

TOWN OF HARWICH



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BOARD OF HEALTH
732 Main Street Harwich, MA 02645
508-430-7509 – Fax 508-430-7531
E-mail: health@town.harwich.ma.us

**TOWN OF HARWICH BOARD OF HEALTH AGENDA
WEDNESDAY- FEBRUARY 21, 2024 -6:30 P.M.
HARWICH TOWN HALL – DONN B. GRIFFIN ROOM
MEETING MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Sharon Pfleger, M.S., Vice Chairwoman Pamela Howell, R.N., Clerk Ronald Dowgiallo, D.M.D., Member Kevin DuPont, R.N. & Matt Antoine

BOARD OF HEALTH MEMBERS ABSENT: Member Matt Antoine

STAFF MEMBERS PRESENT: Health Director Carrie Schoener & Executive Assistant Stephanie Johnson

OTHERS PRESENT & ONLINE: Ed Fleming, Nanci Hanron, Dan Speakman, John O'Reilly, Kathleen Prunier, Ken Miller & Rebecca Willy.

As required by law, the Town may audio or video record this meeting. Any person intending to either audio or video record this open session is required to inform the Chair.

I CALL TO ORDER

Chairwoman Pfleger called the meeting to order at 6:30 p.m.

II PUBLIC COMMENT

Mr. Otton asked the Board their position on pesticides as he believes that it is critical that the land and waters that are town owned be taken care of properly given the harmful impacts of pesticide use.

Chairwoman Pfleger stated that pesticides will be added to the March agenda.

Ms. Schoener informed Mr. Otton that if there are additional resources that he would like to provide to the Board he should submit the documents to the health department by Wednesday March, 13, 2024.

III MINUTES OF PREVIOUS MEETINGS (Regular Meeting Minutes) --

September 19, 2023, Meeting Minutes, October 17, 2023, Meeting Minutes & January 17, 2024, Meeting Minutes.

September 19, 2023, Meeting Minutes

Motion: Mr. Dowgiallo motioned to approve the September 19, 2023, minutes.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved 4-0-0

October 17, 2023, Meeting Minutes

Motion: Mr. Dowgiallo motioned to approve the October 17, 2023, minutes.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved 4-0-0

January 17, 2024, Meeting Minutes

Motion: Mr. Dowgiallo motioned to approve the January 17, 2024, minutes.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved 4-0-0

Exhibits: September 19, 2023, Meeting Minutes, October 17, 2023, Meeting Minutes & January 17, 2024, Meeting Minutes.

IV OLD/UNFINISHED BUSINESS- *None*

V NEW BUSINESS

A. RECONSIDERATION OF PREVIOUSLY APPROVED VARIANCE CONDITIONS – 38 OCEAN AVE -

Chairwoman Pfleger opened a public hearing.

Mr. Speakman clarified the reasoning for being back in front of the Board as there was initial confusion with the homeowner and the architect. On the provided floor plans the owner had intended on finishing off the basement including the area underneath the porch, which was not reflected on the plan at the last meeting. Mr. Speakman reiterated that originally, they only

intended to finish the stairs coming down to the basement bathroom and that now, they would like to finish the entire basement and is requesting this inclusion for tonight's meeting.

Ms. Hanron added that that the storage area would remain open and be used for shelving and there would be no door.

Ms. Schoener asked Mr. Speakman to confirm that expansion would be at the front of the home and away from the septic system, Mr. Speakman agreed with Ms. Schoener.

Mr. DuPont reiterated that as opposed to last month, the only revision is the small area off of the alcove is now to be used as storage space. Mr. Speakman agreed with Mr. DuPont's statement.

Ms. Schoener read concerns received via email provided by abutters Ken & Sue Miller.

Abutter Kathleen Prunier voiced her concerns with the project specifically pertaining to the potential damage of her property/or septic system with the installation of the septic system at 38 Ocean Ave. She requested that the Board delay the installation of the septic system pending receipt of a notarized letter guaranteeing the repair or replacement of her septic system if it is damaged.

Ms. Schoener clarified that the variances for the septic system have already been granted and that the setbacks that were originally requested would not be changing with the proposed septic installation. Ms. Schoener added that the Board would not be able to delay the permitting process based on a civil matter that has not already occurred. She added that she had been in communication with the State and even requested that the engineer redesign the system to accommodate, leaving as much room as possible between the two systems. She weighed Ms. Prunier's concerns heavily. Ms. Schoener added that should there be any issues, the health department could make a note and keep it with Mr. Speakman's installers license folder. She added that the Board cannot be involved if there is a civil incident that has not occurred yet, however the Board could call Mr. Speakman to a hearing to discuss any incidents following the result of installation.

Motion: Mr. Dowgiallo motioned to close the hearing on 38 Ocean Avenue

Seconded: Mrs. Howell seconded the motion.

Vote: Approved 4-0-0

Chairwoman Pfleger opened to vote.

Motion: Mr. Dowgiallo motioned to approve the reconsideration of previous variance conditions for 38 Ocean Avenue with the following conditions

1. The dwelling is restricted to a maximum of (2) bedrooms.
2. No further increase in habitable space or square footage without further review by the Board of Health.
3. No garbage disposal is allowed.
4. The conditions and approval shall be recorded at Barnstable Registry of deeds.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved 4-0-0

Exhibits: Variance Application, Abutter Notification, Abutters List, Letter to Board of Health, Site Plan, Existing and Proposed Floor Plans and Abutter's email correspondence.

B. RECONSIDERATION OF PREVIOUSLY APPROVED VARIANCE CONDITIONS – 41 ZYLPHA ROAD -

Chairwoman Pfleger opened a public hearing.

Mr. Speakman provided updated floor plans to the Board, clearly identifying the finished basement.

Ms. Schoener noted that the office space on the main level would need to have a five-foot case opening for this space to not meet the definition of a bedroom.

Mr. Speakman agreed that it would be adjusted to five feet.

Mr. Flemming commented that the space would be used as office space and would need some privacy.

Ms. Schoener added that the bedroom definition regulation was revised about a year ago and that it is a regulation that would need to be followed. Ms. Schoener provided Mr. Flemming with some ideas that could relieve audible distractions without the privacy of a door.

Ms. Pfleger stated that there would be an added condition that there be a five-foot cased opening on the first floor from the office to the hallway.

Motion: Mr. Dowgiallo motioned to approve the reconsideration of previous variance conditions for 41 Zylpha Road with the following conditions

1. The dwelling is restricted to a maximum of 3 bedrooms.
2. No further increase in habitable space or square footage without further review by the Board of Health.
3. No garbage disposal is allowed.
4. The conditions and approval shall be recorded at Barnstable Registry of deeds.
5. There is to be a five-foot cased opening on the first floor from the office to the hallway.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved 4-0-0

Exhibits: Variance Application, Abutter Notification, Abutters List, Letter to Board of Health, Site Plan, Existing and Proposed Floor Plans.

C. VARIANCE REQUEST FROM TITLE 5 310 CMR 15.211 – 9 HIAWATHA ROAD- To consider variance request of Title 5 310 CMR 15.00-

310 CMR. CMR 15.211 (1)

310 CMR 15.211 To allow septic tank to be 8' from property line where 10' is required variance request of 2'

310 CMR 15.211 To allow septic tank to be 6' from cellar wall where 10' is required variance request of 4'

To allow STAAR Unit to be 8' from property line where 10' is required variance request of 2'

To allow STAAR Unit to be 4' from cellar wall where 10' is required variance request of 6'

Mr. O'Reilly presented on behalf of the Willy's, the scope of the project includes a raze and rebuild. The home was designed around the existing leaching facility in order to maintain the previously conditioned setbacks.

Mr. Dowgiallo asked if the dwelling would have two floors? Mr. O'Reilly noted that there would be a third floor with the rebuild to include the floor plan.

Ms. Schoener noted that on the second floor, the stairs going up to the third floor show an open railing and a half wall at the top of the stairs. She added that there is also a mechanical room that has a wall going up to the ceiling height. Due to this, it would not constitute an open railing eliminating privacy and would meet the definition of a bedroom.

Mr. O'Reilly clarified that the stairway on the second floor is enclosed until you reach the third floor, and that the length of the railing is approximately four-and-a-half feet and would be thirty-six inches in height.

Ms. Schoener reiterated her concern that the third-floor loft space that may meet the definition of a bedroom with the upper half of the stairway being five-feet vs. four and a half feet. She added that she would revisit the Board of Health's bedroom definition and upon review if it is acceptable we would not need to make any changes.

Mrs. Howell questioned the number of bathrooms in the home as there is a toilet on the third floor. She expressed that her concern with the toilet on the third floor there being a possibility of a shower being added and then the space could be used as a guest space opposed to an office space.

Mr. O'Reilly stated that bathroom on the third floor is intended to remain a half-bath.

Ms. Schoener added that the Board could add a condition that the space is not to be used as guest space.

Motion: Mr. Dowgiallo motioned to approve the reconsideration of previous variance conditions for 9 Hiawatha Road with the following conditions

1. The dwelling is restricted to a maximum of 3 bedrooms.

2. No further increase in habitable space or square footage without further review by the Board of Health.
3. No garbage disposal is allowed.
4. The bathroom on the third floor is to remain as a half-bathroom.
5. The open railing would need to be five feet in length instead of four-and-a-half feet pending review of the bedroom definition from the Health Director.
6. The conditions and approval shall be recorded at Barnstable Registry of deeds.
7. Health Director to review the Board of Health Bedroom Definition. Pending review if the third-floor office space meets the definition of a bedroom.
8. A signed operation and maintenance agreement for the alternative system shall be submitted to the Health Department, prior to the release of the Disposal System Construction Permit. The O&M agreement for the alternative system shall include a requirement for testing. This testing shall be conducted in accordance with the Board of Health protocol.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved 4-0-0

Exhibits: Variance Application, A butter Notification, A butters List, Letter to Board of Health, Site Plan, Existing and Proposed Floor Plans.

VI REPORT OF THE HEALTH DIRECTOR- Health Director Report for February 2024

Ms. Schoener presented the Health Director's report as provided in the packet. No action was taken.

Exhibit: Report of the Health Director

VII CORRESPONDENCE - None

VIII PERMITS- New Licenses listed below-

FOOD ESTABLISHMENT		
Dairy Queen Grill & Chill	Harwich	New Ownership
UTILITY INSTALLER		
MCE Dirtworks, Inc.*/ Michael Escher	Harwich	

Motion: Mr. Dowgiallo motioned to accept the permits as printed.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved 4-0-0

IX OTHER

X ADJOURN-

Motion: Mr. Dowgiallo motioned to adjourn the meeting at 7:21p.m.

Seconded: Mr. DuPont seconded the motion.

Vote: Approved vote 4-0-0

Respectfully Submitted,

Stephanie Johnson

The next meeting will be held Tuesday March 21, 2024, at 6:30 p.m.

