



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES Tuesday, July 23, 2019 at 3:00 PM Town Hall, Hearing Room 367 Main Street, 2nd Floor, Hyannis, MA

Moment of silence for Barnstable Police Sargeant Jason Sturgis.

I. **Executive Session:**

The Barnstable Board of Health may vote to go into Executive Session under G.L. c. 30A §21(a)(3), to discuss litigation strategy with respect to the following cases: Ohmharsh Inc. v. Barnstable Board of Health; Cumberland Farms v. Barnstable Board of Health, if the Chair declares that an open meeting may have a detrimental effect on the litigating position of the Town.

Went into Executive Session; then, reconvened.

II. **Regulation – Flavored Tobacco**

The effective date of the amendments to Sections 371-1 and 371-11 of the Board of Health Tobacco Regulations shall remain July 28, 2019 unless the Board of Health votes to extend the effective date.

Attorney Erin Donovan asked for an extension of deadline to allow ability to use up inventory and make it through their busy summer season.

Steve Regan expressed, as a parent, he is interested in seeing the regulation take effect now and understands inventory is delivered weekly or bi-weekly and thinks they could discontinue deliveries.

John Norman made a motion to extend the effective date. The motion was not seconded; therefore, motion did not carry and regulation remains unchanged with effective date being July 28, 2019.

III. **Hearing – Food:**

Jeffery Thompson, Grilled Cheese Gallery – 569 Main Street, Unit 11-D, Hyannis, second year of opening business without an inspection prior to opening.

Mr. McKean summarized the past events: Mr. Thompson opened in June 2017 without a food permit and when Mr. McKean arrived on May 24, 2019 for a pre-operational inspection, the establishment appeared to be open with staff located at the register.

Mr. Thompson stated the staff was there to help him prepare to open. He said he had a gas leak and had pulled a gas permit and had to call a contractor to repair it.

It was also mentioned that an inspection was done prior to the Board meeting and there was no food safety certified person on the premises.

The Board stated the public has an expectation that the property is safe and operating properly when they enter the establishment. The health inspection staff recommended assessing a day of closure.

Upon a motion duly made by Dr. Guadagnoli, seconded by John Norman, the Board voted to order a one-day closure for September 10, 2019. (Unanimously, voted in favor.)

IV. Hearing – Motel:

Toby Leary, contractor, representing Hyannis Plaza, formerly International Inn, 662 Main Street, Hyannis, requesting to reopen building two.

The motel is ready to open their second building.

Mr. McKean mentioned that the establishment will not need to come before the Board to reopen restaurant or pool.

Upon a motion duly made by Dr. Guadagnoli, seconded by John Norman, the Board voted to grant the full motel license to operate both building 1 and 2. (Unanimously, voted in favor.)

V. Variance – Septic (Cont.):

A. Daniel Ojala, Down Cape Engineering, representing Ian Taylor, Trustee – 70 Rushy Marsh Road, Cotuit, Map/Parcel 019-119, 34, 231 square feet lot, requesting one variance for repair of a failed septic system.

Applicant withdrew request. They have redone plan without requiring variance.

B. Terence Hayes, engineer, representing Thomas Rooney, owner - 261 Nyes Neck Road, Centerville, Map/Parcel 232-004, 47,260 square feet lot, requesting two variances for a failed septic repair.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to grant the variances with the following conditions: 1) a four bedroom deed restriction must be recorded at the Barnstable County Registry of Deeds and a copy of such to be submitted to the Health Division. (Unanimously, voted in favor.)

VI. Variance – Septic:

A. Peter McEntee, Engineering Works, representing Ronald Charbonneau, Exec. - 105 Sterling Road, Hyannis, Map/Parcel 268-164, 13,005 square feet lot, requesting three variances for a repair of a failed septic system.

John Norman expressed concern that the tank is over 30 years old and recommended using a new combination tank/pump chamber.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to grant the variances with the following conditions: 1) the septic tank will be upgraded to a combination tank and pump chamber and any minor changes in the distance of variances will be acceptable to allow the tank and pump chamber to fit and 2) a three-bedroom deed restriction must be recorded at the Barnstable County Registry of Deeds. (Unanimously, voted in favor.)

B. Peter McEntee, Engineering Works, representing Lori Giblin, owner – 83 Buttonwood Lane, West Barnstable, Map/Parcel 217-044, 40,870 square feet lot, requesting three variances for a failed septic system.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to approve as submitted with an amendment: 1) will be 4.5 feet separation between high groundwater and bottom of leaching (a modification from the 5 feet), 2) revised plans will be submitted and 3) a three bedroom deed restriction will be recorded at the Barnstable County Registry of Deeds. (Unanimously, voted in favor.)

VII. Tobacco

Adil Diwan and Dawank Patel, new stockholders of New Sedwick d/b/a Puff the Magic, new owners of smoking bar.

Attorney Theresa Koppanati was present to represent the new stockholders of Puff the Magic smoking bar. They are to continue operation of the smoking bar in the same manner as prior stockholders of Puff the Magic.

The corporation owning Puff the Magic remains the same and the Board was informed the stockholders are new.

The attorney submitted a statement by Rusty's Inc dated 7-23-19 certifying the ventilation system present is capable of maintaining an outdoor airflow of at least 60 cubic feet per minute, in accordance with the smoking variance granted by the Town of Barnstable (and in accordance with the 1993 BOCA mechanical code).

VIII. Farmers Market – Osterville (Cont.):

David Lawler and Jennifer Williams, Osterville Farmers Market at Osterville Historical Museum – 155 West Bay Road, Osterville, requesting additional dates for Mike Donuts to allow 9 dates during season to cook, and requesting 3 dates (including one temporary permit already issued) for Jaju Pierogi to cook (continued from June 2019).

No one was present from Osterville Farmers Market due to the storm today.

The Board granted 1) Mikes Donuts to have 9 dates during the season to cook, and 2) as Jaju Pierogi decided to not cook product but to sell product prepackaged and uncooked at market, the Board was fine with this. (Unanimously, voted in favor.)

IX. Temporary Food Permit Application:

Jay Powell, JP's Twisted BBQ, representing Centerville Library at 585 Main Street, Centerville, is requesting a temporary food permit for "Centerville Library Anniversary on Sunday, August 4 from 1:00 – 5:00pm with mobile food trucks and two vendors.

The Board granted the temporary food event for the Centerville Library Anniversary to include JP Twisted BBQ food and Four Seas Ice Cream with the following conditions: 1) a revised sketch will be submitted showing the location of JP Twisted BBQ and the location of the handwash stations. (Unanimously, voted in favor.)

X. Minutes:

May 28, 2019 Minutes

The Board voted to adopt the May 28, 2019, minutes. (Unanimously, voted in favor.)

XI. Organization of the Board:

Dr. Canniff nominated John Norman as Chair and Dr. Guadagnoli seconded the motion.

John Norman was voted in, unanimously, as Chair.

Meeting was adjourned – 5:00 pm