



# Town of Barnstable

## Board of Health

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### **BOARD OF HEALTH MEETING MINUTES**

#### **Tuesday, December 18, 2018 at 3:00 PM**

#### **Town Hall, Hearing Room**

#### **367 Main Street, 2<sup>nd</sup> Floor, Hyannis, MA**

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, December 18, 2018. The meeting was called to order at 3:00 pm by Chairman Paul Canniff, D.M.D. Also in attendance were Board Members Donald A. Guadagnoli, M.D., John Norman, and Alternate Tom Lee. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

#### **I. Public Comment:**

None

#### **II. Proposed amendment to Section 322.4 of the Town of Barnstable Code:**

Reduction of Toilet Facilities at Food Establishments.

Mr. McKean said the current Health code is more stringent than the State Plumbing Code for food establishment toilet facilities. In view of how other towns are working fine using the State Plumbing Code for food establishment toilet facilities and noting how the necessary handicap requirements of toilet facilities do bear additional costs, he recommends adopting this amendment.

Upon a motion duly made by John Norman, and seconded by Dr. Guadagnoli, the Board voted to amend Town Code Section 322-4 Toilet Facilities to read as follows: Each food-service establishment shall provide adequate, conveniently located toilet facilities for their employees. Each food-service establishment shall provide adequate, conveniently located toilet facilities for their patrons at any locations where seating is provided. The total occupant load, including both patrons and employees, shall be considered when determining the required fixture count in accordance with 248 CMR the Massachusetts State Plumbing and Gas Code. (Unanimously, voted in favor.)

#### **III. Hearing – Underground Storage Tank**

Linda Whitcomb, Charles, Marie, Cara, Donna, owner(s) – 88 Greenwood Avenue, Hyannis, have not complied with Board of Health orders to remove underground storage tank over 30 years old.

Linda Whitcomb told the Board that the fuel tank is 500 gallons and had already been pumped and dug out for removal. She had bids in 2016 and 2017 for removal and cannot afford it.

Mr. Norman asked Ms. Whitcomb to have the soil tested right around the tank and to obtain a current quote for the removal of the tank or to have it filled. He believes the flow-able fill will be the least expensive.

Upon a motion duly made by John Norman, seconded by Dr. Guadagnoli, the Board voted to continue to February 26, 2019 to allow her time to obtain (1) prices for testing the soil around tank and (2) obtain prices for filling tank to abandon. The option of fillable would be subject to the Fire Department's approval to leave tank in place. (Unanimously, voted in favor.)

#### **IV. Variance – Septic (Cont.)**

John Schnaible, Coastal Engineering, representing Marie Souza, owner – 168 Long Beach Road, Centerville, Map/Parcel 205-008, 0.07 acre parcel, proposing a split system using a blackwater tight tank for the kitchen and toilet wastes, and a graywater leaching system.

John Schnaible stated his new plan meets all the requests the Health Department had and there is no overflow pipe attached to the tight tank. They will require the plumber to do a water fixture test to make sure the piping is connected to the correct tank (as kitchen sink and dishwasher are part of holding tank). John Norman recommended establishing a memorandum system between Health and Building, as a way to make sure the Plumbing Inspector is aware of which plumbing should go into the holding tank.

Upon a motion duly made by John Norman, seconded by Dr. Guadagnoli, the Board voted to approve the plan dated 12/17/18, with latest revision date of 12/17/18, with all the variances applied for and mentioned as per the plan due to site constraints. (Unanimously, voted in favor.)

#### **V. Determination Requested.**

Jane Everett, owner – 209 Bay Street, Osterville, cesspool is within 50 feet to wetland, septic inspection needs further evaluation, requesting determination from the Board of whether the system passes.

Steve Everett was present and discussed the location of the septic system. House is up for sale and is unoccupied.

Dr. Canniff said Karen Malkus, Health Division, went out to the site to see the marsh area. The septic system is located within 50 feet of the wetlands. When open, this wetland is an area for relay for quahogs and oysters. Karen had noted that North Bay has had a history of harmful algae blooms which have led to closures of the shellfish beds and to make a clear decision, it is important that we know the vertical separation of the septic to the groundwater. The wetland could produce some treatment. However, Karen felt it would be best to have more treatment on site with an upgraded system, ideally with a drip-dispersal leaching field.

The Board determined the system is to be considered failed. Any new owners will be aware of the need for replacement; and the normal replacement time would be two years.

Upon a motion duly made by John Norman, seconded by Dr. Guadagnoli, the Board voted to make a determination of the septic system as a failed system. (Unanimously, voted in favor.)

**VI. Food – Grease Trap:**

A. Attorney Mark Boudreau representing Chef Sigmund Chowder Company – 40 Industry Road, Marstons Mills, Map/Parcel 058-028, requesting three variances: grease trap (commercial condominium complex is not on town sewer), toilet facility, and number of certified food protection managers required (only one employee)

Mr. McKean pointed out, there are only two variances needed now that the Board voted earlier to use the State Plumbing Code for toilet facilities.

Mr. Norman declared, in accordance with the MA Conflict of Interest Rule, that he lives close to the business location and made Attorney Boudreau aware that he would recuse himself and Mr. Lee, the alternate, would step in if Mr. Boudreau was not comfortable. Mr. Boudreau declined the offer, saying he was absolutely fine with Mr. Norman.

Attorney Mark Boudreau and Chef Sigmund were present. Chef Sigmund said he receives the clams already shelled and the fish for chowder is received as fillets. There is no waste for either of these. Bacon is cooked and is incorporated into the chowder. The trash will not create odors as it will mainly be onions and celery.

Chef Sigmund will be using a grease recovering device, the Big Dipper. In the past, the grease from Dominos went directly into the septic system and it caused problems. Then, Dominos put in a Big Dipper and that resolved all the issues with the septic.

Upon a motion duly made by John Norman, seconded by Dr. Guadagnoli, the Board voted to grant (1) the grease trap variance and (2) granted one required servsafe certified person, in lieu of two. With our new toilet facility regulation adopted at this meeting, the third variance (for one toilet facility) was not needed. (Unanimously, voted in favor.)

B. Susan Finegold and Bob Calderone, owners of Barnstable Restaurant and Tavern – 3176 Main Street, Barnstable, on town sewer, requests increasing seating to 175 (119 indoors and 56 outdoors) with existing grease trap (undersized) with increased cleanings.

Owners are interested in keeping the 130 seats at this time (119 indoors, 11 outdoors)

DPW letter to the Board said the applicants suggested two scenarios. Option #1 was to install a internal grease recovery device (G.R.D.)– DPW does not support this. Option# 2 was to install a second 1,000 gallon in ground grease tank in series with the 1,000 gallon tank existing – DPW does not support this as it is not as effective as one larger tank. They proposed option#1 - a 3,000 gallon tank be installed for 175 seats or, option# 2 – limit seating to 66 seats and make sure all plumbing is plumbed through the grease trap. Griffin Beaudoin, DPW, said their concern with G.R.D.'s is that they can be removed without DPW realizing.

The owners are currently out of compliance of their grease trap variance granted in 2005. Mr. Calderone said they operated with a Big Dipper for 3-4 years then, during a health inspection, the inspector told them they do not need the Big Dipper with the exterior grease tank (at that time, it was recorded as a 1,500 gallon tank). The grease tank has now been determined to be a 1,000 gallon tank which supports 66 seats. The price of the engineered plans for a grease tank will be \$7,000-8,000 and the estimates for removing and installing are said to be \$40K and higher.

They would like more time to consider their options. The Board explained once the business sells, the new owners will need to apply for their own grease trap variance before the Board as variances are not transferred to the next owners.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to continue this item to the February 26, 2019 meeting and will issue a letter of non-compliance of the 2005 variance. (Unanimously, voted in favor.)

**VII. Septic Installer (New):**

Murray (Skip) Phelps, South Yarmouth, MA

Mr. McKean said Mr. Phelps passed his exam and three good references were received recommending him as a septic installer.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board voted to grant Murray (Skip) Phelps a septic installer's license. (Unanimously, voted in favor.)

**VIII. Regulation:**

Amendment to Chapter 318 of the Town of Barnstable Code, Fee Schedule, addition of \$25 for each inspection for MRVP (MA Rental Voucher Program).

Mr. McKean explained there is a State program for rental vouchers which requires a Health Department inspection of the housing unit be done within 30 days prior to granting a voucher payment. If our rental inspectors have already done their inspection for the year or if the unit is not part of the rental registration program, and a Health Inspector is requested to make a special inspection, a fee needs to be applied and he is asking for a \$25 fee be adopted.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board voted to adopt the change in the Fee Schedule – adding a fee for MRVP inspections of \$25 when a separate inspection is necessary. (Unanimously, voted in favor.)

**IX. Policies:**

Proposed Policy: Bedroom Count exceedance discovered during septic system inspections conducted under 310 CMR 15.301, State Environmental Code, Title 5.

Mr. McKean asked to postpone the proposed policy. He would like to give it more consideration and get more feedback. The State does not require the private septic inspector to go in and count the number of bedrooms, so it raises the question of how reliable is the bedroom count given on the report – obtained usually from broker or homeowner. A policy can have benefits of giving the seller the heads up of any bedroom count issue, but there are many constraints and time issues to deal with at the time of sale, i.e., from seller, buyer, septic installers deadline to correct septic reports/issues by closing, etc.

Mr. Norman recommended reaching out to inspectors with high volume of inspection reports and getting their feedback on the proposal.

Mr. McKean suggested it may be best as some type of notification. It would be important to have the buyer realize what information the report is giving them.

Upon a motion duly made and seconded, the Board voted to continue this item to the February 26, 2019 meeting. (Unanimously, voted in favor.)

**X. Minutes:**

Minutes – October 23, 2018.

This item was moved to the next meeting.

**XI. Old / New Business:**

A. Status of cleanup of yard - Karen Zappula, 32 Skunknet, Centerville

Mr. McKean said the property has been cleaned up about 90% but it has not been finished. Health Division has not received any official complaints at this time, but the neighbor said she is able to see these items from her house. The storage container is still in the driveway. At the hearing, the owner had said there were only a few furniture items in it at that time.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board voted to request owner to appear at January 22, 2019, meeting if the cleanup job is not resolved by then. (Unanimously, voted in favor.)

B. Discuss nitrogen load on wastewater systems from both residential and flow between 2,000 gpd (gallons per day) and 10,000 gpd.

Mr. Lee declared, in accordance with the MA Conflict of Interest Rule, that he is an employee for the design of wastewater systems at Horsley Witten and is a stockholder as well.

Mr. Lee brought up the nitrogen loading in wastewater systems in a general sense having the Board consider information he and Mr. McKean had obtained at a recent workshop on the TMDL reports for our Town's unique estuaries. He discussed an alternate measure to the measurement listed under the Interim Estuary regulation for a variance as that one is difficult to obtain.

Mr. Norman discussed that under the DEP-Revised 2016 regulation, they were addressing a process to evaluate areas under a "community aggregate plan". The Interim Estuary regulation would be considered a "community aggregate plan" and the State came up with some measurables in 2016 to use to assess projects in these type areas. Without adopting these into a regulation, we may be found to be unfair to developers, etc.

**XII. ADDITIONAL:**

Barbershop – 1698 Falmouth Road, Centerville

Jim Bancroft, owner, barbershop, was present.

Mr. McKean said Mr. Bancroft's engineer originally thought he was going to have to request a variance to use water meter reading instead of Title V flow but then, there was some good news, John O'Dea, engineer, researched the records and verified there was a barbershop with 5 chairs so it is grandfathered. And the septic system was checked. So you don't have to come to the Board of Health for approvals. You can go forward and get any Building permits needed.

He was informed by Mr. McKean that he has been grandfathered for five barber chairs.