



Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



Office: 508-862-4644
FAX: 508-790-6304

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

BOARD OF HEALTH MEETING MINUTES

Tuesday, July 12, 2011 at 3:00 PM
Town Hall, Hearing Room, 2ND Floor
367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, July 12, 2011. 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. Hearing – Show Cause Pool:

Alan Chan, America's Best Value Inn of Cape Cod – 206 Main Street, Hyannis, pool violation.

Jim (Alan) Chan appeared before the Board. He expressed they had made a bad judgment call when their customers said they wanted to get into the pool area so they could at least sun bathe. The inn did have a lifeguard on duty. They apologized and expressed that this will not happen again.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the issuance of a warning with the comment that if this were to happen again, it would lead to the pool closing and/or fines. (Unanimously, voted in favor.)

II. Variances – Septic (New):

A. Robert Drake representing Dick Vecchione – 455 Scudder Avenue, Hyannis, Map/Parcel 388-141-001, 1.02 acre lot, setback variances.

Robert Drake took two percolation tests and found that the ground water appears to be artificially raised. With this knowledge, he is proposing to use the adjustment rate to ground water of the spring time.

The existing septic tank is partially under the driveway and is not H2O per plan. Robert said they can verify whether it is under the driveway or just next to the driveway. Mr. McKean discussed a few concerns including not seeing a gas line on the plan and a

concern that the pitch from the tank to the D box is not enough. Robert said there is a gas line which enters from the east side and he will make sure the new plan lists this. The D box will be moved to a different location and will be correct. Mr. Drake believes that the new plan will eliminate many of Mr. McKean's concerns.

Dr. Miller said there are two questions on the floor plan: the family room and the office. Mrs. Vecchione explained the living room has an arched opening even though the opening is not five feet; therefore, it is ok. The office is not a habitable room. It is a cross-through area being used as an office and can not be closed off for privacy. It is just part of a bedroom and has a sloping ceiling.

Dr. Miller would like a 3-bedroom deed restriction because there are environmental variances here.

The owners expressed the urgency as they have to pump the system once every two months and it is in failure and in need of repair.

The Board voted to allow a plan which uses the spring time as the adjustment period for the groundwater calculations and the Board voted to allow Mr. McKean and/or his health staff to grant three variances: one variance of separation to groundwater, and two setback variances, one for each of the two catch basins, with the following conditions: 1) record a three-bedroom deed restriction at the Barnstable County Registry of Deeds, and 2) supply a proper copy of the deed restriction to the Public Health Division.

B. H. Earl Lantery, Jr., Muddy Waters Environmental Inc., representing Michael and Christine Albee, owners – 17 Pond Meadow Drive, Marstons Mills, Map/ Parcel 045-035, 0.79 acre parcel, failed system, proposal to install an Aquaworx Remediator under remedial approval.

Earl Lantery presented the plan and said, if approved, this will be completed within a week. Earl said he would be happy to return to the Board with the results in October or November. The leach field is in partial failure and the customer has been pumping the system. The cost of this system is approximately \$5,300.

The bacteria will die if they do not have oxygen, so they pipe in the oxygen 24 hours a day. The existing tank must be tested and shown to be water-tight. This is done by observing the effluent level at the pipe in the tank.

Dr. Canniff noted that one of DEP's requirements is that prior to the issuance of a certificate of compliance, the owner must record on the Deed at the Registry of Deeds, a notice disclosing the existence of the alternative system. Mr. Lantery acknowledged they do follow through with this and will provide the Health Division a copy. Infiltrator is a much larger company than Sludgehammer and has set up individual distributorships. Muddy Waters Environmental is the Eastern Massachusetts distributor and is very happy with the outcomes of this system.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to approve the Aquaworx Remediator system be used provided all the requirements listed in the DEP approval dated 12/22/10 are followed. (Unanimously, voted in favor.)

Follow up to be done in Oct/Nov 2011, giving results to the Board as the Board is interested to learn to what extent the procedure works.

III. I/A Monitoring:

Suzy Genest, owner – 116 Scudder Lane, Barnstable, request to reduce monitoring.

No one was present.

Eight tests were presented to the Board. All but July were much below 19. It appears they are not using the septic very often.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to approve to reduce the monitoring to once a year with the following conditions: 1) that they are using the property for seasonal use. 2) if they do use it more than seasonally, it must be tested two times a year, and 3) if the property is serviced by a private well which is located within 150 feet from the septic, or if any other well is located within 150 feet from the septic, the water also must be monitored once a year. (Unanimously, voted in favor.)

IV. Variance – Food (New):

A. Kathleen Kadlik owner of Fromage ‘A Trois – 3180 Main Street, Barnstable, Map/Parcel 300-048, on town sewer, requests two variances: to operate with one toilet facility, in lieu of two and a grease trap variance.

Kathleen Kadlik was present and said the entire space is 202 square feet. There is the kitchen and a bathroom with one toilet. There is a maximum of 2 people working there.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the one toilet facility and the grease trap variance with the following conditions: 1) adhere to the menu submitted 7/12/11, and 2) no more than 4 people. (Unanimously, voted in favor.)

B. Daniel McGrath, owner of McGrath's Saloon and Sports Bar – 380 Barnstable Road, Hyannis, Map/Parcel 311-026, toilet facility variance, use 3 bathrooms in lieu of 4 (for over 50 seats).

Daniel McGrath said the property will now have one more bathroom bringing the total to three.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve three toilet facilities, in lieu of four. (Unanimously, voted in favor.)

- C. Temporary Food Event – Robert Kelly, Barnstable Village Business Association for “Music In The Village” to be held at the Courthouse Complex, 3195 Route 6A, Barnstable, on Tuesday, August 9, 2011, serving food 6:00-8:00 pm.

Robert Kelly was present. The event will be similar to last year, although this year it will include music.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the annual event.

V. Hearing – Show Cause Stable (Cont):

Sally Burke, Sea Flash Farm – 2346 Meetinghouse Way, West Barnstable, stable.

Sally Burke was present.

Marybeth inspected today and most of one manure area was disposed of. The balance of it was picked up prior to today’s Board meeting per Sally Burke. There was also a second location of manure in a spot which had apparently been there since November waiting for her brother-in-law to pick it up as he had wanted it.

The Board instructed her that the second location must be picked up within 90 Days to meet compliance.

VI. Septic Installers (New):

Paul Martin, West Yarmouth, MA

Paul Martin was present.

Mr. McKean stated Paul had passed his septic exam and all his references were very good.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve Paul Martin as a septic installer. (Unanimously, voted in favor.)

VII. Old / New Business:

POSTPONED UNTIL AUG 2011 - Bathing Beach Policies.

The state noticed that there were some bathing beaches in the Town which we are not testing and therefore, are not properly posted to inform the public that they are not being tested.

The authority of which bathing beaches are to be tested is the responsibility of the Board per the State regulations.

Currently, we are awaiting the Legal Department to determine the definition of a "bathing beach".

Two actions to be done:

- 1) Per the State law, the Board must review and determine which are to be tested.
- 2) For those which the Board determines not to test, the posting must be adjusted. i.e., Crocker's Neck is on town website stating it's a bathing beach. If Board of Health does not include it in the testing list, then the website, etc, must also be adjusted.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this item to the August 23, 2011 Board of Health meeting. (and see if Legal Dept has definition of bathing beach). (Unanimously, voted in favor.)

VIII. Craigville Beach DCPC Implementing Regulations:

A. Section 353-10 of the Town of Barnstable Code – Pumping Requirements.

B. Section 360-46 of the Town of Barnstable Code – Reporting Requirements for Septic Haulers.

The Cape Cod Commission wrote the above two DCPC regulations which had been incorporated into the Board of Health. One of the regulations states that the septic pumper must inspect the system, however, the pumper is not qualified to inspect the system and this puts an undo burden on them.

Mr. McKean presented an outline of a proposed change in the regulation to be worked on and presented back to the Commission.

Mr. McKean and his staff had suggested to incorporate the State Environmental Code 105. CMR 15-351 ..."every septic tank, tight tank or cesspool shall be pumped whenever necessary to ensure proper functioning of the system. Pumping is required whenever the top of the sludge or solids layer is within 12 inches or less of the bottom of the outlet, or the top of the scum layer is within 2 inches of the top of the outlet tee or, the bottom of the scum layer is within 2 inches of the bottom of the outlet tee. Pumping frequency is a function of use although pumping is typically necessary at least once within 3 years and recommends at least once a year for systems with a domestic garbage disposal.

Without limiting the foregoing septic tank, tight tank or cesspool shall be pumped when the owner is required proven to do so by the local approving department.”

The staff recommends adding “that the sludge layers and solid levels be observed by a licensed septic hauler at least once every five years.

The Board acknowledged that they are willing to incorporate these wordings along with the following:

If, at the time of pumping, the hauler observes the liquid level above the outlet invert, discharge or ponding of effluent to the surface of the ground or surface waters, liquid depths in the cesspool less than 6 inches below invert and back up, the facility system component needs to be reported.

Dr. Miller asked Thomas McKean to draft the letter with the Town Attorney and return to the Board of a final review at the August 2011 meeting.

Voted to Adjourn 4:45 pm.