



Town of Barnstable

Board of Health

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Paul Canniff, D.M.D.
Stephen Waller, M.D.-Alternate

BOARD OF HEALTH MEETING MINUTES

Tuesday, May 23, 2023 3:00 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, May 23, 2023. The meeting was called to order at 3:00 pm by John Norman, Chair. Also in attendance were Board Members Thomas Lee, Vice Chair, Donald Guadagnoli, M.D, Daniel Luczkow, M.D, Paul Canniff, D.M.D, and Stephen Waller, M.D, Alternate. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were present.

I. Housing:

For 35 Pleasant Street, Hyannis, Map/Parcel 327-123 – Refuse and housing (odor) complaints.

Public hearing. Occupant of 35 Pleasant Street complained of refuse and odors in house sporadically. Health inspectors have gone over to investigate and have not found an issue at the time of inspection. They will do three-four additional inspections at random times of day and evening. The occupants may call to notify health at time of occurrence and, if available at that time, the inspector will go over.

II. Regulations / Policies (Continued from Jun 2023 meeting):

Nina Coleman, Director of Natural Resources, Sandy Neck Park Manager, proposing changes in dog control regulations, requesting feedback from the Board of Health.

Dr. Guadagnoli was not in favor of the proposed start date of prohibiting dogs on the beaches beginning April 1st, instead of Mid-May. Swimmers generally do not begin until July. The April 1st date ties into the same date as the Plover Birds regulation sectioning off areas of nesting.

Upon a motion duly made and seconded, the Board voted to support the changes in the proposed dog regulations. (Four voted in favor, one was opposed-Dr. Guadagnoli)

III. Regulations / Policies:

Proposal to eliminate #6 of the list of Administrative Variances. If this proposed amendment is adopted, this would eliminate the health agent's ability to grant an increase in seating capacity to 25% above the maximum grease trap capacity.

Mr. McKean stated that the rationale is to align the Health Division policy more with DPW's. Food establishments will still be allowed to come before the Board for consideration of approval.

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

IV. Variance – Septic:

- A. Bob Walsh, General Contractor, and Audrey Nielsen, owner – 36 Maple Way, Hyannis – Map/Parcel 246-132, 7,952 square feet parcel, kitchen expansion, requesting variance of setback from existing septic tank to foundation to allow the septic tank to remain in its current location.

Bob Walsh was present and reviewed with the Board that the prior meeting, April, they had approved a variance to move the septic five feet to the right to allow for the addition. He is returning to request a change. The owner would like a variance to maintain the septic tank at its existing location 3.7 feet away from a new foundation wall, in lieu of the ten (10) feet minimum setback requirement. This would save cost and would prevent any mishap of breaking the tank and resulting in much higher costs for the minor move. For the original installation, the septic tank had been granted a setback to property line variance.

Mr. McKean stated the staff did not have any issues with this.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Lee, the Board voted to grant the variance to have the septic tank remain at its present location. (Unanimously, voted in favor.)

- B. Peter McEntee, Engineering Works, representing Luis Xavier, owner – 70 Main Street, Centerville, Map/Parcel 208-061, 4820 square feet parcel, septic repair, requesting multiple variances.

Peter McEntee was present and discussed the variances

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310 CMR 15.405(1a): To construct a soil absorption system five (5) feet away from a side property line, in lieu of the (10) feet minimum setback requirement.

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310 CMR 15.405(1a): To construct a soil absorption system six (6) feet away from the front property line, in lieu of the (10) feet minimum setback requirement.

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310 CMR 15.405(1a): To construct a soil absorption system twelve (12) feet away from a foundation wall, in lieu of the twenty (20) feet minimum setback requirement.

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Section 360-1 of the Town of Barnstable Code: To construct a soil absorption system 65 feet away from an inland bank in lieu of the 100 feet separation distance required by the Town Code.

Mr. Robert Brown, 60 Main Street, spoke of the water main pit for 70 Main is on the property line and believes it should be moved during this septic work. Mr. Norman explained that it is not a Board of Health issue. It would be a C-O-M-M Water Dept. issue. Mr. McEntee said C.O.M.M. had not staked the pit and he would be willing to come out again to have it recorded on his plan.

The property is in Phase One of the sewer plan. The Board will vote on variances but the owners should talk with the Health Division about sewer connections before taking out a permit to avoid the cost of a new septic system, if possible.

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

Mr. Brown stated after the vote that the property's septic system smelled bad during the summer and was concerned if allowed to wait until sewer. Mr. Norman explained that if he noticed a smell, he should notify the Health Division.

- C. Daniel Ojala, Down Engineering, representing Allen, Matthew & Daniel Chase, owners – 56 Redwing Lane, Barnstable, Map/Parcel 318-007, 132,443 square feet parcel, vacant lot, requesting variance to allow perc test at time of installation.

Dan Ojala was present.

One item granted (not an actual variance) – Granted approval to start with a sieve analysis and hold off to do the perc test at the time of installation as it requires a deep excavation with large equipment.

The Board granted the change from policy and to allow them to do the percolation at time of installation.

The Board determined the abutters notice should be stated better and sent out again. The Variance regarding the four feet of impervious naturally occurring soil will be moved to the June 27, 2023, meeting.

*Mr. Lee had to leave meeting to attend Conservation meeting.

V. Food – Variance:

- A. Wayne Hyman and Misa Rojas, Craigville General Store – 628 Craigville Beach Road, Centerville, Map/Parcel 246-028, in the Saltwater Estuary Protection Zone, property is a mixed use with a two-bedroom unit on second floor, requesting a variance from Title V to exceed the capacity of the septic system to allow 12 restaurant seats, exceeding the capacity of the designed soil absorption system and a toilet facility variance.

Misa Rojas, General Manager, was present. He stated they have a financial hardship as they had installed internal and external grease traps having belief that they were to be connected to the sewer system this summer and change the use from retail to a food establishment. They are now told that is not expected to happen until next year. The septic system is designed for 2 bedrooms and one retail space. At most, it would be able to have only 2 seats. They are looking for a variance in the flow.

Mr. McKean stated there are some other issues with the conversion. There is a space being used as an office/bedroom downstairs and the one bathroom would have one door to public use and the other, with no locking device, open into the office/bedroom.

Due to the sensitive nature of the zone, the Board expressed that they are not able to grant the variance.

Upon a motion to Deny duly made by Dr. Luczkow, seconded by Dr. Canniff, the Board voted to Deny. (Unanimously, voted to Deny Variance) (Roll-call: Dr. Luczkow-Yes, Dr. Canniff- Yes, Dr. Waller-Yes, and Mr. Norman – Yes.)

- B. Stephen Roy, Fresh Ketch – 460 Main Street, Hyannis, Map/Parcel 309-225, requesting a Title V- grease trap variance from kitchen flow. Currently, 2,500 gallon grease trap allows 166 seats. Requesting a variance to temporarily allow 274 total seats until November 2023. An additional grease trap is scheduled to be installed in November 2023.

Stephen Roy was present and was speaking on behalf of his landlord, Candace Domos, as well. Mr. Roy has been open since 2005 with 262 seats indoors and 12 outside. Their season is down to a six-month period. They currently have 2,500 gallons grease trap and the owner is planning to put another 1,000 gallon grease trap in during November 2023 using Robert B. Our.

Andrew Boule, DPW, has informed Mr. McKean that he is in support of issuing a temporary variance allowing the owner continue operation for six months with the condition that they agree to pump the grease tank every 6 weeks and install the 1,000 gallons grease trap and correct the manhole cover within the six months.

Mr. Norman asked Mr. McKean if they had applied for the grease trap application yet. Answered, not as of today.

Mr. Norman asked Mr. Roy, as the landlord's representative, will Ms. Domos support the approval of variance with the condition of completing the items stated in DPW's response by November. Mr. Roy stated she is committed to this and as far as pumping the trap, Mr. Roy is responsible for that and that is the frequency he currently does.

Upon a motion duly made by Dr. Guadagnoli, seconded by Dr. Luczkow, the Board voted to grant a temporary variance with the following conditions: 1) an additional 1,000 gallon grease trap would be installed, 2) the existing grease trap will be pumped every 6 weeks until the new one is installed, and both conditions , 1 and 2, will be completed by November 30, 2023; otherwise, this variance will end. (Unanimously, voted in favor.)

- C. Courtney and Brent Keyser, Kings Grant Racquetball Club – 12 Old Kings Road, Cotuit, Map/Parcel 022-106, requesting a variance from the Saltwater Estuary Interim Protection Regulation, requesting a variance to increase seating from 39 to 85 seats.

Brent Keyser said they would like to be allowed 85 seats and stated how low the water use was over the past years. He stated they are only open 3 days/week and only 5 months/year and feels they have minimal impact on the wastewater.

The Board discussed that if granted, they would want the conditions that (1) the Variance is only for the current owner, and (2) it would be provided they use the property in the same manner with the limited time/year – 3 days/week and 5 months/year.

Mr. McKean stated the existing Title V system only allows for 40 seats. A variance from Title V would be required and the applicant would need to send notices out to abutters.

Upon a motion duly made and seconded, the Board voted to continue this to the June 27, 2023, and the applicant will provide a new application with appropriate variances requested. (Unanimously, voted in favor.)

VI. Food – Temporary:

- A. Erica Sterling, Island Café & Grill, is requesting a Temporary Food Permit for “Festivities on the Flight Line” at the Airport Terminal Ramp – 480 Barnstable Road, Hyannis, Map/Parcel 329-003, for June 8, 2023, from 6-9pm, the menu is: lobster roll, scallop and bacon, salmon crostini, beef crostini, chocolate cake, cheese, crackers and fruits.

Erica and Patrick Sterling were present.

Upon a motion duly made and seconded, the Board voted to approve the temporary food event. (Unanimously, voted in favor.)

- B. Allanah Bodah requesting a Temporary Food Permit for “Tek Weh Yuhself” at Barnstable High School, 744 West Main Street, Hyannis, Map/Parcel 249-094, on May 27 at 6-11pm. The menu is: plantain, jerk chicken and pork, fried chicken, rolls, puddings, fried dough as festival food, snacks (i.e., packaged crackers/chips) bottled juice and water.

Allanah Bodah stated the preparation of food occurs behind the counter where the equipment and handwash station are. No customers will be behind counter.

Upon a motion duly made by Dr. Guadagnoli, seconded by Dr. Luczkow, the Board voted to grant the temporary food permit. (Unanimously, voted in favor.)

VII. Body Art: New Establishment and Artist:

- A) New Body Establishment: Rosangela Martins, owner of new establishment, Brazilian Touch – 209 Main Street, Hyannis, Map/Parcel 327-151, for permanent makeup.

Upon a motion duly made and seconded, the Board voted to grant a Body Art Establishment permit to Brazilian Touch. (Unanimously, voted in favor.)

- B) New Body Artist: Karin Monteiro Body Artist, at Brazilian Touch – 209 Main Street, Hyannis, Map/Parcel 327-151, requests a variance from the provision which requires completion of an anatomy and physiology course, completed school at LL Brows, Abington, MA for permanent makeup, 600 hours as apprentice.

The Board discussed the hours of apprenticeship and training with applicant.

Upon a motion duly made and seconded, the Board voted to grant a Body Artist permit to Karin Moneiro. (Unanimously, voted in favor.)

VIII. Minutes:

February 28 and April 25, 2023

Dr. Canniff stated a correction in the April 25th minutes as he had also recused himself for 988 Craigville Beach Road, Centerville, food variance and returned to the meeting after that item.

Upon a motion duly made and seconded, the Board voted to adopt the minutes of the Board for February 28 and April 25, 2023, with the noted correction, above.
(Unanimously, voted in favor.)

IX. Update Monthly

Regulations/Policies:

- A. Policy – Draft “Deadline to Connect Buildings to Public Sewer”

No action at this time.

- B. Policy – “Temporary Holding Tanks at Locations Where Public Sewer Will Be Provided in the Near Future (within Two or Three Years)”.

No action at this time.

Notice of Recording: This meeting of the Board of Health will be recorded and transmitted by the Information Technology Department of the Town of Barnstable on Channel 18. Under MGL Chapter 30A Section 20, anyone else desiring to make such a recording or transmission must notify the Chair.