



Town of Barnstable

Board of Health

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F.P. (Thomas) Lee, P.E, Chair
Donald A. Guadagnoli, M.D, Vice Chair
Daniel Luczkow, M.D.
Paul Canniff, D.M.D.
Christine M. Beer, PhD.
Steven Waller, M.D. (alternate)

BOARD OF HEALTH MEETING MINUTES

Tuesday, June 17, 2025, 4:00 PM

James H. Crocker Jr. Hearing Room, Town Hall
367 Main Street, 2nd Floor, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, June 17, 2025. The meeting was called to order at 4:00 pm by F.P. (Thomas) Lee, Chair. Also in attendance were Board Members Donald Guadagnoli, M.D., Daniel Luczkow, M.D., Paul Canniff, D.M.D., and Christine Beer PhD. Steven Waller, M.D. was not present. Health Division staff members Thomas McKean R.S., C.H.O., and Vanessa Tripp, Office Manager, were present.

1. Septic Installer Approval:

- A. Sam Dunford, Septic Installer- representing S.H.Dunford,LLC, 91 Blue Rock Rd, Yarmouth, requesting approval to become a licensed septic installer in the Town of Barnstable.

Mr. Dunford was not present. Thomas McKean stated Health staff had no objections; Mr. Dunford passed his exam and references were good.

Upon a motion made by Dr. Guadagnoli, duly seconded by Dr. Luczkow, the Board voted unanimously in favor, to grant Sam Dunford a septic installer permit.

2. Tobacco Hearing:

- A. David V. Lawler, PC, representing- C.B. Perkins Cigar Lounge and Bar, 649 Main Street, Hyannis, Map/Parcel 308-134; requesting formal appeal in connection with MA State Code 105 CMR 665.010(D), Minimum Standards for retail sale of tobacco and electronic nicotine delivery systems at licensed smoking bars.

David Lawler, PC, was present. Mr. Lawler discussed the hearing on March 22, 2022, on the violation, and that at this hearing a determination was made by the Board of Health. On the March 25, 2025 hearing, Mr. Lawler stated Bob Collett was present, with an Attorney from the Commonwealth. Mr. Lawler stated there was no issue of minors getting tobacco products discussed. Mr. Lawler stated it was about being harrassed as competitors. Mr. Lawler stated on the March 22, 2022 hearing, the Board rendered a decision; the Commonwealth and Barnstable County were present at this hearing and there was a discussion from Thomas McKean about consulting lawyers. Mr. Lawler stated the Board's decision was recorded, accepted in

the meeting, and was never appealed. Mr. Lawler read the case law to the Board Members and followed up with a discussion that the Board does not have the authority to overturn their decision.

No public comment.

Tom Lee stated the state regulation is a minimum requirement and the Board cannot be less stringent. Tom Lee further read the letter, dated March 22, 2022, from the Town Attorney.

Allison Cogliano, Assistant Town Attorney, was present. Ms. Cogliano stated that this is a new violation and a new notice. This order was issued by Thomas McKean on April 2, 2025. Ms. Cogliano further discussed that they are not trying to retroactively enforce this violation. Legal Department reviewed the decision and concluded the operation is contrary to state law.

Cheryl Sbarra, Executive Director and Senior Staff Attorney for the Massachusetts Association of Health Boards, was present. Ms. Sbarra discussed that the legislature continues to exempt smoking bars. The state statute indicates that the sale or distribution of flavored tobacco products or tobacco product flavor enhancers at a smoking bar only allows for on-site consumption. The legislature ordered the Department of Public Health to create regulations in order to enforce this law.

Ms. Cogliano discussed the ongoing violation of State law, regardless of what the Board of Health stated three years ago on how this business could operate. It is still a fact that it was in violation of State law and that the Board had the ability to make a new determination.

Tom Lee stated the Board was looking at the order issued on April 2, 2025 and that they were not trying to look back three years ago in terms of previous determinations.

Dr. Luckzow asked if there were any other smoking bars in the State of Massachusetts that allow their customers to take flavored tobacco products off the premises after they are partially consumed. Ms. Sbarra answered there are none.

After discussion, and upon a motion made by Dr. Christine Beer, duly seconded by Dr. Paul Canniff, the Board voted to sustain the April 2, 2025 order to cease and desist issued to C.B. Perkins Cigar Lounge and Bar. (Unanimously, voted in favor).

3. Tobacco Violations:

- A. Mohammad Shafique, owner- representing Bilal Corporation, Willow Package Store- 700 Yarmouth Rd, Hyannis, Map/Parcel 345-010-003, on 05-10-2025, cigarettes/cigars were sold to a minor, under the age of 21 years by employee

Robert Collett, Barnstable County Tobacco Control, was present. Mr. Collette provided details of the sale made to a minor from this establishment on that day May 10, 2025.

Shakeel Mfarooq was present. He stated the owner bought a new ID machine two (2) years ago. Mr. Mfarooq stated he was unsure how this happened.

Dr. Canniff stated this was a second offense within a 36-month period.

Mr. Collett stated a second offense was a mandatory \$2,000 fine and that the number of suspension days would be upon the Board's discretion.

Upon a motion made by Donald Guadagnoli, M.D., duly seconded by Daniel Luczkow, M.D., the Board voted on the mandatory \$2,000 fine and a one-day suspension on Christmas Day. (Unanimously, voted in favor).

4. Tight Tanks:

A. John O'Dea representing Lana and Edward Lukatsky – 129 Hayes Road, Centerville, Map/Parcel 210-095, Phase 1 of the CWMP, failed septic system, variances requested from 310 CMR 15.305, State Environmental Code, Title V and from Section 360-44, Deadlines to Repair Failed Septic Systems, Town of Barnstable Code

John O'Dea, Sullivan Engineering and Consulting, was present. Mr. O'Dea stated one of the tight tanks was installed today, June 17, 2025. The owners had opted to increase the capacity so that there would be less pumping frequency. Mr. O'Dea stated the proposal was to install two 2,500 gallon tanks instead of one tight tank. Mr. O'Dea stated they were able to get an emergency order to begin construction, which would be completed by June 18, 2025. This request was to install the tight tanks close to property lines and to the waterbody as follows:

Section 3601-1 of the Town of Barnstable Code: To install a tight tank forty-two feet (42 ft.) away from a waterbody, in lieu of the one-hundred feet (100 ft.) minimum setback required.

310 CMR 15.211, Minimum Setbacks: To install a tight tank one point two feet (1.2 ft.) away from the neighbor's property line, in lieu of the ten feet (10 ft.) minimum setback requirement.

310 CMR 15.211, Minimum Setbacks: To install a tight tank five point one feet (5.1 ft.) away from the front property line, in lieu of the ten feet (10 ft.) minimum setback requirement.

After some discussion, and upon a motion made by Dr. Guadagnoli, duly seconded by Daniel Luczkow, the Board voted to grant the property line setback variances with the following conditions:

- (1) No more than two (2) bedrooms are authorized at this property
- (2) High-water alarm shall be installed within the tight tanks in accordance with the State Environmental Code.
- (3) When public sewer becomes available, this dwelling shall be connected to public sewer within sixty (60) days of availability.

Section 310 CMR 260 (6) reads 'Prior to the issuance of the Disposal System Construction permit for a tight tank, the facility owner shall record or register in

the chain of title for the property served by a tight tank at the Registry of Deeds or the Legal Registration Office, as applicable, a copy of the Approving Authority's written approval.'

(Unanimously, voted in favor).

5. **Septic Variances:**

A. Dan Ojala P.E, Down Cape Engineering, representing owner, J.Nicholas/S.Vandemoer – 49 Lakeside Dr. E., Centerville, Map/parcel 252-098, requesting reduction in minimum setback distances from soil absorption to the BVW and pump chamber to the BVW as required from Town of Barnstable Code 360-1, Under 310 CMR 15.221, State Environmental Code, variance for increase in cover over the pump chamber and 310 CMR 15.255 variance requested of 1.0' from required 5' removal of unsuitable or impermeable soils beyond the outer perimeter of the SAS(5.0' to 4.0').

Dan Ojala, P.E. Engineer, was present. Mr. Ojala stated this was a variance for maximum feasible compliance. Mr. Ojala stated it was a tight site and by pumping, they were able to get the full five (5) foot separation to groundwater. Mr. Ojala stated they did need to put a pump chamber in and that it was a sealed unit going to a leaching. Mr. Ojala stated the SAS to foundation was 15.8'; reduction set back water line to SAS was 10.0' to 3.0'. Mr. Ojala stated they met the setbacks to wetlands, under state code, but under local code that would be SAS to BVW from 100.0' to 71.0'; pump chamber is 69.0' instead of 100.0.' Mr. Ojala stated the Perc test showed medium course sand and that there were no issues there. Mr. Ojala stated there would be no additional bedrooms.

The following variances were requested:

310 CMR 15.405: To construct a soil absorption system 15.8 feet away from a foundation wall, in lieu of the minimum twenty (20) feet setback required.

310 CMR 15.405: To construct a soil absorption system 2.9 feet away from a waterline, in lieu of the minimum ten (10) feet setback required.

Section 360-1 of the Town of Barnstable Code: To construct a soil absorption system 71 feet away from a bordering vegetated wetland, in lieu of the minimum 100 feet setback required.

Section 360-1 of the Town of Barnstable Code: To install a pump chamber 69.4 feet away from a bordering vegetated wetland, in lieu of the minimum 100 feet setback required.

310 CMR 15.221: To provide 4.23 feet of soil cover over the pump chamber, in lieu of the three feet maximum of soil cover requirement.

310 CMR 15.255(5): To remove four (4) feet of unsuitable permeable soils surrounding the outer perimeter of the soil absorption system, in lieu of the minimum five (5) feet of unsuitable permeable soil removal required.

No public comment.

Mr. McKean stated staff had no objections, however, the request was made to require a 3-bedroom deed restriction. Mr. McKean stated the reason for the 3-bedroom deed restriction was because of the three bedrooms, plus a "loft," shown on the plan.

Dr. Canniff asked how often effluent filters were cleaned. Mr. Ojala answered it was recommended every couple of months. To clean these filters, you would take a garden hose and rinse it back into the upstream part of the tank.

Tom Lee asked if there was a basement facing the leaching field. Dan Ojala answered yes. The leaching field would be 16 feet away from the basement and there would be a polyethylene liner installed.

Tom Lee stated there was a water pipe located just outside of the excavation area; the piping should be sleeved. Mr. Ojala stated it would be sleeved as per Note #22 on the engineered plan. The Note indicated the waterline would be sleeved where piping is located within 10' of any septic system components.

After some discussion, and upon a motion made by Dr. Luczkow, duly seconded by Dr. Guadagnoli, the Board voted to grant the variances with the following conditions:

- (1) No more than three (3) bedrooms maximum are authorized at this property. Dens, study rooms, offices, finished attics, sleeping lofts, and similar-type rooms are considered "bedrooms" according to the MA Department of Environmental Protection.
- (2) The applicant shall record a properly worded deed restriction, signed by the owner of the property, at the Barnstable County Registry of Deeds restricting the property to three (3) bedrooms maximum. A copy of the recorded deed restriction shall be submitted to the Health Agent prior to obtaining a disposal works construction permit
- (4) A licensed septic installer shall install a 40-mil liner between the foundation wall and the soil absorption system.

(Unanimously, voted in favor).

B. Dan Ojala, P.E, Down Cape Engineering, representing owner, JTD Trust, Jacob Dewey, TTE – 692 Scudder Ave, Hyannis, Map/parcel 287-004, requesting variance under 310 CMR 15.223 (1b), State Environmental Code, use of single compartment tank for existing dwelling and proposed ADU, effluent filter proposed in the outlet tee of the existing tank. The existing system installed 2019.

Dan Ojala, P.E., was present. Mr. Ojala stated the septic system was recently upgraded. He was requesting a variance to use the existing, single compartment tank. Mr. Ojala stated when you propose to construct an ADU, the State requires a multiple compartment tank. Mr. Ojala stated due to the relatively small size of the lot, the lack of access, and also the cost considerations, the owner is requesting a variance to use the existing tank. Mr. Ojala stated there wasn't room to put a dual compartment tank and would be a hardship financially. Mr. Ojala stated it was 5BR existing, and septic system installed in Year 2019. Mr. Ojala proposed an effluent filter, in the outlet tee of the tank, which would provide

similar solids removal to a multi compartment tank or two tanks in series. Mr. Ojala stated it wasn't an environmental concern, but a leaching field longevity issue. Mr. Ojala stated there would be no increase in bedrooms. Mr. Ojala stated there are floor plans for an ADU and to eliminate one bedroom from the main house.

This variance request is from the State Environmental Code, Title 5 Section 310 CMR 15.223 as follows: To maintain and utilize a single compartment septic tank at a property which will be connected to a dwelling unit and an accessory dwelling unit (ADU).

There were no public comments.

Mr. McKean stated this was the first request for a variance of this nature, for the construction of an ADU. There is a State Environmental Code, Title 5 requirement for the installation of a double compartment tank. However, the State recently provided information to all local health departments allowing local boards of health the ability to grant variances to this code if both: (1) The applicant provides information that not granting the variance to this particular provision of the Code would cause manifest injustice and, (2) The applicant must install and maintain an effluent filter within the outlet tee of the septic tank. Mr. McKean stated there was a concern about requiring effluent filters; the concern was lack of maintenance. These filters must be maintained every two to six months. If no maintenance were conducted, it was likely the filter would eventually clog and there would be a back-up of raw sewage into the dwelling.

Mr. Ojala stated a septic pumper would do that. A requirement of six-month cleaning, with pumping more frequently, for example every two years, would be reasonable.

Tom Lee asked if the manhole cover was easily accessible. Dan Ojala answered the cover is currently within 6 inches to grade and would be brought-up to grade.

Dr. Canniff stated this property was not planned for future sewer.

Mr. Ojala stated this site was not located within a zone of contribution nor within a nitrogen sensitive area.

After some discussion, and upon a motion made by Dr. Guadagnoli, duly seconded by Dr. Luczkow, the Board voted to grant the variance with the following conditions:

- (1) An effluent filter must be installed within the outlet tee of the septic tank.
- (2) The effluent filter shall be cleaned every six months.
- (3) The manhole cover(s) to the septic tank shall be raised to grade.
- (4) The septic tank shall be pumped once every two years (bi-annually).

(Vote: 4 in favor, 1 opposed – Dr. Paul Canniff).

C. Chuck Rowland P.E., Cape & Islands Engineering, representing owner, Harold Coxall, 265 Sea View Avenue, Osterville, Map/parcel 138-020, requesting reduction in minimum setback distances within 100 ft. coastal

bank as required from Town of Barnstable Code 360-1, Location of components with respect to water bodies and variance under 310 CMR 15.211, State Environmental Code, minimum setbacks for proposed swimming pool within 20 feet of existing leach field.

The following variances were requested:

Section 360-1 of the Town of Barnstable Code: To install a septic tank 92 feet away from the top of a coastal bank, in lieu of the minimum 100 feet setback required.

310 CMR 15.221: To install an inground swimming pool 15.2 feet away from an existing soil absorption system, in lieu of the minimum twenty feet separation distance required.

Chuck Rowland, P.E., was present. Mr. Rowland stated the site was developed with a single-family dwelling. Mr. Rowland stated the pool was considered a foundation and the reduction separation would be considered a counter variance. Mr. Rowland stated the second variance was the proposed tank from the top of coastal bank to the proposed tank, which is 92 feet; the town regulation states it has to be 100 feet. Mr. Rowland stated the reason why they needed a second tank was because the proposed pool cabana meets the definition of an ADU.

There were no public comments.

Mr. McKean indicated a concern about not providing a reserve area on the submitted engineered plan. It appears that with the proposed construction on this site, there will be insufficient space available for a 100% reserve area. Tom Lee stated we must always show a reserve area on the plan as required by the DEP. Mr. Rowland stated he will re-design the plan to show a reserve area.

Mr. McKean stated health staff had no objections to the variance setback requests.

After some discussion, and upon a motion made by Dr. Guadagnoli, duly seconded by Dr. Luczkow, the Board voted to grant the septic variances, with the following condition: (1) The engineering plan shall be revised to show a 100 percent reserve area (*Note: A revised plan was completed and received July 1, 2025*). (Unanimously, voted in favor).

6. Innovative Alternative Technology for New Construction:

- A. Dan Ojala P.E representing Down Cape Engineering, representing owner, Greystone Construction – 75 Olander Dr., Hyannis, Map/parcel 270-241, proposed new construction of I/A Secondary Treatment Unit STAAR system with STU/IA components for 2-bedroom single family dwelling

Dan Ojala, P.E., was present. Mr. Ojala stated property was in a nitrogen sensitive area and State Zone II. Mr. Ojala stated Health regulations would allow a three bedroom on a small lot; on the wastewater discharges chart, on a smaller lot, if use an I/A that can do 660 gallons per day, per acre, then 2 bedrooms would be allowed, under the state code. Mr. Ojala stated the Septic Star 0.5 was one of the newer and best available nitrogen

reducing technologies. Mr. Ojala stated it was a new 2-bedroom single family on 15,000 feet; 1500-gallon dual compartment tank, 1000-gallon tank, which houses the STARR unit; and a pressure dosed leaching field. Mr. Ojala stated the STARR unit has a pump in it, which allows dispersing through a pressure dose leaching. Mr. Ojala discussed the letter that outlines the modified certification of general use requirements. Mr. Ojala stated there are no wetlands within 100' and no variances requested.

No public comment. Health staff had no objections to granting permission for a STAAR system at this site. Tom Lee stated this I/A system is permitted under the general use of DEP.

After some discussion, and upon a motion made by Dr. Luczkow, duly seconded by Dr. Guadagnoli, the Board voted to approve variance with following conditions,

(1) No more than two bedrooms maximum are authorized at this property. Dens, study rooms, offices, finished attics, sleeping lofts, and similar-type rooms are considered "bedrooms" according to the MA Department of Environmental Protection.

(2) The applicant shall record a properly worded deed restriction, signed by the owner of the property, at the Barnstable County Registry of Deeds restricting the property to two (2) bedrooms maximum. A copy of the recorded deed restriction shall be submitted to the Health Agent prior to obtaining a disposal works construction permit

(3) All of the requirements provided within the MA Department of Environmental Protection (DEP) *Modification Certification For General Use* letter, dated January 26, 2023 including all operation, maintenance, monitoring, and testing requirements, shall be strictly adhered to

(Unanimously, voted in favor).

7. Sewer Connection/ Extension Requests:

- A. Dan Mosley, owner – 503 Strawberry Hill Rd, Centerville, Map/Parcel 248-021, Phase 1, SEWH-24-73, requesting second extension to connect to public sewer for an additional 6 months.

Dan Mosley, owner, was present. Mr. Mosley stated he was reconstructing the foundation and didn't want to hook up to the sewer, then have to disconnect, rebuild a foundation, and then reconnect. Mr. Mosley stated he was going to cap the septic tank on October 1st and move out of house for two (2) months.

Upon a motion made by Dr. Caniff, duly seconded by Dr. Luczkow, the Board voted to approve sewer extension request to March 1, 2026. (Unanimously, voted in favor).

8. Sewer Connection/ Alternative Road Connection Requests

- A. Allen Morrell, Trustee – 35 Loomis Lane, Centerville, Map/Parcel 230-101-001, Phase 1, SEWH-24-308, requesting extension to connect to public sewer for alternative route/road.

Allen Morell was present. Mr. Morell requested an extension for the purpose of changing the location, for the connection to Loomis Lane versus Phinney's Lane. Mr. Morell's concern with the Phinney's Lane connection was the distance requirement; concerned this greater distance could cause a maintenance problem in the future.

No public comment. Health staff had no objections. Mr. McKean stated DPW recommended this request be approved. Mr. McKean stated the property would require a grinder pump to connect to the sewer at Phinney's Lane. It should be able to flow gravity, if alternative road connection to Loomis Lane is approved. Mr. McKean stated a change of project would result in higher sewer assessment costs, due to utilizing additional infrastructure.

Upon a motion made by Donald Guadagnoli, M.D., duly seconded by Daniel Luczkow, M.D., the Board voted unanimously in favor, to grant permission to connect to public sewer via an alternative route to Loomis Lane at a future date. Public sewer is anticipated to be available for connections along this street during the years 2029 to 2030.

B. Patricia Morrell, owner –491 Phinney's Lane, Centerville, Map/Parcel 230-101-003, Phase 1, SEWH-24-310, requesting extension to connect to public sewer for alternative route/road.

Patricia Morell, owner, was present. Ms. Morell requested to connect property to Loomis Lane. Ms. Morell stated it was eight times farther to connect to sewer at Phinney's Lane compared to Loomis Lane. Ms. Morell stated it would be far less costly.

There were no public comments.

Mr. McKean stated Health staff had no objections. DPW recommended approving this request, It would be likely that this alternative connection at Loomis Lane would not require a grinder pump.

Upon a motion made by Donald Guadagnoli, M.D., duly seconded by Daniel Luczkow, M.D., the Board voted unanimously in favor, to grant permission to connect to public sewer via an alternative route to Loomis Lane in the future. Public sewer is anticipated to be available for connections along this street during the years 2029 to 2030.

9. Food Variances:

- A. Uillian Da Silva, contractor, representing owner- Revival Presbyterian Church of Cape Cod – 90 Hinckley Rd, Hyannis, Map/Parcel 311-043, requesting a grease trap variance, from 310 CMR 15.230(1), 322-3 and 901-15 of the Town of Barnstable code, to utilize an under the sink grease interceptor device.

Uillian Da Silva was present. Mr. Da Silva stated they don't use a kitchen. He stated this proposal was to provide snacks on Thursdays and breakfast on Sundays.

There was no public comment.

Thomas McKean suggested the Board should not grant this variance. An under the sink grease interceptor is already required by the State Plumbing

Code, which is not sufficient for this large volume. An inground grease trap is required per local ordinances.

Dr. Luczkow asked how much cooking was being done at the church. Mr. Da Silva stated they cook breakfast on Sundays for 300 people.

Dr. Guadagnoli asked for clarification on what was being cooked. Mr. Da Silva discussed that on Thursday nights, they would cook hot dogs. On Sunday morning, breakfast with coffee and breads would be served. Mr. Da Silva stated they do not need a big grease trap because they are only preparing food on Thursdays and Sundays.

Tom Lee stated this request was to prepare a great quantity of food.

Dr. Luczkow stated preparing 300 meals at one time could overwhelm the system and let grease into the sewer system.

Tom Lee stated the applicant needs to provide a full menu to the Board for future review.

After some discussion, and upon a motion made by Dr. Luczkow, duly seconded by Dr. Guadagnoli, the Board voted to continue this agenda item for two months. (Unanimously, voted in favor).

- B. Robert Wenger, Centerville Historical Society, President, – 513 Main Street, Centerville, Map/parcel 207-048, requesting a grease trap variance from 310 CMR 15.230(1) to utilize an under the sink grease recovery device.

Robert Wenger was not present.

Mr. McKean stated he was not able to explain what Mr. Wenger's procedures would be. He suggested this should not be voted upon nor discussed.

Upon a motion made by Dr. Guadagnoli, duly seconded by Dr. Luczkow, the Board voted unanimously to continue this item to July 27, 2025 meeting.

- C. Robert F. Mills Esq., Princi Mills Law PC, representing owner – Grove Street Realty Trust and Frostique Ice Cream – 3821 Falmouth Rd/Unit 3A, Marstons Mills, Map/Parcel 057-004 requesting a grease trap variance under 310 CMR 15.230(1) to utilize an under the sink grease recovery device.

Robert F. Mills, Attorney, was present. Weston Stahl and Oscar Millan were also present. Mr. Mills stated this particular building, at Windmill Square property, is Building 3, Unit 3A. Mr. Mills was proposing to open an ice cream shop, serving homogenized ice cream that was being provided by Cape Dairy. Mr. Mills stated there would be no cooking on premises; intend on selling prepackaged baked goods. Mr. Mills stated there was no seating. Mr. Mills provided a written proposal for an under the sink grease interceptor; a copy of model was provided. Mr. Mills further discussed that it was the same that was approved at that location previously, when it was a caviar shop. The former tenant removed the grease trap that was there. His client will reinstall an under-the sink grease interceptor.

Mr. McKean clarified that this was a grease trap interceptor and not a grease recovery device.

There were no public comments.

Mr. McKean stated Health staff had no objections. He further stated this property is not connected to public sewer; it is connected to an onsite septic system. When the property is connected to public sewer in the future, the owner will need to fill out the pre-treatment survey. Mr. McKean stated they may be required to put an in-ground grease trap at that time.

Upon a motion made by Dr. Canniff, duly seconded by Dr. Luczkow, the Board voted to approve variance request, which will expire when public sewer becomes available. (Unanimously, in favor.)

10. Temporary Housing Request

Carlos De La Garza, owner, representing- Flip Circus and Simon Properties- 180 Falmouth Road, Hyannis, Map/Parcel 311-001, requesting approval for a 5 year RV temporary housing agreement for the annual Flip Circus temporary event for staff.

Carlos De La Garza, owner, was present. Mr. De La Garza requested permission to provide temporary housing for their circus staff at 180 Falmouth Road, Hyannis.

There were no public comments.

Mr. McKean stated staff had no objections. Mr. McKean stated the applicant also requested permission to provide temporary housing annually at this site during circus events for five (5) years. Mr. McKean had no objections to this request.

Upon a motion made by Donald Guadagnoli, M.D., duly seconded by Daniel Luczkow, M.D., the Board voted unanimously in favor, to grant permission annually for five years maximum. This permission expires on July 30, 2030.

11. Pool Variance Request

- A. CONTINUED from May 27, 2025-Dakota Caparelliotis, Manager, representing- Everleigh Cape Cod and Communications Way Apartment Owner LLC- 265 Communication Way, Barnstable, Map/Parcel 314-044, Request for Lifeguard Exemption, State Sanitary Code 105 CMR 435.23

Mr. Caparelliotis, Manager, was present. Mr. Caparelliotis stated the swimming pool result had passed.

There were no public comments.

Mr. McKean stated there are 220 apartments at Everleigh. This is much greater than the 90-unit maximum currently allowable by the Board of Health lifeguard policy. Therefore, this location should be required to provide certified lifeguards as per Section 105 CMR 435.23 of the State Sanitary Code.

Dr. Canniff stated Everleigh previously provided certified lifeguards at this pool site at one time.

Mr. Caparelliotis stated the community at Everleigh was able to enjoy the use of the swimming pool without any certified lifeguards during the previous summer. He stated he supports going back to the lifeguard model in future years, however at this time late in the season, it would be very difficult to locate a certified lifeguard for hire. Mr. Caparelliotis stated they have an operational emergency call button. This summer, water aerobics classes are already scheduled and lined-up.

After some discussion, and upon a motion made by Dr. Guadagnoli, duly seconded by Dr. Luczkow, the Board voted to grant the variance with the following conditions:

(1) A sign shall be posted which reads as follows:

‘WARNING NO LIFEGUARD ON DUTY’

- *Children under age 16 should not use swimming pool without a responsible adult in attendance.*
- *No alcohol allowed in the pool area.*
- *Maximum occupancy of pool is limited to 19 persons.*
- *Adults shall not swim alone.*

(2) Access to the pool area can only be granted by a key or key card. The swimming pool gate shall be locked or monitored by the pool operator and/or staff-person at all times the pool is open.

(3) No diving boards, slides, or other such appliances are authorized in the pool area. A diving board, slide, or other appliance may be installed if there is a lifeguard or qualified swimmer in attendance at pool site.

(4) Pool hours shall be no later than 10:00 p.m. The pool may be open later if there is a lifeguard or qualified swimmer in attendance at pool site.

(5) No organized/scheduled special events or charitable events (i.e. parties, contests) are authorized without a lifeguard or qualified swimmer in attendance at pool site. Organized/scheduled special events may occur if there is a lifeguard or qualified swimmer in attendance at pool site.

(6) At least two staff members, with adult and child CPR certification, shall be on the premises at all times while the pool area is open.

(7) You shall maintain a four (4) feet walkway, free from any obstructions, around the perimeter of the swimming pool during all times the pool area is open.

(8) This variance is not transferable to another owner or lessee of this establishment.

(9) This variance decision letter shall be laminated and posted on a wall in an easily accessible location for viewing by a health inspector during inspections.

(10) This variance expires in two (2) years.

(Unanimously, voted in favor).

12. Minutes- 05-27-2025, Board of Health Meeting

The May 27, 2025 minutes were reviewed by the Board members.

Upon a motion made by Dr. Luczkow, duly seconded by Dr. Guadagnoli, the Board voted unanimously in favor of approving the minutes as written.

Adjourn - 6:23 PM.

Upon a motion duly made by Donald Guadagnoli, seconded by Daniel Luczkow the Board voted to adjourn. (Unanimously in favor.)