



Town of Barnstable

Board of Health

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Wayne Miller, M.D.
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BOARD OF HEALTH MEETING MINUTES Tuesday, February 10, 2015 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, February 10, 2015. 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 – Regulation / Policy:**

Discuss lifeguard requirements at public and semi-public swimming pools. Proposed modification in regards to “CPR” certified staff members on the premises.

Dr. Miller said that with the events which happened in other towns this year, the Board is re-visiting the lifeguard pilot program. Currently, Yarmouth may be the only other town on the Cape with any regulations on oversight of swimmers in pools.

Mr. McKean stated that during the four years of the trial period, there have not been any issues.

There was good representation of businesses with pool licenses.

There was good participation in the public discussion [both for and against 100% use of lifeguards.](#) The Board voted to continue this item to September 2015. The current policies will continue until then (lifeguard requirements, qualified swimmers, and the pilot program).

Mr. McKean said during the four years of this trial period, there have not been any issues. The staff recommends continuing with the current program. Mr. McKean recommended providing a quick way to reach the CPR trained staff person if they have stepped out of the pool area – possibly with a beeper or alarm

Skip Simpson, Anchor-In, made a suggestion that a cell phone may be used for a quick way to reach CPR staff. He said there is also the phone at the pool which is required.

Jill Guilden, Captain Gosnold Village, said the complex has qualified swimmers which limits the number of people in the pool to 19. Everyone on staff is CPR

trained and the complex does not allow someone in the pool without a staff member present. They can not afford to be paying a lifeguard but they are very serious with their pool restrictions. If someone does not pay attention to the staff, they must leave the pool and if it happens a second time, they are not allowed in the pool.

Peter Martino, Heritage House, said that he has 143 units and currently have qualified swimmers. He feels they should have the option to be part of the pilot program as well. They have a lot of resources to protect the total property at all times. They have someone with a walkie-talkie at all times. He has management there 16 hours a day and an overnight person. He would like it to be at the discretion of the manager as far as when to hire a lifeguard and their hours.

Carl McClatchey, Cape Glen, said they could not afford to have a lifeguard, however, everyone on staff is CPR trained.

Bob Rice, Yachtsman Condominiums, stated he strongly believes in having lifeguards at all pools. The additional strength and knowledge of how to remove a body from the bottom of the pool and start CPR is provided through the lifeguard training. He has not had trouble finding lifeguards.

The YMCA did say they have training and they would be willing to work with the pool owners for lifeguard training and availability of lifeguards. They would like to see lifeguards at pools.

Dr. Miller at this time is considering dropping the pilot program but would like to reconsider the comments given today. It may be possible to break out the condominium complexes as they have a different situation.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Miller to continue this item to September 2015. The current policies will continue until then (lifeguard requirements, qualified swimmers, and the pilot program). (Two voted in favor, one opposed – Dr. Canniff).

II. Hearing: Housing:

Mary Schobel, owner, 102 Nyes Neck Road East, Centerville.
Temporary wiring, no electrical service, long-term use of generator –
minimum standard of fitness for human habitation.

Mary Schobel was present and explained she has moved out of the house and is not running the generator. She will not move back in until the electricity is connected by the electric company.

Many neighbors expressed that the generator has been running continuously and they would be grateful to have the electricity reconnected.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to extend the deadline for 90 days (until May 11, 2015) with the following conditions: 1) the generator will not be used during this time, 2) Mary Schobel will

have the electricity service reconnected, and 3) no one will live there until the electricity is connected. (Unanimously, voted in favor.)

Correspondence:

Mike and Trish Lavington, 112 Nyes Neck East, Centerville – regarding generator noise at 102 Nyes Neck Road East.

Exhibit #1, attached, is a letter from Mr. & Mrs. Lavington stating the need to eliminate the noise of the generator running continuously.

Exhibit#2, attached, is a letter from a second neighbor, Christian Swenson, also expressed the disturbance of his peace by having the generator running every day.

III. Variance Previously Granted.

Nitrogen Aggregate Plan – Maximum Groundwater Discharge.

John Kenney, Esq., representing Stuart Bornstein, Windmill Square LP, owner – 3821 Falmouth Road, Lot 1, Marstons Mills, variance originally granted December 9, 2014. Fourteen kennels observed at animal hospital.

The variance granted December 9, 2014, was recalled. Mr. Bornstein agreed to keep the total of both lots at the originally granted [usageuseage](#) of 2,645 even though Title V allows Lot#1 to have additional flow once it is separated.

Mid-Cape Animal Hospital sent in correspondence to the Board stating that the kennels on location are not used for overnight stays for animals. They are used for surgical daytime recoveries and for storage. (see Exhibit#4 attached).

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to grant the new variance: Lot#1 will be 415 gallons/day and Lot#2 will be 2,230 gallons/day - keeping the total [usageuseage](#) of Lots 1 and 2 at the amount of 2,645 gallons approved years earlier. (Unanimously, voted in favor.)

IV. Septic Variances (Cont.):

- A. Michael Pimentel, JC Engineering, representing Jamie Surprenant, Five Bay Bistro – 825 Main Street, Osterville, Map/Parcel 117-100, 0.06 acre parcel, multiple septic variances, Board asked for comparisons of other systems, systems which can reduce the nitrogen level.

Michael Pimentel, JC Engineering, and Richard Capen, Capewide Enterprises, were present.

Mr. McKean read into the record a letter for George Heufelder, Barnstable County Health Department. (see Exhibit 3 – attached.) George's information given said that the GeoFlow is not given any credit rating for nitrogen removal and he was able to acknowledge that the cost of adding to the system to obtain more nitrogen removal would accurately cost an additional \$50K.

Mr. Pimentel stated the County lab results of the nitrogen levels showed the influent at 43.00 mg/L and the effluent was lowered to 31.06 mg/L (a 28% reduction). The

sample was taken at 6 inches below the bottom of the leaching facility (in the sand). Mr. Pimentel said this is an improvement over conventional leaching at 20% reduction.

Dr. Miller said it is horrendous that the cost is so high for an I/A system and it becomes unreasonable to ask one business to increase the cost of it's already expensive system by \$50K more to help remove more nitrogen. Dr. Miller expressed that this is the kind of issue we face because of the inactiveness of citizens to vote for a full sewer system. This system is designed to process the equivalent waste of 100 3-bedroom homes on a small parcel. We want to remove as much nitrogen as possible as it is within a mile of two estuaries. This is an existing business and should be allowed to continue its business. If sewer was available to this property, it would resolve the problem.

Dr. Miller also said this is the kind of situation where someone should try to put together a package for all the properties in downtown Osterville to connect to and share the expense of an I/A system, as many businesses there will be facing the same issues soon. The State is considering qualifying the south side estuaries as nitrogen-impaired as well.

Jamie Surprenant said he completely understands the Board's position and he'd be willing to get into a group system, if available. He wants to make sure people realize he is not taking the easy road out. Mr. Surprenant said he is interested in being as eco-friendly as possible. The cost of this system is huge and increasing it to an I/A system would probably bankrupt him and most businesses.

The Board acknowledged this system is a great improvement over the current one and will remove much more nitrogen. The owner is doing a good thing by putting in this system.

The system does not have any testing associated with it. Once a year, someone will go out to inspect the leaching facility to make sure everything is fine.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variances with the following condition: 1) limit the future flow to the 1,750 gallons per day. (Unanimously, voted in favor.)

V. Septic Variance Request:

- A. Peter McEntee, Engineering Works, representing Margaret Richardson, owner – 489 South Main Street, Centerville, Map/Parcel 206-063, 21,052 square foot parcel, failed septic, multiple variances.

Peter McEntee summarized the plan which has two local variances and multiple State variances to keep the system as far away as possible from the coastal resource area.

Mr. McKean said the staff had no issues with the plan and believes it meets maximum feasible compliance. A four bedroom deed restriction was recommended.

Dr. Miller mentioned that if the State does qualify the south side estuaries as nitrogen-impaired, this property would be required to have an expensive I/A system in it because there are no sewer lines available to them. The shared cost of sewer should be considered seriously.

The Board inquired into the cost of operating this I/A system. The electrical cost (operating blower, etc.) is estimated at 250 kwh/mo (currently \$800/yr), Operating and Maintenance estimate \$730/yr, Effluent testing estimate \$ 820/yr, for a total of \$2350/yr and if a new blower were ever needed, \$400).

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the variances with the following conditions: 1) a four-bedroom deed restriction must be recorded at the Barnstable County Registry of Deeds, 2) an official copy of the deed restriction be submitted to the Health Division, 3) O&M with quarterly testing for the first two years, and 3) if the existing septic tank is found to be H20 (no records available), they may use the existing tank. (Unanimously, voted in favor.)

VI. I/A Monitoring Plan (Test Results):

- A. Winston Steadman, representing Oyster Harbors Club – 170 Grand Island Drive, Osterville, results of I/A Monitoring results.

No one present.

This item is postponed until the March 10, 2015 meeting.

- B. Peter McEntee, Engineering Works, representing John Callahan, owner – 54 Briarwood Avenue, Hyannis, Map/Parcel 289-127, 17,496 square foot parcel, proposed I/A septic system, no variances needed.

Peter McEntee presented the plan.

Mr. McKean asked for clarification on the second floor. Mr. McEntee explained that the two bedrooms are big, open rooms and the line on the plan is the designation of the seam of the modular home. It is not a bedroom wall.

The Board voted to grant the use of the I/A septic system with the following conditions: 1) a two bedroom deed restriction must be recorded at the Barnstable County Registry of Deeds and an official copy to be submitted to the Health Division, and 2) the monitoring plan will be quarterly for two years (as opposed to the proposed one year) and after the two years, they will have the option to come before the Board with their test results for a possible reduction.)

VII. Informal Discussion – Sewer Connection

- Gilbert Wood, owner – 730 and 740 Bearses Way, Hyannis

Mr. Wood explained the history of the property is that he originally had wells, then well water became bad (he believes due to treatment plant location). At this point, he had to pay \$18K to bring public water over from 519 off Route 132 to the rear of his property. He owns 8 acres and has only two toilets drawing water. Years ago, the property at 519 off Rte 132 was sold to Jack Carter and he made Mr. Wood aware of the fact that Mr. Wood does not have an easement to bring the water through 519. This may cause an issue at some point to Mr. Wood as that could result in no water supply to his 8 acres. He also mentioned that his units 720, 730 and 740 are not separately metered. Currently 720 is connected to sewer. The building# 730 does not use water as it is a warehouse.

Mr. Wood explained that he brought up these facts to state the predicament he is in with the water and sewer and he is looking for some help and consideration in the Board's request for sewer hook up at 730 and 740 Bearses Way. He has spent \$70K in the sewer betterment and \$18K in connecting water to his property and currently, it is unclear how long he may have water supply there. In years past, he has been unable to obtain any help from the water department.

Roger Parsons, Town Engineer, said that the water department is now a part of DPW and he may be able to facilitate things with Hyannis Water. This is the first Roger had heard of the water issues.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to continue this for 60 Days (April 14, 2015 meeting) to allow Roger Parsons get back to the Board after speaking with Hyannis Water Department.

VIII. Septic Installer

A. Michael Tracy, Hanson, MA

Mr. McKean said the applicant had passed the exam and all the applicant's paperwork was in order. The Health Division obtained positive character references for him.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant Michael Tracy a septic installer's license. (Unanimously, voted in favor.)

IX. Regulations / Policy:

Draft list of foods acceptable without a grease trap variance for action on March agenda.

Tom McKean asked them to hold off on the list itself until next month.

Mr. McKean also asked the Board to agree that the applicant would not need to come before the Board (only would have to speak with the Health Division), if the applicant's menu list was all on the "Foods Acceptable without a Grease Trap List"

Upon a motion duly made by Dr. Canniff, seconded by Dr. Miller, the Board voted to adopt the policy that an applicant with a menu list which is completely on the "Foods Acceptable without a Grease Trap List" does not have to come before the Board. (Unanimously, voted in favor.)

X. Old / New Business:

- A. Approval of the Minutes: August and September, 2014 and January 2015.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the August 2014, September 2014 and January 2015 Board of Health minutes with mentioned adjustments. (Unanimously, voted in favor.)

- B. Correspondence: Amy von Hone, VH Associates, Engineering, Sandwich – regarding 81 Thread Needle Lane, Centerville.

Update: February 4th email from Amy von Hone stated that B&B Excavating has been awarded the contract and the County approved the loan.

- C. Update: Richard Fleming, Anchor Auto Body owner – 83 Corporate Road, Hyannis,

The sewer connection is in process. He has hired a contractor.

Postponed: Michael Pimentel, JC Engineering, representing Jamie Surprenant, Crisp Flatbread, 791 Main Street, Osterville, status report on water 2015 usage/seating

Exhibit 1 .
102 Nyes Neck Road East, Centerville. –Neighbor.

24 January 2015

Dear Mr. McKean

RE: Generator noise – 102 Nyes Neck Road East, Centerville

We would like to add our name to the complaint filed against Mary Schoebel of 102 Nyes Neck Road East. We are neighbors of Christian and Heather Swenson and reside at 112 Nyes Neck Road East opposite the island home of M/S Schoebel.

We strongly object to the noise pollution caused by the almost constant running of her generator and would urge her to re-adopt direct electricity supply from NStar. Having a generator as a back up source of power in the event of catastrophic electrical failure is acceptable but using it as the primary source of power is clearly not.

We are unable to attend the hearing on February 10 but our son, Scott, will act as our proxy. If you need to contact us directly, please call. We sincerely hope that a mutually acceptable solution can be found to this problem.

Yours sincerely,

Mike and Trish Lavington
112 Nyes Neck Road East
Centerville, MA 02632

Exhibit 2 .

102 Nyes Neck Road East, Centerville. –Neighbor.

February 1, 2015

**ATTN: Thomas McKean, Director
HEALTH DIVISION TOWN OF
BARNSTABLE 200 Main Street
Hyannis, MA 02601**

Mr. McKean:

Since purchasing our year round residence at 110 Nyes Neck Road East in Centerville (February 2012) we have endured the noise created by the generator running on 102 Nyes Neck Road East (the island), owned by Mary Schoebel. Ms. Schoebel appears to be running this generator as her only means of power to her residence. This being the case, the generator is run quite frequently in order for her to be using this property as a primary residence. This also raises questions regarding proper running water and septic on this property as it does not have a constant power source.

In an attempt to be neighborly and find a reasonable way to mitigate the noise I have had several conversations with Ms. Schoebel. I offered to help her by contacting the electric company, Nstar, on her behalf to reconnect. In discussion with surrounding neighbors we offered help in any way possible. All of these offers were ignored by Ms. Schoebel.

We believe that all the neighbors within hearing range have the right to peace and quiet as regulated by the Town Of Barnstable Noise Ordinances (regulations require enforcement of Chapter 133-2 noise regulations). As Chief McDonald told us, "you are all entitled to peace and quiet."

There is power available at the pole by the garage on the property simply by clamp connection, typical to any residence. Again, all surrounding neighbors are in support of Ms. Schoebel's connection to the grid.

Thank you in advance for your support in enforcing this neighborhood request.

Sincerely,

**Christian Swenson
110 Nyes Neck Road East
Centerville, MA 02632**

Cc: Chief McDonald

Exhibit 3 .

RE: Five Bay Bistro, 825 Main Street, Osterville

Email

From: George Heufelder, Barnstable County Health Director
Sent: Tuesday, February 10, 2015
To: Thomas McKean
Subject: GeoFlow

Tom:

Per our recent conversation, you have asked whether the GeoFlow™ Pipe system removes nitrogen from wastewater. I submit the following:

The GeoFlow is an alternative drainfield product which does not purport, nor does it receive credit for, removal of nitrogen from wastewater. I have attached both its Remedial Use and General Use Approvals from Massachusetts DEP. The system would have comparable nitrogen removal in our geological setting to a standard pipe-in-stone trench. I have not seen any data that indicate that this alternative drainfield product removes nitrogen in any way superior to standard drainfield materials.

Regarding your question about nitrogen removing systems in general. As you know, there are a number of systems on the market. The FAST unit you referenced does have units specifically designed for nitrogen removal. In the high-strength setting of a restaurant, it is conceivable that the system could cost the \$50K you referenced, however, the systems are normally specified based on the strength of the waste stream. Unit costs range from about \$18K on the low end to \$36K on the high end. This does NOT include the tank that the treatment unit fits into. Add say \$1/gallon for the tank (5,000 gallon tank = additional \$5K), and you could get to \$50K fairly soon.

So, short story?

\$50K additional cost for N removal would not be out of the question, depending on the measured strength of the anticipated wastewater.

If you have any questions, please don't hesitate to call.

George

Exhibit 4.

RE: 3821 Falmouth Road, Lot 1, Marstons Mills

MID-CAPE ANIMAL HOSPITAL
3821 Route 28
Windmill Square Plaza
Marstons Mills, MA 02648

To: Dr. Miller, Board of Health

From: Dr. Jodi Preti, DVM

Dr. Miller,

I am writing to clarify the use of the kennels in the Mid Cape Veterinary Hospital. I have 6 kennels in the x-ray room. Four of those kennels are used for storage of supplies. Only 2 are used for patients. I have another 3 kennels in the treatment area that are used for surgery patients. All patients go home by the end of the day. We do not do overnight care. There are some kennels in the basement from the previous owner, which I have no intention of using for patients.

If you have any questions, please call me.

Sincerely,

Jodi Preti, DVM