



# Town of Barnstable

## Board of Health

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### BOARD OF HEALTH MEETING MINUTES Tuesday, August 23, 2011 at 3:00 PM Town Hall, Hearing Room, 2<sup>ND</sup> Floor 367 Main Street, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, August 23, 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 – Housing (New):**

Lei Reilley, owner – 111 and 111-B Sea Street, Hyannis, housing issues.

Lei Reilley requested hearing and was not present.

Thomas McKean said the staff's recommendation is to uphold the order from the health division's director and health inspector that yes indeed, the owner is in violation of overcrowding. Nine occupants were observed in each unit (111-A and 111-B) and only 5 occupants are allowed in each unit. In 111-B, there is a room which is only 69 square feet and therefore, does not qualify as a bedroom. The Board stipulated that this shall not be used as a bedroom, thus, only two bedrooms are acceptable in unit 111-B, and only four occupants will be permitted. The inspector is not sure whether the tenants are still living in it.

Upon a motion duly made by Dr. Miller, seconded by Junichi Sawayanagi, the Board voted to (1) the Board supports the actions of the health division director and the health inspector regarding these two properties, 2) the Board finds that unit 111-B has only two legal bedrooms and should be restricted to four occupants, not five, and 3) the Board gives the health agents the right to continue to issue non-criminal citations and fines based on their findings when they inspect the premises, and finally, the citations and fines that have already been issued has the full support of the Board. Also, a letter will be sent to the Assessors informing them that this property has two separate units on one lot (not one) and it has a total of five bedrooms (not three). (Unanimously, voted in favor.)

#### **II. Variances – Septic (New):**

- A. Peter Sullivan, Sullivan Engineering, representing Pickwick Realty Trust – 71 Ocean View Avenue, Cotuit, Map/Parcel 034-045, 4.66 acre lot, setback variances.

Peter Sullivan was present and discussed the plans. There is an injector pump located just outside the foundation. It is being requested to move the injector pump to move it away from the patio. There are two smaller ponds on the property, in addition to Cotuit Bay. By the Town's definition of a coastal bank, it has to be sea-ward facing. Rather than challenge the Conservation's position that this is a coastal bank, they are working in the plan to provide the protection of the bank.

The staff had no questions. They just asked whether it is a monolithic tank. Due to the flow, Mr. Sullivan said it is a two compartment tank (septic tank in front and pump chamber in the back end) rather than have it function truly as an injector. So it will bring it to more strict compliance. Mr. Sullivan said they could also seal the seam, if desired. Dr. Canniff said he thinks it should be sealed.

This had come to the Board in August 2010 as it has a large number of bedrooms.

Mr. McKean also mentioned the Barnstable Board of Health is four times as strict as the State requirements for a coastal setback for a tank. Dr. Miller said the BOH had voted to keep our definition of the setback as the State one (and not Conservation's), so Dr. Miller asks if a variance is even necessary. Mr. Sullivan said he prefers the Board do vote on it as a variance to keep everything smooth. It is all gravity-fed.

Upon a motion duly made by Dr. Canniff, seconded by Junichi Sawayanagi, the Board voted to approve the plan with the condition that the seam is sealed on the tank. (Unanimously, voted in favor.)

- B. Darren Meyer representing Estate of Marion Hanaghan – 171 Riverview Lane, Centerville, Map/Parcel 190-143, 0.48 acre lot, multiple variances.

Darren Meyer was present. The property is a three bedroom dwelling with a failed septic. The septic system needs to be placed in the front yard. This creates a situation of needing a few variances.

Adjusted ground water is 6.09 feet below the bottom of what they propose for leaching. The staff agrees that this plan was designed for maximum feasible compliance and has no issues with the plan. Dr. Miller asked if the staff was concerned with the integrity of the structural foundation. Darren did look at options but the problem would be that they would then have to get into the stonework of the foundation and did not want to cause an issue with the integrity of the wall. There will be no load up against the wall. Dr. Miller said he would rather have the

liner moved closer to the leaching and keep it further from the foundation. Mr. Meyer said he would do that.

Upon a motion duly made by Dr. Miller, seconded by Junichi Sawayanagi, the Board voted to approve with the following conditions 1) due to the environmental variances, a three bedroom deed restriction will be recorded at the Registry of Deeds, and 2) a proper copy of the deed restriction will be submitted to the Health Division. (Unanimously, voted in favor.)

**III. Variance – Food (New):**

- A. Sonny Patel, owner of Duck Inn Pub – 477 Main Street, Hyannis, Map/Parcel 308-081-001, toilet facility variance - to operate with three toilets facility, in lieu of four.

No one present.

Mr. McKean said there is a change in ownership, only three restrooms, in lieu of 4 required for more than 50 seats. The staff has no objections. The variance has been granted several times in the past. The restrooms are all in close proximity to the restaurant. Mr. McKean stated there are more than 44 seats (only 44 appearing on the plan, the request is for 81 seats).

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve a toilet facility variance and with no more than the previously approved 81 seats with the previous owners. (Unanimously, voted in favor.)

**IV. Old / New Business:**

Toilet facilities – Junichi Sawayanagi gave progress report of meeting with our Plumbing Inspector regarding State code count.

**V. Septic Installers (New):**

- A. Greg Jones, Sagamore Beach, MA

No one was present. Mr. McKean stated the applicant passed the exam with an above average grade and has excellent references from all.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to approve the septic license of Greg Jones. (Unanimously, voted in favor.)

**VI. Additional:**

- Dr. Miller asked for “a moment of silence for our long-time Board member, who also had multiple other positions in the town. “Sunny” Sumner Kaufman passed away last week and was buried Thursday at the National Cemetery in Bourne.

Sumner was just an excellent individual. He was on the Board when Dr. Miller came onto the Board. He served the town as representative to the Cape Cod Commission. He was deeply involved with the Life-Long Learning Institute at Cape Cod Community College. We missed him when he left, and we are sure his family misses him tremendously now. So, here's a tip of the hat to ...Sumner".

- Thomas McKean also asked for a moment of remembrance for the previous Director of Public Health, John Kelly. John was living in Harwich and passed away a couple weeks ago. He was the Director here for 16 years until 1987 when he retired. He, too, will be missed.
- Dr. Canniff asked that the Board arrange to have DPW attend a meeting to update us on the status of the sewer situation at Stewarts Creek, a 15-20 minute presentation on how they are progressing and what is needed from Health. Mr. McKean will contact Mark Eells, DPW and if desired, a separate meeting will be set up. The Health Division is the responsible party for contacting owners to hook up to sewer, once it is in place. Abandonment permits must be tracked. The Board expressed concern that the Town keep moving forward to hook up to sewer to avoid consequences of a judge determining we did not comply soon enough with the State's request.
- Dr. Canniff noted that recently, there have been a number of swimming pool incidents elsewhere. Several of them were near-drowning with the good fortune of having a skilled citizen in the vicinity to save them.
- Dr. Canniff also brought up that two towns have had some wind turbine activity recently: Bourne is working on turbine regulations and Falmouth is researching the cost of decommissioning the wind turbine which some citizens have complained about. It would be a huge cost to decommission the turbine.

Meeting adjourned 4:15 pm.