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Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



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

BOARD OF HEALTH MEETING MINUTES Tuesday, September 8, 2009 at 4:00 PM Town Hall, Hearing Room 367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on September 8, 2009. The meeting was called to order at 4:00 pm by Chairman Wayne Miller, M.D. Also in attendance was Junichi Sawayanagi and Susan Rask, Alternate Board Member. Paul Canniff, D.M.D. was unable to attend. Thomas McKean, Director of Public Health, and Sharon Crocker, Division Assistant, were also present.

I. Hearing – Housing (New):

- A. John Boyle, Boyle Realty Trust – 8A Seabrook Road, Hyannis – violations.

Tom McKean gave a summary of the multiple housing violations.

John Boyle was present. Mr. Boyle explained the tenant moved in and everything was in working order. The husband was deported for drug violations. The tenant has a two year old who breaks the windows. Mr. Boyle had stated he had been at the address with a contractor trying to do repairs and the situation became volatile and the tenant then created more damages. Mr. Boyle stated he would not go back in to correct the violations until the tenant leaves.

The tenant had a translator to assist her. The translator stated the inspections done before and done after she moved in showed similar violations.

Upon a motion duly made by Mr. Sawayanagi, seconded by Ms. Rask, the Board voted to levy a \$100/day fine until the critical violations are repaired. (Unanimously, voted in favor.)

- B. Robert Souza – 63 Chestnut Street, Hyannis – bedrooms and egress.

Robert Souza explained he was unaware of the tenants sleeping in the basement and agreed that is dangerous with only the one egress. He has now explained to the tenants that they are not allowed to sleep in the basement.

Mr. Souza proposed that the Board consider the number of occupants in the house versus the number of bedrooms for their regulation. He is interested in renting to three individuals and stated that using three bedrooms with only three people is less taxing on the septic than having four people in a two bedroom.

Mr. McKean noted that they are not in any specially zoned areas and, therefore, has the option to increase the septic to allow more bedrooms.

Dr. Miller explained that the only enforceable way, at this time, is to evaluate the number of bedrooms.

Upon a motion duly made by Mr. Sawayanagi, seconded by Ms. Rask, the Board voted to uphold the findings of the Public Health Division.
(Unanimously, voted in favor.)

C. Daniel Levesque – 25A River Road, Marstons Mills – ceiling height.

Mr. McKean gave a summary of the Public Health Division.

Daniel Levesque stated that the complaints were all taken care of before the Public Health Division became involved. The only issue remaining is the ceiling heights. Mr. Levesque does not see any way to remedy the ceiling heights. The living room ceiling is at least 6' 8". However, there is only one bedroom where the ceiling is less than this and it is an antique house.

Upon a motion duly made by Ms. Rask, seconded by Mr. Sawayanagi, the Board voted to allow the ceiling height given the age of the house.
(Unanimously, voted in favor.)

D. John Kowalkski, Attorney, representing Linda Peterson, owner – 38 Rosewood Lane, Cotuit – violations and extension.

John Kowalkski (not speaking as an attorney) but as a friend for the owner who is out of state spoke on the matter.

They bought the house in 1987. They took all the permits properly and the septic was designed as a four bedroom. It was purchased brand new and was always intending to be a four bedroom and there was an error on the initial permit stating three bedroom. Mr. Kowalkski is willing to increase the door opening in the room above the kitchen to five feet.

Upon a motion duly made by Ms. Rask, seconded by Mr. Sawayanagi, the Board determined the house was originally built as a four bedroom, the owner will increase the door opening in the room above the kitchen to five feet, and will record a four-bedroom deed restriction at the Barnstable County Registry

of Deeds and supply the proper copy to the Public Health Division.
(Unanimously, voted in favor.)

II. Hearing – Septic:

John Morin, representing Betsy Miller, owner – 1610 Main Street, West Barnstable, request for an extension on deadline of repair.

No one was present.

Mr. Dan Ojala spoke stating that the owner's contractors were working on it and had recently called to get assistance on the property lines.

Upon a motion duly made by Ms. Rask, seconded by Mr. Sawayanagi, the Board voted to extend the deadline for an additional 60 Days. (Unanimously, voted in favor.)

III. Septic Variance (New):

A. Dan Ojala, Down Cape Engineering, representing Helen Marvill, owner – 1636 Main Street, West Barnstable, Map/Parcel 197-025, 0.34 acre parcel, four variances requested.

Mr. Dan Ojala presented the septic plan.

The Board noted there are additional variances, setbacks to neighboring wells which are slightly less than 150 feet away with the water flowing in the opposite direction.

Upon a motion duly made by Mr. Sawayanagi, seconded by Ms. Rask, the Board voted to approve a total of six variances with the following condition: a revised plan will be submitted to show the additional two variances to neighboring wells. (Unanimously, voted in favor.)

B. Michael Perrault, P.M.P. Associates, representing Joyce Haseotes, owner - 293 Long Beach Road, Centerville, proposed addition, approval requested for I/A Fast System monitoring plan.

Michael Perrault presented the plan and noted the Cape Cod Commission requested an I/A Fast System be used even though the property did not necessitate it according to Title V.

The Board did not agree with the ground water elevation used. Other properties on the street used ground water levels much lower than 3.5 ngvd. Upon reviewing the files on the street, the Board felt a 2.0 ground water elevation would be more accurate.

Mr. Sawayanagi asked if the reserve area could be moved to the side of the house. Mr. Perrault explained the Cape Cod Commission had preferred the location of the reserve on the plan.

Upon a motion duly made by Mr. Sawayanagi, seconded by Ms. Rask, the Board voted to approve the I/A Fast System with the following conditions: 1) redesign based on a 2.0 elevation, 2) change the plan to state a standby power source will be provided, and 3) six bedroom deed restriction be recorded at the Registry of Deeds and a proper copy be provided to the Public Health Division. (Unanimously voted in favor.)

IV. I/A Monitoring Plan Review:

David Walsh, 195-E, Route 149, Marstons Mills, requesting discontinuance of monitoring the RSF system and he will continue quarterly Maintenance Inspections-Herring Run Place Condo.

Mrs. Walsh was present. The Board explained that due to the fact that 50% of the testing does not have testing up to the desired levels, they will request the monitoring to continue as is.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the discontinuance of the quarterly monitoring. (two voted DENIED and Ms. Rask had recused herself).

V. Variance – Food (New):

Mary DeBartolo representing Cape Land and Sea Harvest (Clash) – Temporary Food Permit applications for annual event “Farm to Table”, on September 27 at Cape Cod Organics Farm, 3675 Main Street, Barnstable.

Mary Lee Kylee was present. The meats will be cooked on the grill.

The Board would like a diagram of the layout of prep area and the facilities necessary.

Upon a motion duly made by Mr. Sawayanagi, seconded by Ms. Rask, the Board voted to approve the annual temporary food permit for CLASH with the following conditions: 1) a schematic diagram showing the set-up with the preparation area, eating area, and handwash sinks labeled, and 2) the proper signage be used when serving raw shellfish. (Unanimously, voted in favor.)

Additional: Mr. McKean mentioned there was an additional request to have cheese at the event. The Board determined no cheese would be allowed as this is a potentially hazardous food and more information is needed regarding the pasteurization of their cheese, etc.

VI. Hearing – Septic:

Francis and Barbara Ferguson, owners – 512 Whistleberry Drive, Marstons Mills – bedroom count.

Mr. Ferguson and the Board discussed the situation.

Upon a motion duly made by Mr. Sawayanagi, seconded by Ms. Rask, the Board voted to extend the deadline to 60 days, at which time, Mr. Ferguson will enlarge one of the bedroom doorways to 5 feet. (Unanimously, voted in favor.)

VII. Hearing – Housing:

Francis Wurzburg - 140 Willimantic Drive, Marstons Mills- ceiling height.

Bill Silver, Kinlin Grover realtor, represented the owner, Francis “Ted” Wurzburg who is out of town.

The septic is adequate and working. It is not possible to get the ceilings higher.

Mr. McKean recommends granting the ceiling height of 6’6”.

Upon a motion duly made by Mr. Sawayanagi, seconded by Ms. Rask, the Board voted to approve the ceiling height of the house. (Unanimously, voted in favor.)

VIII. Updates:

Jason Ethier, 15 Highland Street, Hyannis - ceiling height, continued from July 14, 2009 board meeting.

Jason has decided to keep the area with the low ceiling height as a non-habitable living section. The inspection of this will be necessary.