



Town of Barnstable

Board of Health

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Donald A. Guadagnoli, M.D., Vice Chair
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Christine M. Beer, PhD.
Steven Waller, M.D. (alternate)

BOARD OF HEALTH MEETING MINUTES

Tuesday, March 25, 2025 4:00 PM

**James H. Crocker Jr. Hearing Room, Town Hall
367 Main Street, 2nd Floor, Hyannis, MA**

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, March 25, 2025. The meeting was called to order at 4:00 pm by F.P. (Thomas) Lee, Chair. Also in attendance were Board Members Donald Guadagnoli, M.D. Paul Canniff, D.M.D., Christine Beer PhD, and Stephen Waller, M.D. Health Division staff member Thomas McKean R.S., C.H.O. was also present.

1. Discussion:

Sale of Flavored Tobacco Products at Licensed Smoking Bars; On-Site Consumption; Chapter 133 of the Acts of 2019, Massachusetts Law. *SECTION 25. Chapter 270, Section 28.(b) No person, retailer or manufacturer shall sell, distribute, cause to be sold or distributed, offer for sale any flavored tobacco product or tobacco product flavor enhancer in any retail establishment, online or through any other means to any consumer in the commonwealth; provided, however, that this subsection shall not apply to the sale or distribution by a smoking bar, as defined in section 22, of flavored tobacco products or tobacco product flavor enhancers for on-site consumption. No person, retailer or manufacturer shall market or advertise a proposed sale or distribution that is prohibited herein.*

Mr. Robert Collette of the Barnstable County Tobacco Control Program and Attorney Chris Banthin of the Massachusetts Tobacco Cessation and Prevention Program were present. Attorney Banthin provided copies of the State Code 105 CMR 665.010(D) to the Board of Health members. This Code reads as follows: **'105 CMR 665.010(D):** No person shall sell, distribute, cause to be sold or distributed, or offer for sale to a consumer located in the Commonwealth a flavored tobacco product or tobacco product flavor enhancer, except for a smoking bar for on-site consumption only in accordance with federal law and regulations.'

Attorney Banthin stated all smoking bars in Massachusetts must comply with this State Code. For example, there are a number of smoking bars located in Worcester Massachusetts that have had to comply with this State Code. Some have had to install lockers to hold the remainder of unconsumed flavored tobacco products for patrons. Mr. Collette stated compliance should be ordered immediately

After some discussion, Thomas McKean stated he will send a written notice to the smoking bar located in the Town of Barnstable, ordering the owner to immediately comply with this State Code.

2. **Show Cause Hearing:**

(Continued from 02-25-2025) Andressa Araujo, owner of 7 Erin Lane Hyannis, Map/Parcel 291-017-011; Ray Caterino, Warren Miranda representing Miranda's Excavating LLC, located at 1070 Rt. 134, S. Dennis, MA 02660, and Edward Stone representing EAS Surveying, located at 141 Rt. 6A, Sandwich MA 02563, - Disconnection of septic tank and onsite NiTROE system components and installation of new septic tank without obtaining a septic permit during November 2024.

Andressa Araujo, owner, was present during this Board of Health hearing. Mr. Warren Miranda, excavator, was also present.

Mr. Miranda testified that he did not install the septic tank. He stated that the septic tank was already there when he arrived onsite.

Ms. Araujo then testified that she ordered the septic tank from South Yarmouth.

After some discussion, the Board of Health identified the following violations of 310 CMR 15.000, State Environmental Code, Title 5 that occurred at 7 Erin Lane on or about November 4, 2024:

310 CMR 15.020: Disposal System Construction Permits:

Removal of an onsite septic tank without first obtaining permission from the Board of Health and without first obtaining a disposal system construction permit from the Board of Health

310 CMR 15.020: Disposal System Construction Permits:

Disconnection of the onsite NiTROE innovative-alternative system without first obtaining permission from the Board of Health and without first obtaining a disposal system construction permit from the Board of Health.

310 CMR 15.020: Disposal System Construction Permits:

Installation of a new septic tank without first obtaining an approved engineered plan and without first obtaining a disposal system construction permit from the Board of Health.

Upon a motion made by Donald Guadagnoli, duly seconded by Daniel Luczkow, the Board voted to order the owner of this property, Andressa Araujo, to complete the following:

- a. Ms. Araujo is ordered to immediately hire a professional engineer or registered sanitarian to design the proposed installation of a septic tank and total proposed wastewater discharge flow. The design plan shall be submitted to the Board of Health for review within sixty (60) days, before May 27, 2025.
- b. Ms. Araujo is ordered to hire a licensed septic installer. Immediately after approval of the engineered design plan, you are ordered to ensure a licensed septic installer applies for a disposal system permit from the Board of Health (via online OpenGov).

- c. Ms. Araujo is ordered to hire a certified operator to replace the media at the NiTROE system, to reconnect the NiTROE system, and to ensure it is functioning properly within sixty (60) days on or before May 27, 2025
3. Speedway- 149 North Street Hyannis, Map/Parcel 309-226-001; flavored tobacco products offered for sale.

Ms. Victoria Chalmers was present, representing Speedway, for this show-cause hearing. Mr. Robert Collette of the Barnstable County Tobacco Control Program was also present. Mr. Collette testified the product Black & Mild was offered for sale on the shelves at Speedway, 149 North Street Hyannis on February 18, 2025 at 1:02 p.m. According to 105 CMR 665.010 (D), No person shall sell, distribute, cause to be sold or distributed, or offer for sale to a consumer located in the Commonwealth a flavored tobacco product or tobacco product tobacco flavor enhancer, except for a smoking bar for on-site consumption only in accordance with federal law and regulations.

Ms. Chalmers testified that she was not aware Black & Mild Cigarillos were classified as a flavored tobacco product. There was no flavor labeling nor any other flavoring information provided with the product.

After hearing testimony and reviewing the submitted documentation regarding this case, the Board of Health determined flavored tobacco products were offered for sale on February 18, 2025 at 1:02 p.m., in violation of 105 CMR 665.010 (D).

After some discussion, and upon a motion made by Donald Guadagnoli, duly seconded by Daniel Luczkow, the Board voted to issue Victoria Chalmers, on behalf of Speedway, a \$1,000 fine and a tobacco sales suspension of one day on Christmas Day- December 25, 2025. Prior to opening for business that day, it will be Ms. Chalmer's responsibility to ensure all tobacco products are removed from the shelves and/or blocked/walled off to ensure no tobacco products will not be sold to anyone that day.

4. **Septic Variances:**

- A. John O'Dea representing Lana and Edward Lukatsky – 129 Hayes Road, Centerville, Map/Parcel 210-095, Phase 1 of the CWMP, failed septic system, variances requested from 310 CMR 15.305, State Environmental Code, Title V and from Section 360-44, Deadlines to Repair Failed Septic Systems, Town of Barnstable Code.

Paul Canniff recused himself from the Board during this hearing. Stephen Waller, alternate Board of Health member, was present for this hearing.

Lana Lukatsky, owner, and John O'Dea P.E. were present at this meeting. The existing septic system has been in failure Mr. O'Dea testified the owner would like to continue to use the existing septic tank and convert it into a tight tank for continued use until such time public sewer becomes available in the future.

Written correspondence from Amy Daubert, a neighbor, dated March 25, 2025 was received by the Board in opposition to this proposal. The Board members acknowledged that they received and had read the two-page email from Ms. Daubert.

Dr. Paul Canniff testified, as a neighbor, that this septic system has been in failure for many years. This property is located on a dead-end street. Monthly and bi-monthly septic waste pumpings at this property along with the recurring sewage loaded pump trucks traveling on this road, has been too much for the neighbors to bear.

Mr. McKean stated the septic tank is undersized for use as a tight tank. The State Environmental Code Title 5 requires a minimum of a 2,000-gallon capacity tight tank.

After some discussion and upon a motion made by Donald Guadagnoli, duly seconded by Daniel Luczkow, the Board voted to continue this item to the next meeting scheduled for April 29, 2025 at 4:00 p.m.

- B. Daniel Ojala P.E representing Down Cape Engineering – 154 Beale Way, Barnstable, Map/parcel 280-003, proposed reduction in minimum tank capacity from 2,000 gallons to 1500 gallons as required from Section 310 CMR 15.260:2(a) of the State Environmental Code, Title V.

Daniel Ojala, P.E. engineer, was present representing the owner Barnstable Yacht Club Inc., Mr. Ojala testified the size of the tank has been adequate given the relatively low use of the bathroom facilities onsite. Due to the high groundwater elevation, proximity to wetland resource areas, and seasonal use of the facilities space, he is seeking approval of this variance request to continue to utilize the existing 1500-gallon septic tank as a tight tank. Mr. Ojala testified that the outlet of the septic tank has been plugged up for decades and the existing tank has been effectively used as a tight tank with pumping occurring during the summer months as needed. The proposed work will include the addition of an alarm and a cast iron cover to the tank. This will bring it more in compliance with the Massachusetts Environmental Code tight tank requirements.

After some discussion and upon a motion made by Tom Lee, duly seconded by Daniel Luczkow, the Board voted to grant Mr. Ojala a variance, on behalf of his client, Barnstable Yacht Club Inc., a variance to convert the existing 1,500-gallon capacity septic tank into a tight tank at 154 Beale Way, Barnstable Massachusetts. The variance granted is as follows: **310 CMR 15.260 (2a)**: To utilize a 1,500 tank as a tight tank, in lieu of providing a minimum 2,000-gallon capacity tight tank as required.

5. Tight Tank Proposals:

- A. Greg Avenia P.E, C.F.M, Kleinfelder Engineering representing Town of Barnstable – 228 Straightway. Hyannis, Map/Parcel 268-099, proposed tight tank.

Mr. Greg Avenia was present representing the owner of this property, the Town of Barnstable Public Works Water Supply Division. Mr. Avenia testified a tight tank is needed for toilet facilities which will be used by workers at the treatment facility. Mr. Avenia also stated public sewer is not available for connection at this site. Mr. Avenia also stated that due to the proximity of drinking water wells, a septic system is not viable. A tight tank appears to be the best alternative for septic waste at this site.

After some discussion and upon a motion made by Daniel Luczkow, duly seconded by Paul Canniff, the Board voted to grant the Town of Barnstable Water Supply Division permission to install a 2,500-gallon tight tank for septic waste at 228 Straightway Road, Hyannis, Massachusetts in compliance with Section 310 CMR 15.260, the State Environmental Code, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

- B. Greg Avenia P.E, C.F.M, Kleinfelder Engineering representing Town of Barnstable – 132 Smith Street. Hyannis, Map/Parcel 267-099 and 0 Old Schoolhouse Rd, Hyannis, Map/Parcel 267-190, proposed tight tank.

Mr. Greg Avenia was present representing the owner of this property, the Town of Barnstable Public Works Water Supply Division. Mr. Avenia testified a tight tank is needed for toilet facilities which will be used by workers at the treatment facility. Mr. Avenia also stated public sewer is not available for connection at this site. Mr. Avenia also stated that due to the proximity of drinking water wells, a septic system is not viable. A tight tank appears to be the best alternative for septic waste at this site.

After some discussion and upon a motion made by Daniel Luczkow, duly seconded by Paul Canniff, the Board voted to grant the Town of Barnstable Water Supply Division permission to install a 2,500-gallon tight tank for septic waste at 132 Smith Street, Hyannis, and 0 Old Schoolhouse Road, Hyannis Massachusetts in compliance with Section 310 CMR 15.260, the State Environmental Code, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

6. Sewer Connection/ Extension Requests:

- A. Peter and Donna Conlon, owners – 8 Sunnywood Drive, Hyannis, Map/Parcel 273-215, Phase 1, SEWH-24-412, requesting extension to connect to public sewer

Mr. Peter Conlon and Ms. Donna Conlon were present. Ms. Conlon testified that they are requesting additional time to connect their dwelling located at 8 Sunnywood Drive Hyannis to public sewer due to financial reasons.

After some discussion, and upon a motion made by Donald Guadagnoli, duly seconded by Tom Lee, the Board voted to grant Peter and Donna Conlon a two-year extension to connect their property located at 8 Sunny-Wood Drive, Centerville, Massachusetts, to public sewer. The original deadline was noted as July 15, 2025. This two-year extension brings the deadline to July 15, 2027.

- B. Susan Sweet, owner – 971 West Main Street, Centerville, Map/Parcel 229-056, Phase 1, SEWH-24-269, requesting extension to connect to public sewer.

Ms. Susan Sweet was present. Ms. Sweet requested additional time to connect her dwelling located at 971 West Main Street Centerville due to financial reasons.

After some discussion and upon a motion made by Daniel Luczkow, duly seconded by Paul Canniff, the Board voted to grant Ms. Sweet a two-year extension to connect her property located at 971 West Main Street Hyannis, Massachusetts, to public sewer. The original deadline was noted as July 21, 2025. This two-year extension brings the deadline to July 21, 2027.

- C. Shawn Horan representing Dwight Carey – 1007 West Main Street, Centerville, Map/Parcel 229-059, Phase 1, SEWH-24-271, requesting extension to connect to public sewer.

Shawn Horan was present at the hearing. Mr. Horan testified that due to the recent death of the owner, more time is needed to handle affairs.

After some discussion and upon a motion made by Daniel Luczkow, duly seconded by Donald Guadagnoli, the Board voted to grant Dwight Carey a twelve-month extension, on behalf of the property owner, Jonathan Aubrey, to connect the property located at 1007 West Main Street Hyannis, Massachusetts, to public sewer. The original deadline is noted in the computer database as August 8, 2025, based on the date of receipt of the order letter. This twelve-month extension brings the deadline to August 8, 2026.

7. Minutes -February 25, 2025 Board of Health Meeting

The February 25, 2025 minutes were reviewed by the Board members. After a brief discussion, and upon a motion made by Donald Guadagnoli, seconded by Daniel Luczkow, the Board voted to approve the February 25, 2025 minutes as written.

Adjourn- 6:01 p.m.

Upon a motion duly made by Donald Guadagnoli, seconded by Daniel Luczkow, the Board voted to adjourn. (Unanimously in favor.)