



Town of Barnstable Board of Health

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BOARD OF HEALTH MEETING MINUTES Tuesday, June 18, 2013 at 4:00 PM Town Hall, Hearing Room, 2ND Floor 367 Main Street, Hyannis, MA

I. Hearings – Septic (Cont):

- A. Marcia Elliott, owner – 37 Rue Michele, Barnstable, additional septic inspection completed (continued from March 2012).

Marcia Elliott was present. The Board acknowledged that the most recent septic inspection shows the system is working properly and is not in failure.

Upon a motion duly made by Junichi Sawayanagi, seconded by Dr. Canniff, the Board voted to recognize the septic system to be satisfactorily functioning. (Unanimously, voting in favor.)

- B. Jeanne Walsh for Douglas B. Farquhar and Ann Franklin, owners – 12 Oak Drive, Hyannis, Map/Parcel 266-012, cesspool area secured, requesting extension of septic repair deadline (continued).

Jeanne Walsh was present.

The Board members acknowledged that the pictures in their packages were good and showed the septic system is boarded off so no one will accidentally fall in. The Board is comfortable to allow an extension until the new owner decides what to do with the house. The property is not occupied.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant a six month extension to the end of December 2013 to allow the property to be sold and assessed. (Unanimously, voted in favor.)

- C. Arlene Wilson, A.M. Wilson Associates, representing Robin and Marcia Brown, Trustees – 250 Smoke Valley Road, Osterville, Map/Parcel 097-002, 5.8 acre parcel, new plan, multiple variances, house addition (continued).

Arlene Wilson presented a review of the property. She mentioned the prior discussion said no increase in flow to the beach house. She has submitted revised floor plans with the beach house as a single story with 2 bedrooms and a large, open room for

the kitchen and living area. Arlene said the septic tank for the beach house still needs a local code variance from the top of the bank of 17.44 feet as per the plan dated 5/17/13. There is no increase in flow to the beach cottage.

The other requested revision was that the tank and pump chamber servicing the existing cottage and proposed guest cottage be relocated so no variances are necessary. This has been done.

Mr. McKean said the staff has no objections to the revised plan.

Ms. Wilson noted the plan has a reserve system on it as required by DEP. There is no maintenance required for this "general" use. The annual Operation and Maintenance (O&M) inspection is required. Ms. Wilson said DEP stipulates a statement is required on the deed which will inform any new owner that an annual O&M inspection is required.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the plan dated 5/17/13 with the following conditions: (1) there will be no further expansion of the beach house (house on the water) from two bedrooms, and (2) the system shall be installed according to all the DEP provisions and instructions of the "general" use document dated 5/23/12. (Unanimously, voted in favor.)

II. Hearing – Septic (New):

- A. Merriam Bell for the Bell Family Trust, owners – 536 Main St, Cotuit, request extension on deadline to repair failed septic system, no occupancy.

Mr. McKean stated the home is not occupied and the owner lives out West and was unable to attend the meeting and sent in correspondence.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board granted the extension with the following conditions: 1) the property will remain unoccupied for the duration of the extension or until the septic is fixed, and 2) the septic will be repaired no later than three months after the sale of the property. (Unanimously, voted in favor.)

- B. Jacques Morin representing Gregory Hobill, owner – 25 Debbies Lane, Marstons Mills, Map/Parcel 011-013, existing five (5) plus bedrooms, affidavit submitted, requesting grandfather number of bedrooms.

Jacques Morin representing owners, Katelyn and Gregory Hobill. Mr. Morin, along with Mr. and Mrs. Hobill, were present. Mr. Morin said the house was built in 1986 with a finished upstairs as per the agreement made with the buyer. He had submitted an affidavit stating this, from the builder Mr. Dacey. Mr. Dacey was not aware of when the apartment was added but by the condition of it, it was clear that it was not much later than the original construction.

Mr. Morin's package included the existing floor plans with six bedrooms and a revised floor plan removing two bedrooms and leaving three bedrooms in the main house and one bedroom in the apartment. They do believe the property qualifies for

more bedrooms but the owners (1) do not have a need for them and their priority is to be allowed to continue having the apartment which provides additional income to assist in the refurbishing and (2) would like the matter cleared up with the Building and Health Divisions.

Mr. McKean said the staff reviewed and noted there is conflicting information in the records. The original septic was permitted for three bedrooms and was over-designed as a 488 gallons/day system which handles four bedrooms. In 1997, the septic system was replaced and in those days no engineering plans were submitted. There are no calculations available to show what the system is designed for. The system has four 330 Cultec Infiltrators with stone around them. Mr. McKean said he has asked Mr. Morin to hire an inspector find out how much stone is around the infiltrators so the flow calculation can be determined. There was an inspection done in 1997 but it was done prior to the new system. There was also a well test done recently and it was fine.

Dr. Miller said there are two things he is looking at: (1) what should be allowed and (2) what can the septic system handle. He said the affidavit goes along with what the Board has accepted as proof of prior existence. He would like Mr. Morin to do the work necessary so the system can have the flow design calculated. An inspector will have to dig around the chambers to measure the amount of stone. If there is not adequate stone, then adding a chamber may be all that's needed to bring it to a proper four bedroom.

Mr. Morin also mentioned there is 100 acres of conservation property which backs up to property. He said the Town has assessed it as a five bedroom. He also said the system had a recent inspection and passed. Mr. Morin is working with the Building Department regarding proper egress to the apartment. It will not be a problem.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the house as a four bedroom existing grandfathered house with the following condition: must show design flow is adequate to provide the 440 daily flow. (Unanimously, voted in favor.)

III. Septic Variance – New:

- A. Donald Bracken, Jr., Bracken Engineering, representing Thomas and Marianne Philbrick, 226 Holly Point Rd, Centerville, Map/Parcel 232-033, 19,100 sq.ft. parcel, two variances, failed septic system.

Engineer Don Bracken said they are using a flow diffuser system to maximize the feasible septic system given the constraints. The variance proposed for separation of foundation to SAS is requested from 20 feet to 13 feet due to the downward slope of property and to maximize the distance to wetlands. To protect the foundation, they will use an impervious barrier.

Mr. McKean said the staff question was in the separation to groundwater. The elevation which the Board uses regularly for the lake is 34.8 feet elevation. Health would like a conversion done on the calculations so the same comparison can be made, clarifying for them that the separation to groundwater is at least four feet below the lake elevation of 34.8 feet.

Mr. McKean said the garage is on a slab and there is a modified D-Box used there. This is not something they have seen before. Mr. Bracken said they use this in the cases where the direction has to change, rather than use two 45 degree angles. They put a pipe through the D-Box and the 90 degree angle works better. It works fine for the solids and the pipe can be snaked, if necessary.

Mr. McKean recommended more detail to be placed on the plan for the modified D-Box.

In answer to Mr. Sawayanagi's question of why the septic system is not located directly out of the house instead of under the garage slab, Mr. Bracken explained that alternative was researched and the cost of changing the internal plumbing would have been more expensive.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to grant the variances with the following conditions: (1) the conversions be done to satisfy the staff that there is a separation from groundwater to the bottom of the septic components to 4 feet, (2) submit a revised plan which will show more detail of the modified D-Box, (3) a four bedroom deed restriction be recorded at the Barnstable County Registry of Deeds prior to permits, and (4) an official copy of the deed restriction be submitted to the Public Health Division. (Unanimously, voted in favor.)

IV. Food Variance (Cont):

Continue to A. Terri Perry, owner of Café Crumb – 846 Main Street, Osterville, requesting
July 7, 2013 a grease trap variance with a revised menu (continued).

B. Carrie-Lee Touhey, owner of The Cape Cod Cookie Company – 569
Main Street, Unit # B, Hyannis, grease trap variance (continued).

Carrie-Lee Touhey was present and summarized the May meeting with the Board where she was approved a bathroom facility variance but was restricted to use the space for retail sales only, until she can tie into a 1,000 gallon grease trap. She had already plumbed the facility for the 40 pound grease trap under the counter and she had opted for a 3-bay sink with no dishwasher and is using all plastic ware and disposable products. She does not grease the sheet pans. She uses parchment paper and makes the products in small batches so there is just a table-top mixing bowl. She has been using the facility as retail only and preparing the product in their commercial kitchen at home.

Carrie-Lee said that with the busy season upon her, this has pushed the limits of the home industrial kitchen. It is very difficult to sell themselves as a bakery without the nice aroma of sweet goods freshly baked as everything is pre-packaged. It has made it difficult to have a profitable business with the added time and cost of trucking product back and forth.

Carrie-Lee said they have investigated their options to hook up to a grease trap. Hot Diggity Dog is tied into the grease trap with Lobstah's so that is not an option.

They did seek permission to hook up to the Veteran's Outreach grease trap which required added permission from the privately owned condominium trust. They were given approval to tie into the Veteran's which is located on the far side of their neighbor, The Broken Cone. To access this they will be required to break into their bathroom and through The Broken Cone, who is also in their busy season. She is hoping the Board will allow her to wait until the quieter season.

Ms. Touhey proposed that the Board allow her to install the 40 pound grease trap under the counter, keep monthly maintenance logs, and allow her to tie into the grease trap this winter when it will be better for her and her neighbors.

Mr. McKean noted that the plumbing inspector, Mr. Jenkins, said the 40 pound grease trap is automatically required with a 3-bay sink with food processing. Mr. McKean also said he had looked into a mechanical grease trap (GRD) suggested by Dr. Miller and according to Mr. Jenkins, this device with not suffice because of the cookie product and its starches. Mr. McKean also said the Town Engineer, Mr. Parsons, stands steadfast in his decision of requiring a grease trap. Mr. Parsons suggests she tie into the grease trap with Lobstah's and Hot Diggity Dog as there is more room available. Hot Diggity Dog does not have any seating.

Carrie-Lee said she was unaware that their grease trap was able to accommodate all three. In order to tie into theirs, she will still need to dig under the courtyard and go across the courtyard to connect. . She would like to investigate this. Mr. Sawayanagi suggested it may not require a deep ditch in order to do this.

Dr. Miller and Dr. Canniff both acknowledged that they feel they must oblige by the wishes of the Town Engineer as it is the Town's sewer system which would be affected. Dr. Miller said the 40 pound grease trap is not one the Board has ever allowed to suffice for a grease trap requirement as it doesn't provide what is needed.

Carrie-Lee withdrew her request to the Board to allow her time to investigate the new option.

V. Food Variance (New):

- A. Jorge Montero, J&S Montero, LLC, owner of Vista de Mara Diner (formerly Caffè E Dolci) – 430 Main Street, Hyannis, grease trap variance.

Attorney Stephen Hayes was present along with Jorge and Sergio Montero, owners of Vista de Mara. They are currently running the Caffè E Dolci and are awaiting the state approval for the new business. There will be a change in menu.

Mr. McKean said the staff recommends an in-ground grease trap as the menu is much more extensive. Mr. Parsons, Town Engineer, is in agreement with this and if there is trouble fitting the grease trap on the property, an option is to use the "Trapzilla" grease trap.

Jorge Montero said the cost of the in-ground grease trap is more than the cost of the business. Dr. Miller suggested speaking with Mr. Parsons again as the Board is going to go with the requests of Mr. Parsons for proper care of the sewer lines.

Stephen Hayes said they would like to withdraw their request at this time and allow them to investigate more and to speak with Mr. Parsons.

- B. Kathryn Gianni, owner of The Barnacle Snack Shack – 988 Craigville Beach Road, Centerville, change of ownership, multiple variances and outside tables/chairs approval.

Kathryn Gianni was present and stated she is seeking a similar approval to the prior owner.

Mr. McKean read the prior approval letter of 2010 which listed at least one toilet facility, a sign shall be posted stating a bathroom is available, 3) no more than 6 picnic tables and it was a non-transferable variance.

The Board discussed desired improvements and would be willing to have it done over the next couple of years. It was mentioned that the Board might want to see automatic closing screens used, as there is no air curtain. Mr. Sawayanagi will meet with the applicant to review the facility and see what would be reasonable for improvements given the space and cost for the various items to be upgraded. The Board recognized that the new owner has done a number of improvements already.

It was also discussed that with the public restrooms at the beach across the street being viewed as possible toilet facilities, some connection to the hours the facilities is open versus the number of seats available may be considered, or state “after dark”. The Board will await Mr. Sawayanagi’s review.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to temporarily grant the variance approvals which will expire on December 31, 2013 with the following conditions: at least one toilet facility on the premises, 2) a sign shall be posted which states a bathroom is available to patrons, 3) no more than 37 seats will be allowed – based on the septic system for fast foods, and 4) this variance is non-transferable. (Unanimously, voted in favor.)

The applicant will meet with Mr. Sawayanagi next week to review the facility for future possible upgrades.

- C. Jason Warren, owner of Osterville Village Café – 1 Wianno Avenue, Osterville, increase number of seats for 10 to 16 with existing toilet facility variance in estuary protection zone.

Jason Warren was present. He was interested in adding three small tables with six additional seats.

Mr. McKean said the septic system is only designed for 10 seats. The design flow is 200 gallons/day for the food establishment. The water usage for the entire building was provided and the usage is listed as 381 gallons/day. Dr. Miller explained the calculation of 381/gallons per day is doubled to factor it into the size of the system. Therefore, 762 gallons is being used currently and the system is only designed for 604 gallons/day. Once the additional six seats are removed, the establishment will be more appropriate for the septic system.

The Board explained the establishment is in the Estuary Protection Zone and unfortunately, a variance is not available for this zone.

There were many in attendance from the village that supported the additional seating. Diane Kelly spoke of options hoping there were some alternatives. Unfortunately, the Board explained the system can not handle it. This is different from the prior cases. Bruce Harding asked when the septic system was upgraded. The system was new in 2002. He asked if the landlord was able to increase the septic system. There is not enough land available at this location to expand it.

Jason Warren withdrew his variance request.

D. Enrique Valdovinos, owner of Mi Pueblo (formerly Neia Appetizers) – 459-B Main Street, Hyannis, grease trap variance.

Enrique Valdovinos was present.

Mr. McKean stated the menu is more extensive than the prior usage. Roger Parsons, Town Engineer, stated he would want an in-ground grease trap unless there was not sufficient space and then he would consider the use of the “Trapzilla” grease trap.

Dr. Miller stated the DPW is reluctant to approve any food establish on the town sewer without a grease trap and would recommend speaking directly to Roger Parsons, along with the building owner.

Mr. Valdovinos withdrew his variance request and will speak with Mr. Parsons.

VI. License - Body Artist:

Alex Travasso, owner/artist at Black Pearl Tattoo Studio and Gallery, 509 Main Street, Hyannis, review after two years in business.

Alex was present. The Board spoke of the concern that the office is open while Alex is not there. Alex stated he has staff there setting up appointments only, and he works at times until 10pm doing artwork. It may not be on a customer themselves but in preparation for the following day(s) work. The Board suggested a sign at the front door be put up to resolve this confusion. It was agreed that a sign stating “We are open for appointments only. We can schedule the service at this time” be hung at the entrance to inform all. This will be required whenever Alex is out of the shop.

Also, Alex would like to know if he can take the renewal for CPR on line. Dr. Miller said he is willing to have that discussion and may be willing to accept his renewal card from online services provided originally, the CPR course was taken, in person, with the American Red Cross and we have the original card.

Alex expressed his interest again in setting up a meeting with Board members to discuss regulations. Dr. Miller said the summer is not a good time for this and would like to meet sometime in the fall.

Upon a motion duly made by Dr. Miller seconded by Mr. Sawayanagi the Board voted to approve the probation period for Alex Travasso and his establishment, Black Pearl Tattoo Studio and Gallery. (Unanimously, voted in favor.)

VII. Old / New Business:

A. Approval of the Minutes April 9, 2013 and May 14, 2013.

Minutes for April 9, 2013 were reviewed.

Dr. Miller asked for three corrections (1) Page 1, first paragraph... replace leaching field with leaching pit, (2) Page 3 Septic Variance, first paragraph change from "...is in groundwater", to ..."in groundwater", and (3) remove the word "now" in the next sentence so that it will read..."the new leaching system will provide".

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Minutes were adopted. (Unanimously, voted in favor.)

The May 14, 2013 minutes will be continued to the July9, 2013 meeting.

B. Fee for Farmer's Markets Held during non-business hours.

Joe Berlandi was present. The only vendors who have submitted at this time are all vendors which are not selling processed foods. He does have some interest from people who may sell processed foods but they have not submitted an application at this time.

Mr. McKean stated all vendors selling fruit, vegetables, honey, maple syrup and eggs are exempt from a fee.

Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board adopted a fee for Farmer's Markets held during non-business hours to be \$100/vendor for a 10-12 week season for processed foods. This will help defray the cost of an inspector to be present during off hours. If a person is interested in only attending one farmer's market, they would pay the standard \$35 fee. (Unanimously, voted in favor.)

An added comment: if the Farmer's Market is held during business hours, the fee would be a flat \$180 for the full season for the full package of vendors submitted.

C. Additional: Letter from Wastewater Services, Inc.

The letter asked if the Board is interested in reducing the number of tests for seasonal properties with I/A systems.

The Board stated that given the sensitivity of the Cape area, they would like to see the Board continue to have quarterly testing for the first two years. The applicant will have the opportunity to request a reduction in testing after that with review of the test reports.

Motion to Adjourn – 6:43 pm.