



# Town of Barnstable

## Board of Health

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### BOARD OF HEALTH MEETING MINUTES

**Tuesday, June 16, 2009 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 June 16, 2009. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending was Junichi Sawayanagi. Paul Canniff, D.M.D. was unable to attend. Thomas McKean, Director of Public Health, and Sharon Crocker, Division Assistant, were also present.

#### **I. Show-Cause Hearing:**

Marilyn Higgins and Cindy Gould at 92 County Seat, Hyannis – Refuse Violations.

No one was present. The Board requested a letter be sent to the owner to remind them that there is still an open issue with the Board and if there is no attendance at the July 14, 2009 Board of Health meeting, then the Board will take action without any future input.

#### **II. Show-Cause Hearing: Septic**

**WITHDRAWN -** A. Maurice and Flora Curtis, owners – 364 Mitchell’s Way, Hyannis, septic failure.  
**REPAIRING SEPTIC**

A. Bruce Dion, owner – 692 Wakeby Road, Marstons Mills, septic issue.

August 9, 2006, a septic inspection was turned in saying the system failed. There have been order letters sent : Aug 2006, Oct 2006, and Feb 2009. The leaching pit was full at the time of inspection.

Bruce Dion said he had put his house up for sale and later had to take it off the market. Since then, he moved to Florida and has now moved back in the past 5 weeks. Bruce Dion is now in the process getting bids to repair the septic.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve an extension of the repair deadline to October, 2009. If it is not completed by October 13, 2009 Board of Health meeting, then Mr. Dion must come before the Board. (Unanimously, voted in favor.)

**WITHDRAWN - REPAIRING SEPTIC** C. Alan Curtis and Gail Egan, owners – 8 East Avenue, Osterville, septic issue.

D. Elizabeth Miller, owner – 1610 Main St, West Barnstable, septic issue.

No one was present for the owner. Karen Malkus, Coastal Resources-Public Health Division, spoke of her communications with Elizabeth Miller.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to allow an extension of 60 Days from today, June 16, 2009, to (1) fix the septic system, or (2) provide the Board of Health with proof definite that it is not in failure and owner will appear at the August 4 Board of Health Meeting. (Unanimously, voted in favor)

**III. Hearing – Housing:**

Kimberly Wolfe, owner – 12 Old School House Road, Hyannis, housing/rental issue.\

Kimberly Wolfe and Lori Evans were present. Kimberly said she has removed the bed in the basement as there is not a second means of egress. There is only a sofa there, which is acceptable. Ms. Wolfe was looking for clarification on whether as a owner and not a renter, whether she would be allowed to have a bed in basement. The Board informed her it is not permitted for either type party due to safety reasons.

No action is needed.

**IV. Hearing – Underground Storage Tank:**

**WITHDRAWN - OWNER REMOVING TANK** Collette and Allan Goodman, owners – 20 Cross Street, Cotuit, older underground storage tank.

**V. Septic Variance (Cont.):**

A. Michael Ford representing Michael and Gisa Belanger, owner – 100 Cross Street, Cotuit, Map/Parcel 033-032, 0.9 acre lot, four (4) variances for repair (continued from Oct and Dec 2008)

Michael Ford presented his draft of the agreement from the May meeting. He stated the compromise of the owners being allowed to use their loft to sleep was the whole reason why the owners agreed to the compromise and he had concern of it not being written into the variance letter. Much discussion went back and forth.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the structure as a two bedroom with the following wording (1) “No more than two bedrooms may be allowed in the dwelling”. In addition to the two bedrooms, the

dwelling may be used for sleeping purposes. Nothing contained herein shall be construed to mean that the loft is to be considered as a designated bedroom.” With the following conditions: A) the two bedrooms will be brought up to code in room size, and B) a two bedroom deed restriction be recorded at the Barnstable County Registry of Deeds with the same wording as (1) above, and C) a proper copy of deed restriction be supplied to the Public Health Division. (Unanimously, voted in favor.)

- B. Brian Yergatian, BSC Group, representing Timothy and Eila Desrocher, owners – 3072 Falmouth Road, Marstons Mills, Map/Parcel 099-029, 2.2 acre parcel, requesting variance from 310 CMR 15.203 (4) to vary the design flow rate for the daycare facility.

Brian Yergatian and Tim Desrocher were present. The calculations they offered for the rate of flow per child will be reviewed by the Public Health Division and they will review it with Brian Dudley.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to Continue to July 14, 2009. (Unanimously, voted in favor.)

**VI. Septic Variance (New):**

- A. George Heufelder, Barnstable County Health Director, regarding 91 Juniper Lane, Centerville, minor septic system modification.

George Heufelder presented a remediation plan of aerating the septic to deal with systems in hydraulic failure. The technology is recommended for properties which have sewer coming to their area soon.

George said that careful monitoring and reporting back to the Board is not a problem.

Dr. Miller asked how long a period of time is he suggesting as a waiting period to verify whether the aeration worked. George stated a 30-Day period would be appropriate.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve George Heufelder’s remediation program for 91 Juniper Lane, Centerville, with the condition that: 1) George Heufelder and Mr. McKean develop a form letter to use for the remediation program in lieu of a septic permit. 2) the remediation program may be instituted in a similar fashion as emergency repair permits and then brought to the Board after-the-fact to keep them informed. (Unanimously, voted in favor.)

- B. Sullivan Engineering representing J. Robert Casey, Trustee – 71 Ocean View Avenue, Cotuit, Map/Parcel 034-045, 4.66 acre parcel, two setback variances and variance for soil suitability.

Peter Sullivan presented the plan. All buildings on the plan currently exist. There are two septic systems which failed and will be replaced.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the plan dated 5/01/09. (Unanimously, voted in favor.)

- C. Dan Ojala, Down Cape Engineering representing Patricia Hammel-Murphy, owner – 7 Great Hill Road, Centerville, and -0- Old Stage Road, Marstons Mills (2 adjoining parcels on village lines: Map/Parcel 173-078 and 173-055, 15+ acre parcel (total), four setback variances, new construction of two bedrooms.

Dan Ojala presented the plan.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve plan with the following conditions: 1) the plan will be revised to show an effluent filter on the outlet of the tank, 2) the two lots will be combined to one lot prior to a permit being issued, 3) a two-bedroom Deed Restriction will be recorded at the Barnstable County Registry of Deeds, 4) a proper copy of the Deed Restriction be filed with the Public Health Division, 5) a compost or incinerator toilet will be used, and 6) only grey water will be used in the system. (Unanimously, voted in favor.)

**VII. Variance – Food (Cont.):**

**WITHDRAWN** Farmers Market, Hyannis, proposed vendors, Jenifer Holloman and Jason Beetz of Ocean Song Farm, interested in selling pork and lamb.

**VIII. Variance – Food (New):**

- A. Raymond Roy, Five Eighty Six Bistro & Bar – 586 Main Street, Hyannis, Map/Parcel 308-130, 2,000 gallon grease trap, grease trap variance, would like additional seating outside for a total of 179 seats.

Raymond Roy presented his request for an increased number of seats. He expects the increase in seats will be in place by the end of July.

The Board, as a rule, have allowed an increase of 25% which would be 167 seats. The Board is comfortable that 179 is close to that. The Board would like to see monthly grease pumping with a break out of the % of grease. The monthly pumpings will be approximately Aug 30, Sep 30, and Oct 30. The results will be submitted to the Public Health Division when it is pumped and the applicant will come back before the Board at the November 10, 2009.

Raymond also brought up that his establishment has a vestibule at the entrance and believes the air door would not be necessary- as a pocket of air already exists to catch any bugs prior to the serving area. The Board agreed this would serve the same purpose.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the additional seating to bring the total to 179 seats with the following conditions: 1) the grease trap will be pumped in 30, 60 and 90 days after the increased use, 2) the monthly reports will include the breakout of percentage of grease removed, 3) the monthly reports will be submitted to the Public Health Division monthly, and 4) the applicant will return to the Board of Health for a review of results on November 10, 2009. (Unanimously, voted in favor.)

B. Don Cox, Harborside – 159 Ocean Street, Hyannis, Map/Parcel 326-039, toilet facility variance.

Don Cox was present. The property has one unisex, handicap toilet on the porch. The prior owner was permitted to have 30 seats because the Harbor Master has a two toilet facility across the street and is open late.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board agreed to approve the toilet facility variance with the following conditions: 1) the seating will be 30 seats, and 2) the applicant will remove all seating whenever the toilet facility at the Harbor Master is closed. (Unanimously, voted in favor.)

C. Robert Anderson and Chris Gistis, Comfort Inn – 1470 Iyannough Road, Hyannis, Breakfast menu reheating product only, grease trap variance.

Robert Anderson and Chris Gistis, Comfort Inn, were present.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve the variance of a food permit for breakfast menu as listed on the submitted menu dated 6/16/09. (Unanimously, voted in favor.)

D. Bruce Wallin representing Historical Society of Cotuit – temporary food application for annual event “A Taste of Cotuit”.

Bruce Wallin was present and answered all inquiries by the Board of the proper preparations for the temporary food event. This year it is scheduled for July 18<sup>th</sup> for two hours.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve an annual temporary permit for “A Taste of Cotuit” with the proposed menu. (Unanimously, voted in favor.)

- E. Carol Eklund representing Cape Cod Pet Emergency Network (CCPEN) – 1415 Osterville-Barnstable Road, Marstons Mills, temporary food application for annual event “Country Shindig” benefit August.

Carol Eklund was present. Her operation is also a 100% charitable event.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted to approve an annual temporary food event with the submitted menu for “Country Shindig” benefit for Cape Cod Pet Emergency Network (CCPEN). (Unanimously, voted in favor.)

**IX. Old Business/New Business:**

- A. Discussion with Town Attorney.

Will go into Executive Session at the end of the meeting to discuss litigation strategies.

- B. Discussion of air curtains at service windows.

Mr. McKean presented to the Board the discussion of alternatives for air curtains at food service windows. There are small establishments resisting the installation of air curtains due to the expense.

The Board stated they will consider accepting variances for the air curtains at food service windows if a mechanism is put in place that would cause the screen to return to the closed position after the window service is complete. An example of which would be a spring-type mechanism. The Board would not favor something that would allow the screen to be propped open for an undetermined amount of time.

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Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller, the Board voted on a motion to go into Executive Session and not to reconvene afterwards. (Unanimously, voted in favor.)

Public Meeting closed – 5:40pm.