



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, May 11, 2010 at 3:00 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 May 11, 2010. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Junichi Sawayanagi and Paul J. Canniff, D.M.D. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

I. Hearing (Cont):

Requested by motel owner, George "Skip" Simpson, Anchor-in, One South Street, Hyannis – discussion of qualified swimmers and lifeguard requirements at pools.

George Simpson was present. Dr. Miller said the State allows each Health Inspector to accept a change in the requirement of lifeguards directly. Dr. Miller expressed that, if the rest of Board was accepting of changing regulations, he would use the following criteria: no swimming alone, key-access to pool when no lifeguard working, not to be applied to wave pools, appliances, slides, etc, and he would not want this to apply where there are types of activities in pools. Dr. Miller also suggested that the Health Inspectors do not want all this responsibility placed on them. He thought they might value spending time with the State Inspectors to aid in the discretionary choice. The Board discussed a possible two-level agreement (Health Inspector, then Board) based on normal activity at each particular pool

Dr. Canniff would like the Fire Dept. invited to the next meeting to share information on the history of drownings in the area, if any. Mr. McKean relayed that the Fire Dept. said that now people are more distracted than in the past while they are in the vicinity of a pool, i.e.. many are texting on cell phones, using the internet, etc.

Dr. Canniff feels even one drowning during the past 30 years would warrant the need to have lifeguards.

The drowning at Heritage House 30 years ago, had a lifeguard on duty who had just stepped inside for a moment to get something. Other drownings included Craigville Motel and Heritage House (near drowning) and the current Holiday Inn.

In Yarmouth, someone stumbled into the pool. Another had the lifeguard reading a book and someone “nearly” died.

Mr. Sawayanagi feels it is the responsibility of the property owner to safely maintain the safety of their pool and a regulation is unnecessary. He feels it is only common sense to hire someone to watch the pool whenever they have 25+ people using it, as well as hiring lifeguards when there are a lot of children in it.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue to the June 8, 2010 Board meeting and request the Fire Dept come to speak. Also, a draft will be written by the Board and the Health Inspectors views will be obtained.

II. Hearing – Tobacco:

Tobacco violations as reported by Bob Collette of Barnstable County Tobacco Control.

- A. Luke’s Liquors, 395 Barnstable Road, Hyannis – First Offense, tobacco products sold to a minor.

Two people from Luke’s Liquors were present. They have a strict policy and they will be giving the employee a warning as well.

Upon a Motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to issue a Warning Letter. (Unanimously, voted in favor.)

- B. North Street Automotive, 240 North Street, Hyannis – First Offense, tobacco products sold to a minor.

David Thornton was present. He has spoken with all the employees and this is the first time in his 10 years, he has had anyone from his Falmouth business or his Hyannis location.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, a Warning Letter will be issued. (Unanimously, voted in favor.)

III. Show-Cause Hearing: Food Establishment:

WITHDRAWN Hyannis Food Mart, 18 Center Street, Hyannis, food violations.

IV. Variance – Septic (New Item):

Mike Aucoin representing Ernest and Marjorie Whitman, owner – 329 South Main Street, Centerville, Map/Parcel 207-082, 1.4 acre lot, multiple variances requested.

Mike Aucoin and Linda Pinto, Engineer, were present.

Mr. McKean has concern with (1) the small amount of footing to hold up the wall, and (2) the affects of the frost line to the wall. Mr. McKean also has a question on the property line shown.

Mark McKenzie, engineer, wrote a letter to the Board offering two style options of the Keystone Block System. The wall is made up of a commonly used interlocking block system called Keystone Block System and will be installed strictly according to the specification of the product. The wall will then be reinforced with fabric. Mike said the ground at the bottom of the retaining wall has 10 feet of soil and there is an additional 4.3 feet of soil sloping up to the upper wall at 14.3 feet, so the 1.3 feet of footing should be sufficient to hold the banking of the four foot slope.

Dr. Miller shared Mr. McKean's concern of frost heaving occurring. Mr. Aucoin said the block system is designed to handle that.

There is also a discrepancy between the GIS Assessor's Map and the engineered plan. With regards to the property line: Mike Aucoin stated the correct property lines are on the engineer's plan of Map 207-082 shows on the Assessor's Map that there is a jog out of it from M/P 207-083. That Jog is part of a Land Court property. The depiction of the size on the Assessor's is not correct.

Mr. Aucion said the draftsman for the Assessor's apparently had put the Land Court Property into the Assessor's map incorrectly. The GIS does not show there is a jog on the 329 South Main property 21 feet away and another jog on the northerly side of land is also not included in the GIS map. On an additional note, Mr. Aucoin informed the Board that mathematically between the subdivision plan of West Terrace and the Land Court Plan, there is a five foot difference in distance. That difference is in the subdivision, not the Land Court property.

Mike Aucoin brought the information from the Registry of Deeds and the Land Court information, further showing Assessor's Map is in error. Mr. Aucoin said the proposed plan stipulates they will stake the property line to the North prior to installation.

The Board wants it stipulated on the plan which of the two choices for a retaining wall they decide to do.

In the family room, there is an open stairway going up. Dr. Miller requested that one of the doorways be opened to 4 feet and remove the door. Frank Donovan, North Bay Construction, explained the family room has been there 'forever'. With the four foot doorway in the living, the property will remain a four bedroom including the new configuration of the upstairs.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the plan submitted with the following conditions: 1)

delineation on plans of the method of construction to be used on the retaining wall, 2) the opening of the door between the family room and living room to a four foot opening, 3) need a description of the adequacy of keystone block wall and its base explaining why the engineer feels it'll be adequate for the frost line, and 4) a four-bedroom Deed Restriction. (Unanimously, voted in favor.)

Later, Mr. Aucoin explained the system of the interlocking blocks allows a give and take in the event of frost, thus preventing the integrity of the wall to be harmed by frost.

V. Innovative / Alternative System:

Linda Pinto representing Justin and Martina Larhette, owner – 10 Flowing Pond Circle, Osterville, Map/Parcel 146-066, 0.36 acre lot, septic failure, expand system to a 2-bedroom capacity using I/A system.

WITHDRAWN. They will resubmit with a new plan for a 2 bedroom with new variances.

VI. Variance – Food (New):

A. Roger Ghanem, Barnacle – 988 Craigville Beach Road, Centerville, Map/Parcel 226-005, toilet facility variance.

The 2001 variance approved for prior owner will apply to this new owner

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the variances (same as prior owner-2001). (Unanimously, voted in favor.)

B. Temporary Food Event: Alexandra Hynes for Cape Cod Entertaining Expo to be held at the Hyannis Youth Community Center, 141 Bassett Lane, Hyannis, on May 29, 2010

Rebecca Hynes was present. Alexandra Hynes was unable to make the meeting.

Dr. Miller asked who has given them the approval to hold the event. Rebecca said two weeks ago a hearing was held and she believes it was the Town Manager who issued a license to hold the event.

Montilio Bakery has a long list and does not say how it will be kept cool. Rebecca thought all of theirs can be kept at room temperature. The Board stated the cheese cake and cannoli will need refrigeration to keep cool.

Cape Cod Entertaining Expo is being established as an annual event to allow vendors to advertise to the public their wares. They will have 25 vendors, of which only 5 will have food.

Upon a motion duly made by Mr. S., Dr. Canniff seconded, the Board voted to approve the temporary food event with the condition that they meet Thomas McKean's concerns prior to the event. (Unanimously, voted in favor.)

- C. Richard Bibeault representing Mid-Cape Farmers Market, Hyannis, applying for a change of venue from Main Street, Hyannis to the Hyannis Youth and Community Center, Bassett Lane, Hyannis.

Richard Bibeault was present. They are simply looking for a change of venue for the 13 week temporary food permit. The only item needing refrigeration is the smoked fish. They have the truck with the electric refrigeration in it. Also, Richard has been told there are outdoor electrical outlets at the poles (up in the air), and if problems with this, they can always plug into the building as well.

VII. Body Art Variance (Cont.):

Continue discussion of requirements for Body Artists.

A course for Body Artists is offered off-Cape and the woman is willing to offer the course free of charge to the Board of Health members. There are no prerequisites for the course. It is based on a pass/fail with a 70 % as a passing grade. Then, to get a permit, need yearly blood pathology, need 18 months in the town under an approved practitioner, or 2 yrs from another town.

Dr. Miller suggests the Board accept the course on a case-by-case basis, in lieu of the Anatomy / Physiology course.

The Board agreed to approve the substitution of the course on a case-by-case basis. Dr. Miller is interested in taking the course prior to implementing.

VIII. Subdivision:

Dan Ojala, Down Cape Engineering, representing Susan Maki, Trustee, Maki Family Trust –'0' Oak Street (off Oak Street), Barnstable, Preliminary Plan Subdivision# 819 in Historical District, Map 215, Parcel 014-001, 3 lots on 6.94 acres, within the Resource Protection Overlay District.

Arnie Ojala presented the plan. The Board was informed of the Subdivision plans and had no issues.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the plan submitted. (Unanimously, in favor.)

IX. Old/New Business:

- A. ACO: Administrative Consent Order –Draft given to Board from David Houghton, Legal . Any questions, the Board should get right back to David Houghton.

As the ACO does pertain to septic, it is wise to give the mandatory two public notices, thus, may not be able to install until the July meeting.

- B. 130 Center Lane, Centerville – yes, the tight tank has been pumped.

Dr. Canniff recommends contacting the Department of Environmental Protection (DEP) for the list of all holding tanks in our town as each one must receive a permit from the DEP before installing them.

MOTION TO ADJOURN - 4:43pm.