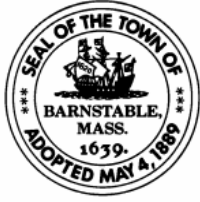


# Town of Barnstable

## Board of Health

200 Main Street, Hyannis MA 02601



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John T. Norman, Chair  
Donald A. Guadagnoli, M.D.  
F.P. (Thomas) Lee, P.E.  
Daniel Luczkow, M.D., Alternate

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

Original 9/23/21 1:35 pm

**Tuesday, September 28, 2021 3:00 PM**

**James H. Crocker Jr. Hearing Room, Town Hall  
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, September 28, 2021. The meeting was called to order at 3:00 pm by John Norman, Chair. Also in attendance were Board Members Donald Guadagnoli, Vice Chair, Thomas Lee, and Daniel Luczkow, M.D., Alternate. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

#### **I. Tobacco Violations:**

A. Nilesch Patel, Hyannis Package Store – 775 Main Street, Hyannis, tobacco violation

Mr. Patel was present and explained there were two menthol cigars purchased prior to the change in regulations which an employee was to purchase and bring home. He admitted it was still on the shelf.

Bob Collette, Barnstable County Tobacco Enforcement Officer stated the State of MA imposes the issuance of their fines in cases of menthol sales and stated all vendors had ample notice.

Upon a motion duly made and seconded, with the acknowledgement of admission of violation, the Board voted to assess the appropriate fine of \$1,000 for the first State offense. (Unanimously, voted in favor.)

B. Asim Jamal, Mini Food Mart – 252 Main Street, Hyannis, tobacco violation

Asim Jamal was present and stated an employee forgot to relock the cigar humidior.

Bob Collette stated this violation falls under the local tobacco code and, thus, would be subject to the local regulation's fine – not the State.

Dr. Guadagnoli stated with the past two years of hardship during Covid , he would be willing to reconsider the local regulations fines for tobacco at a future date.

Upon a motion duly made and seconded, the Board voted to assess the appropriate local fine of \$100. (Unanimously, voted in favor.)

#### **II. Variances – Septic:**

A. Daniel Ojala, Down Cape Engineering, representing Merrill Davis, owner – 660 Main Street, West Barnstable, Map/Parcel 156-011, 45,000 square feet parcel, requesting three variances and a pump chamber.

Mr. Ojala presented the septic plan and had a revised plan showing a filter for outlet on tank. Mr. Norman said that outlet will require cover to grade so the owner can service the filter.

Mr. McKean brought up that the staff would like something from Brian Dudley if engineer wanted to use 3 feet separation without an Innovative/Alternative (I/A) system.

Mr. Norman and Mr. Lee stated they would prefer the four foot separation as the perch level is constantly shifting and the effluent may go into the perched area and run into wetlands. They agreed it does not call for a strip-out.

Upon a motion duly made by Dr. Guadagnoli, and seconded by Mr. Lee, the Board voted to grant the variances as presented with the following conditions: 1) a 2-bedroom deed restriction is required, 2) revise plan with a four foot separation from system to groundwater which includes 3.1 naturally occurring pervious material and the system will have an approximate one foot mound, 3) remove variance for 15.415 of separation to groundwater, 4) add sieve analysis, and 5) filter cover to grade so serviceable. (Unanimously, voted in favor.)

- B. John O'Dea, Sullivan Engineering, representing Hard-A-Lee, Inc, owner – 299 Eel River Road, Osterville, Map/Parcel 115-003 1.06 acre parcel, requesting three variances from coastal bank.

John O'Dea was present and discussed plan.

Mr. McKean said the staff had no objections and mentioned the test hole done on August 27, 2021 should be included in the plan. Mr. O'Dea said he will adjust the plan.

Upon a motion duly made by Mr. Lee, seconded by Dr. Guadagnoli, the Board voted to grant the variances as submitted. (Unanimously, voted in favor.)

### **III. Innovative/Alternative (I/A) – Septic (NitROE):**

- A. Daniel Ojala, Down Cape Engineering, representing Matthew MacKinnon, Trustee – 33 Oyster Place Road, Cotuit, Map/Parcel 035-101, 14,571 square feet parcel, proposed using the NitROE innovative alternative septic system, requesting six variances.

Mr. Ojala was present and discussed plan proposed.

Upon a motion duly made and seconded, the Board voted to grant the I/A system and variances with the following conditions: 1) Health staff must verify a four bedroom permit exists and 2) plan needs to show water line. (Unanimously, voted in favor.)

- B. Daniel Ojala, Down Cape Engineering, representing Donald MacKinnon, Trustee – 910 Main Street, Cotuit, Map/Parcel 035-090, 30,443 square feet parcel, proposed using the NitROE innovative alternative septic system, requesting two variances.

Mr. Ojala and Mr. D.J. MacKinnon were present.

Upon a motion duly made and seconded, the Board voted to grant the variances as presented with no conditions. (Unanimously, voted in favor.)

C. Joseph Henderson and Mark Nelson, Horsley Witten Group, representing 2 owners, requesting septic variances using the NitROE innovative alternative (I/A) septic system:

1. Mary and Dennis Healy, owners – 26 Barberry Lane, Marstons Mills, Map/Parcel 102-145, 0.21 acre parcel, requesting three variances.

Mr. Henderson and Mr. Nelson presented the proposed plan.

Upon a motion duly made and seconded, the Board voted to grant the use of the NitROE I/A System and the three variances with the following conditions on a revised plan: 1) show the test pit log on plan, 2) remove the liner that is around the soil absorption system (SAS), 3) install two sections of liner – one to protect the water line close to SAS, and one to protect the drainage area. (Unanimously, voted in favor.)

2. Roger and Celeste Derosier, owners – 295 Lakeside Drive, Marstons Mills, Map/Parcel 102-163, 0.23 acre parcel, no variances requested.

Upon a motion duly made and seconded, the Board voted to grant the use of the NitROE I/A System with the following conditions: the engineer must verify that the storage room is unfinished. (Unanimously, voted in favor.)

#### **IV. Informal Discussion – Fuji Clean System (Pilot Program):**

Brian Braumgaertel, Alternative Septic System Test Center and a representative from Fuji Clean will have informal discussion on system.

Brian Braumgaertel said the proposed system is similar to the Fuji Pilot Program in how it addresses reduction in nitrogen and the FujiClean is also designed to help reduce phosphates and would be interested in putting a system in at 125 Blantyre Avenue, Centerville. He is submitting to the State for consideration and the State would like to know whether the Board of Health would consider the product before going further with application for a pilot program.

#### **V. Sewer Connection – Exempt:**

William Swift, owner – 32 Bow Lane, Barnstable, Map/Parcel 299-049-001, 86,472 square feet parcel, requesting an exemption from connecting to town sewer due to difficulty connecting with natural obstacles.

Mr. Swift stated he spoke with an engineer and the cost to connect to sewer due to difficult obstacles along with the connection of water which the water company told him would require digging under the drainage ditch and would require a new 8" main with an estimated cost of \$40-50K. It currently has a 2" main put in around 1930-1940s. That cost was estimated at \$40-50K. It is his understanding that to be connected to town sewer; he must also be connected to public water and is, thus, looking for an exemption.

Mr. Norman stated this is a vacant piece of land in a nitrogen sensitive area and sewer has been available since 1975. The connection to sewer cost should have been factored into the cost of building home. It is not required to be hooked up to water in order to hook up to sewer. Mr. Norman stated that owners are not required to connect to public water in order to connect to sewer. Therefore, the additional cost to put in the water main should not factor in. The property can have well water.

The Board expressed confusion and wondered whether the builder was actually issued a building permit for the home without a septic permit in hand. The builder was not in attendance.

John Norman asked Tom McKean to obtain a copy of the building permit and septic permit, if applicable, prior to the next meeting.

Upon a motion duly made and seconded, the Board voted to continue this to the next meeting, October 26, 2021.. (Unanimously, voted in favor.)

**VI. Bedroom Count Determination:**

Attorney Jeffery Johnson representing Robin Kroopnick, owner – 175 Scudder Avenue, Hyannis, Map/Parcel 289-167, requesting a determination as a four-bedroom.

Attorney Johnson along with Robin Kroopnick and her brother, Jonathan Rosen, were present. He stated the original purchase paper did state it was a four bedroom and field card showed in 1988 Assessor's visited house and identified as four bedroom home.

Upon a motion duly made by Mr. Lee, seconded by Dr. Guadagnoli, the Board voted to approve as a four-bedroom dwelling with the following conditions: 1) the septic plan will be redesigned to include a denitrification system with a monitoring plan of quarterly monitoring/year for a minimum of two years, at which time the Board may review for a reduction, and 2) the permit may be approved by staff at the Health counter. (Unanimously, voted in favor.)

**VII. Hearing: Uninhabitable**

Audrey and Miguel Gomes, owners – 42 Tonela Lane, Barnstable, Map/Parcel 336-066, Their MicroFast Innovative/Alternative (I/A) Septic System has not been operating with an Operation and Maintenance (O&M) contract in effect.

Mr. Gomes said he had begun using a contractor; however, the contractor has not been responding to owner and has not cashed his payment.

The Board instructed him to seek out other contractors and begin testing so the system may be evaluated.

Mr. Gomes also mentioned his pump broke two weeks ago and expects it may take time to get a replacement due to supply chain. He inquired into how many tests/year may be required. Mr. Norman suggested to let a contractor know the initial test will be required and depending upon results, testing may be required once a year or up to four times a year.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Lee, the Board voted to continue this item for one month to October 26, 2021 to see any progress and if contract in hand, will await first test results. (Unanimously, voted in favor.)

- Board member Tom Lee recused himself from the next item and will not be returning.

**VIII. Food – Variance (Grease Trap):**

Dan O'Rourke, Jr., owner, Jake's Clambakes – 3821 Falmouth Rd, Windmill Square, Unit# 6, Marstons Mills, Map/Parcel 057-004, requesting a grease trap variance.

Dan O'Rourke expressed that there will not be any tables. His main business is catering, along with some pickup and deliveries. He is planning to purchase the Big Dipper from his prior landlord and install at this location. The property is on a septic system; not on sewer.

Mr. McKean said the staff felt the menu, including the Italian sausage, was extensive the Italian sausage. Big Dipper Grease Recovery Device should be fine with proper maintenance and ensuring it is plugged in.

Upon a motion duly made by Dr. Guadagnoli, seconded by Dr. Luczkow, the Board voted to grant the grease trap variance with the use of the Big Dipper grease recovery device. (Unanimously, voted in favor.)

**IX. Body Artist (New):**

Sorivel Rosario, West Yarmouth, MA, is applying to L'Atelier Permanent Makeup, 8 West Bay Road, Osterville, is requesting a variance from the N.E. accredited college course of Anatomy and Physiology course, has completed the Anatomy, Physiology and Skin Course for Body Art Practitioners" course through "Save Each Life ".

Sorivel Rosario was present, submitted all necessary documents, and is looking forward to training at L'Atelier Permanent Makeup.

Mr. McKean stated her application was all set and he had no issue.

Upon a motion duly made by Dr. Guadagnoli, seconded by Dr. Luczkow, the Board voted to approve the variance for Body Artist Sorivel Rosario. (Unanimously voted in favor.)

**X. MINUTES:**

Voted to continue the Minutes to October 24, 2021 meeting.

**VOTED TO ADJOURN – 5:50pm**