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variances with the following conditions: 1) must record a two bedroom deed restriction at the Barnstable County Registry of Deeds and 2) must supply an official copy of the deed restriction to the Public Health Division. (Unanimously, voted in favor.)

- B. Peter McEntee, Engineering Works, representing Lee Kentros, owner – 933- Unit # D Main Street, Osterville, Map/Parcel 117-185, 4,445 square feet parcel, failed septic, multiple variances, septic repair.

Peter McEntee stated that the shared septic system is having issues and the owner is proposing an individual septic system.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the variances with the following conditions: 1) add a membrane barrier between the leaching portion (SAS) and the catch basin, 2) must record a two bedroom deed restriction at the Barnstable County Registry of Deeds, 3) must supply an official copy of

the deed restriction to the Public Health Division, and 4) the old cesspools must be abandoned properly. (Unanimously, voted in favor.)

- C. Michael Ford, Esquire, representing William Griffin, Jr., Trustee – 1541 Main Street, Cotuit, Map/Parcel 017-007, 67.57 acres, upgrading septic system, two variances, septic repair.

Engineer Sean Regan, Tetra Tech, and Attorney Michael Ford were present. As the owner is doing a lot of work on the location, he decided to improve the septic system at this time (even though it is working fine.) The proposed plan has put the components as far away from the coastal banks as is possible.

Mr. McKean said the staff does not recommend requiring an Innovative Alternative (I/A) system with the amount of acreage available.

Dr. Miller asked to have the plan note the boundaries of the 67 acres inside of the 92.5 acres.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the variances with the following conditions: 1) existing cesspool will be abandoned properly, 2) the designing engineer will revise the plan to show the boundaries of the 67 acres and will revise the wording of the three variances listed on the first page of plan to give complete information of the distances of the setbacks as listed on their original letter. (Unanimously, voted in favor.)

## II. **Septic Variances – New Construction:**

Michael Pimentel, JC Engineering, representing James and Kathleen Henry, owners – 15 Piney Point Drive, Centerville, Map/Parcel 228-155, 11,060 square feet parcel, proposed family room, multiple variances, new construction.

Michael Pimentel said the plan shows a new 1,500 gallon tank and a reserve area.

Mr. McKean said when the proposed septic system does fail, he would prefer a new system be placed in the same location and not be placed in the reserve area and noted a reserve area is not required in this situation.

Dr. Canniff asked if the tank was monolithic. Mr. Pimentel said it is not monolithic but they have made other accommodations for the unlikely event of leakage.

Robert Brown, neighbor, spoke to the Board. He was concerned that the owner's shed was partially on his property and the building was too close to the street. The Board explained these items are outside the Board's jurisdiction. He will need to address this with Building and Zoning.

Mr. Brown said he was also concerned with the variance to his property line. The engineer is asking to allow a 5'9" setback from the property line in lieu of the required 10 feet. The Board said they usually allow a 5' setback to the property line and this is a larger setback so they do not see a problem with this.

The neighbor said there is space over the garage which appears to be rented. Mr. Pimentel said there is no water going to the garage. He is not aware of anyone living there.

Upon a motion duly made and seconded, the Board voted to grant the variances with the following conditions: 1) the plan will be revised by eliminating the reserve area from the plan, 2) a three 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 3) there is no living quarters in the garage. (Unanimously, voted in favor.)

### **III. Proposed Addition:**

Mark Melchionda, General Contractor, representing Brian and Valerie Jansson, owners – 26 Johnson Lane, Centerville, Map/Parcel 193-041, seeking Building permit approval, leaching system of septic is less than four feet above groundwater.

Mark Melchionda said the owner is looking to reconfigure the house without changing the bedroom count of four. They are making an area which connects the second floor family room to a space over the garage and it will include a master bedroom. The estimated cost of construction is \$162,000.

The Board is concerned with the 26" separation to groundwater which was noted on the septic inspection in 2004. They do understand that the owners purchased the property with the understanding that the septic system was allowed. At present, the State requires 48" separation, the property is located on Wequaquet Lake, and Title V allows the Board flexibility when a major construction project is proposed.

The Board feels that the renovation project is major construction and it will be best to put in a new septic system at this time, especially with the impaired conditions of Wequaquet Lake.

It was suggested that the owner may want to consider using sand filters. This would allow less mounting and does a good job filtering.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted on a motion to allow the owners to continue use of the current septic system with the sign-off of the building permits submitted. (Unanimously, voted to deny.)

**IV. Variance – Food (New)**

Michael Haidas, operator – Cooke’s Seafood, 1120 Iyannough Road, Hyannis, Map/Parcel 294-075, continue operation using small in-ground grease trap.

Michael Haidas said he is taking over the operation of Cooke’s from his parents and would like to continue to operate with the 1,000 gallon grease trap for the same menu and the same requirements of paper goods.

Michael said they pumped the grease trap on January 23, 2016. They have also contracted out the washing of the kitchen cloths to reduce any collection of grease. He also noted that the water usage at the restaurant has decreased.

Mr. McKean read into the minutes the email from the Town Engineer in consideration of this proposal as the restaurant is on the town sewer.

From: Parsons, Roger  
Sent: Thursday, February 4, 2016  
To: McKean, Thomas  
Cc: Boule, Andrew; Anderson, David  
Subject: Grease Trap Requests

Hi Tom – Cooke’s needs to have adequate grease trap capacity for the total number of seats - @15 gallons per seat-additional grease trap(s) in series with the existing trap could cover this. Plans of any alterations to the discharge need approval via the sewer connection permit process with DPW. Roger

From: McKean, Thomas  
Sent: Thursday, February 4, 2016  
To: Parsons, Roger  
Cc: Lemieux, Laurent  
Subject: Grease Trap Requests

Hi Roger,

- 1) Cooke’s Restaurant is requesting to continue to use an undersized 1,000 gallon grease trap for more than 120 seats. They will be changing ownership and the variance request will be held next Tuesday, Feb 9<sup>th</sup> at 3:00 p.m. at Town Hall Hearing Room. What would you like to see here?

The prior owners had approval for 120-150 seats. The restaurant has four bathrooms: two in the basement and two on the first floor. The current owners are hoping to have 150 seats plus 33 seats outside. The current owners are looking to open in less than one month and it would be very difficult to install a grease trap at this time.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a grease trap variance for one year to expire on March 1, 2017, at which point they must install adequate grease trap(s) to support the seating, with the following conditions during the variance period: 1) only disposable paper plates and plastic utensils are authorized for use by customers, 2) the grease trap shall be inspected monthly by a

licensed septage hauler, and 3) the grease trap shall be pumped at least once every three months, 4) the variance is non transferable and it must be properly posted on the wall. (Unanimously, voted in favor.)

**V. Hearing – Sewer Connections:**

Stewart Creek Properties overdue for sewer connection.

A. Christine Cotell, Hyannis owner – 31 Woodbury Avenue, Hyannis

No one was present. The property is in disrepair and the Health Division has not received any responses from the owner.

The Board asked the Health Division to check to see if the taxes have been paid.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to have a letter delivered by a constable requesting the owner's appearance at the March 8, 2016, Board meeting. (Unanimously, voted in favor.)

B. John O'Neill, Sr., Hyannis owner – 2 Keating Road, Hyannis

Applicant requested postponement until the March 8, 2016 meeting.

**VI. Hearing – I/A Maintenance Plan:**

Miguel and Audrey Gomes, owner – 42 Tonela Lane, Barnstable, Map/Parcel 336-066, maintenance contract had lapsed.

Applicant requested postponement until the March 8, 2016 meeting.

**VII. Old / New Business:**

A. Minutes – January 12, 2016

Upon a motion duly made and seconded, the Board voted to adopt the minutes for the January 12, 2016 meeting. (Unanimously, voted in favor.)

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

Upon a motion duly made and seconded, the Board voted to adopt the proposed policy for Dual Compartment Tanks (Exhibit A). Unanimously, voted in favor.)

**Additional:**

**A. Tobacco Regulation**

Dr. Miller would like the smoking regulation to be placed on the March or April 2016 agenda. Dr. Miller said Town Attorney Ruth Weil did not receive any changes/comments. Dr. Miller will send his copy of Ruth's revision of the policy to Mr. McKean. Ruth included the Board's notations of: 1) raising the age from 18 to 21, 2) includes e-cigarette to the definition of smoking including inhalation of any combustible or vaporized product is considered a smoking product, along with 3) no flavored cigars (blunt wrap) will be given to persons under the age of 21 years.

**B. Zika Virus.**

The latest information is on the Health Webpage. It notes that pregnant women should refrain from sex with their partners. CDC suggested that all women within their reproductive age who are not using protection should abstain from sexual activity. Dr. Miller will forward any additional updates he becomes aware of to Mr. McKean.

**C. Statistics**

Dr. Miller offered food for thought with the following statistics from the February 9, 2016 Journal of American Medical Association (JAMA) as he believes we must do something about the opioid epidemic and firearms.

The gap between the age of death of Americans versus the other industrialized nations (including such countries as Austria, Denmark, Japan, Finland, Germany, Italy, and Portugal) can be explained by the following statistics:

	<u>United States</u>	versus	<u>All the others:</u>
Firearm Deaths – Men, per 100K population	18.4		1.1
Drug Deaths – Men, per 100K population	16.1		2.7
Firearm Deaths – Women, per 100K population	2.9		0.1
Drug Deaths – Women, per 100K population	10.1		1.6

The Board voted to adjourn – 4:35pm.

## **EXHIBIT A.**

August 10, 2010  
Revised January 12, 2016

### **Public and Environmental Health Program Policies, Procedures, and Guidelines**

<b>Enforcement of 310 CMR 15.223, Septic Tanks/ Properly Sized Septic Tank and Two Compartment Tank Enforcement</b>	<b>No. 2010-007</b>
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#### **Septic Tank Size**

When/if an applicant requests a local or State Code variance involving a setback distance to wetlands, high groundwater, or any other environmental type of variance (not a variance request involving a setback distance to a foundation or property line), the Board of Health will require full compliance with Section 310 CMR 15.223 of the State Environmental Code, Title V. Specifically, when an environmental variance of any type is requested, a properly sized septic tank will be required.

#### **Two Compartment Tank or Two Tanks in Series**

When a design involves facilities **other than a single family dwelling unit** or whenever the calculated design flow is 1,000 gallons per day or greater, a two compartment septic tank or two tanks in series will be required. This requirement shall be enforced during the construction, repair and/or upgrade of a septic system, regardless of whether the repair or upgrade is proposed for the leaching facility only. (See back of page for clarification and examples regarding the requirement for two compartment tanks at dwelling units.)

However, this policy does not apply to minor component repairs such as replacement of a distribution box, tee, piping, or component lid.

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Wayne Miller, M.D.  
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**Two Compartment Tank or Two Tanks in Series at Dwelling Units**  
**Two Tests (1)“ Self Sufficiency” and (2) If Work is Needed or Proposed To Be Done To the Septic System**

Double-compartment tank installation or installation of two tanks in series are only required when there is a need or wish to construct, upgrade, or repair the septic system and/or the soil absorption system (for additional bedrooms above the existing septic capacity for example) **and where there is self-sufficiency is each of the two living units (e.g. in-law apartment)**. The addition of a second kitchen, by itself, does not trigger an upgrade. However, if an additional kitchen is proposed along with additional bedrooms above the existing septic system capacity, then a double compartment tank shall be introduced (see example list below).

A double compartment tank is required for the proposed construction of an in-law apartment which is completely separate from the main house and for other similar separate structures. If there is self-sufficiency, then a double compartment tank would be required. If the structure is a detached bedroom with self-contained living quarters, the applicant will be required to install a double compartment tank. However, if there is a connection in the house to the new living area, this would not necessarily be considered as a separate dwelling. If what is proposed requires someone to travel to the main house for amenities (such as traveling to the main kitchen in the house), it would not require a double compartment tank.

Here are some examples:

- 1) Separate Pool House - NO (double compartment tank is not required)
- 2) Separate Pool House with private room(s) that may be considered as possible "bedroom(s)" - NO
- 3) Separate Pool House with **private room, bathroom and kitchen - YES** (double compartment tank is required)
- 4) Bedroom over a Garage - NO
- 5) Bedroom over a garage with a bathroom - NO
- 6) **Bedroom over detached garage with bathroom and kitchen - YES**
- 7) **Bedroom over attached garage with bathroom and kitchen - YES**
- 8) **Addition for an apartment with a bathroom, kitchen and its own bedroom, regardless of whether there is an increase in flow overall or not (i.e., bedroom relocation)- YES**

**Double-compartment tank installation is only required when there is “self-sufficiency” in each of the two dwelling units and there is a wish or need to construct, upgrade, and/or repair the septic system and/or the SAS itself.**