

TOWN OF HARWICH



BOARD OF HEALTH

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Town of Harwich Board of Health Tuesday, January 12, 2016-6:30 PM TOWN HALL – SMALL HEARING ROOM MINUTES

BOARD OF HEALTH MEMBERS PRESENT: Chairman Dr. Robert Insley, Members Pamela Howell, R.N., Frank Boyle & Cynthia Bayerl

STAFF MEMBERS PRESENT: Health Director Paula Champagne & Administrative Assistant Jennifer Clarke

OTHERS PRESENT: Robert White, Gary Hart, Anne Hamilton Hart, Paul Hamilton, Kathleen Hamilton Welch, Steven McCabe, Patricia Scarnici, Barbara Dowd, Marilyn Manter, Dan Speakman, Attorney William Crowell, Thomas McLellan, John O'Reilly, Ezra Ambrose & Dan Croteau.

I CALL TO ORDER

At 6:35 p.m., Chairman Dr. Robert Insley called the meeting to order.

II MINUTES OF PREVIOUS MEETING – 12/8/2015

Cynthia Bayerl requested the correction of the spelling of her last name on page 1 under Board of Health Work Session.

Motion made by Ms. Howell, seconded by Mr. Boyle to accept the 12/8/2015 Board of Health meeting minutes with the requested change. 4-0-0 Unanimous.

III 6:30-7:00 PM - BOARD OF HEALTH WORK SESSION

Discussion-Review information and suggested regulation regarding synthetic cannabinoids

Health Director Champagne officially welcomed Cynthia Bayerl as a Board of Health member. Ms. Bayerl had an orientation with the Health Director and was sworn in by the Town Clerk's office.

Health Director Champagne discussed synthetic cannabinoids & correspondence received from BCDHE. Education for the community and publicity is available. It was recommended that the Board study the issues to see if any action as a town should be taken. Dr. Insley feels that the sale/distribution/use of cannabinoids should be condemned, however he expressed he was not in favor of a local regulation. He did not feel that it was the role of the local community, but a larger issue. Cynthia Bayerl suggested that the Board make educational materials for teens and parents available as well as having an informational "hot topics" page for the website. It was the general consensus of the Board that a policy statement should be drafted and rolled upwards to the state level.

Mr. Boyle motioned to express the Board of Health's disapproval that synthetic cannabinoids are retained in the Town of Harwich and further policies shall be investigated. The Board of Health does not recommend the sale or use in the Town of Harwich. Ms. Bayerl seconded the motion. 4-0-0 Unanimous.

IV 7:00 PM - OLD/UNFINISHED BUSINESS

A. Hearing-Jacqueline Vilandre, 26 Ocean Avenue, to consider a variance request to replace a sewage disposal system prepared by Dan A. Speakman Construction. (Continued from 12/8/2015)

Variances from 310 CMR 15.211(1) Minimum Setback Distances

1. Per 310 CMR 15.405(1)(a): To allow a septic tank to be 1' from the property line where 10' is required. Variance request of 9'.
2. Per 310 CMR 15.405(1)(a): To allow a septic tank to be 2' from the property line where 10' is required. Variance request of 8'.
3. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 1' from the property line where 10' is required. Variance request of 9'.
4. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 1' from street property line where 10' is required. Variance request of 9'.
5. Per 310 CMR 15.405(1)(b): To allow a septic tank to be 2' from the cellar wall where 10' is required. Variance request of 8'.
6. Per 310 CMR 15.405(1)(b): To allow a soil absorption system to be 2.5' from the cellar wall where 20' is required. Variance request of 17.5'.
7. Per 310 CMR 15.248: No reserve area provided.

Dr. Insley opened the hearing. Dan Speakman from Speakman Excavating & Attorney William Crowell were present. Since the last meeting, the variance request has not changed. Revised building plans have been submitted showing the removal of the loft from the floor plan. Both 2 bedrooms are now on the second floor and the loft has been eliminated. The bedrooms now have sufficient square footage to meet the minimum requirement for double occupancy. The proposed foundation is a crawl space. Attorney Crowell pointed out that the 5' expansion to the North side of the property has been removed and they are staying within the original footprint of the dwelling.

Paul Hamilton from 28 Ocean Avenue was present and asked if there is a plan to increase the footprint and asked to see the current proposed septic plan. Mr. Speakman said no footprint increase is proposed.

Robert White from 24 Ocean Avenue was present and asked if a full survey was done on the property.

Pat Scarnici from 44 Ocean Avenue was present and stated that she felt the requested variances are excessive.

Dr. Insley closed the hearing.

Health Director Champagne stated that there have been several meetings at staff level with the applicant since the December Board of Health meeting. The major concerns have been addressed and the client has scaled back the expansion and are staying within the existing footprint. The square footage of the building is greater with the addition of the second floor, however, the number of rooms are the same. Staff is able to support a plan in keeping with the goals of the Board of Health that there is no change or expansion of the dwelling that exacerbates the need to any additional variances.

Health Director Champagne recommended approval of the project with the following conditions:

1. The dwellings shall be restricted to a total of 2 bedrooms as submitted on the 1/8/2016 plan. No increase in flow, number of bedrooms or square footage.
2. The dwelling foundation shall be restricted to a 5' or less crawl space.
3. Record deed restriction as "margin referenced" and return a copy to the Health Department.

Mr. Boyle moved to accept the recommendation of the Health Director to approve the variance request. Ms. Howell seconded the motion. 4-0-0 Unanimous.

V NEW BUSINESS

A. Hearing-McCabe, 3 Village Green, Harwich- to reconsider Order of Conditions granted 3/21/1995-no increase of square footage to the dwelling-proposal to add a second story

Dr. Insley opened the hearing. Steven McCabe & Ron Landry were present. They are requesting to add a second floor with no increase in foot print and no increase in number of bedrooms. The first floor currently has 2 small bedrooms and they are proposing to remove a wall and create 1 bedroom on the first floor and open large bedroom on the second floor. There will be a door at the bottom of the stairs and a hand rail system for safety. Dr. Insley closed the hearing.

Health Director Champagne stated that the 1995 variances were due to setback restrictions, not environmental. Compliance has been demonstrated to show a 2 bedroom dwelling.

Health Director Champagne recommended approval of the project in keeping with the variances/orders of conditions granted March 21, 1995 and the additional conditions:

1. The dwelling shall be restricted to a total of 2 bedrooms per the plan of November 5, 2015. No increase in number of bedrooms, flow or square footage.
2. Record deed restriction & floor plan as “margin referenced” and return a copy to the Health Department.

Ms. Howell moved to accept the recommendation of the Health Director to approve the variance request. Mr. Boyle seconded the motion. Unanimous.

B. Hearing-Daddario, 53 Strandway, to consider a request to install a new Title 5 septic system prepared by Bass River Engineering

Variances from 310 CMR 15.211(1) Minimum Setback Distances:

1. Per 310 CMR 15.405(1)(a): To allow a proposed soil absorption system to be 18’ from the crawl space where 20’ is required. Variance request of 2’.
2. Per 310 CMR 15.211(1)(a): To allow a proposed septic tank to be greater than 4’ below grade where 3’ is required. Variance request of 1’.
3. Per 310 CMR 15.211(1)(a): To allow a proposed pump chamber to be greater than 4’ below grade where 3’ is required. Variance request of 1’.

Dr. Insley opened the hearing. Thomas McLellan from Bass River Engineering was present. The house is currently served by 2 cesspools. There were Conservation Commission restrictions with the property and the applicant has filed and received approval of an Administrative Review. The current foundation of the property is a full basement with a partial crawlspace. The foundation of the dwelling should not change or it would impact the septic system variances. Dr. Insley closed the hearing.

Health Director Champagne recommended approval of the project with the following conditions:

1. The dwellings shall be restricted to a total of 6 bedrooms as submitted on the 12/29/2015 plan. No increase in flow, number of bedrooms or square footage.
2. Record deed restriction as “margin referenced” and return a copy to the Health Department.

Mr. Boyle moved accept the recommendation of the Health Director to approve the variance request. Ms. Howell seconded the motion. 4-0-0 Unanimous.

C. Hearing-Adams, 18 Ocean Avenue, to reconsider Order of Conditions dated 1/30/1996-no increase of square footage to the dwelling prepared by Moran Engineering Associates LLC-proposal to demolish existing dwelling and re-build with a larger building.

Dr. Insley opened the hearing. Dan Croteau from Moran Engineering Associates LLC & Ezra Ambrose from Ambrose Homes were present. The applicants are proposing to demolish the existing dwelling and re-build. The house foot-print square footage is reduced by 8 square feet and the 2nd floor square footage is increased by 298 square feet, by moving one of the bedrooms upstairs and adding a bathroom and a more adequate hall and stairway. The septic tank will need to be pumped and moved 7' due to a lot line change. The existing basement is a crawl space. The majority of the basement will remain a crawl space with a small portion becoming a full basement to allow for storage. Dr. Insley asked if there would be a possibility of reducing the house size from East/West. Ezra Ambrose said that the foundation could be shortened by 2'. Health Director Champagne said that the proposed 10x9 bedroom on the first floor would not allow for a double occupancy. A discussion of the occupancy of bedrooms and the housing code versus the building code took place. Dr. Insley closed the hearing.

Dan Croteau & Ezra Ambrose requested a continuance until the February 9, 2016 Board of Health meeting.

Ms. Howell moved to continue the hearing until the February 9, 2016 Board of Health meeting. Mr. Boyle seconded the motion. 4-0-0 Unanimous.

D. Hearing-Environmental Impact Report, Donovan Building Corporation, Sisson Road

To demonstrate compliance with Harwich Board of Health Regulation 1.211; Environmental Assessment; prepared by J.M. O'Reilly & Associates, Inc.

Dr. Insley opened the hearing. John O'Reilly from J.M. O'Reilly & Associates, Inc. was present. They have filed on behalf of Donovan Building Corporation and HFH LLC for 7 residential lots. All lots will be served by town water and there is adequate room on all 7 lots to place sewage systems that conform to Title 5 and local requirements. Preliminary soil testing has been done for drainage in the road and nitrogen loading is kept under 10 ppm. The applicant was reminded that no variances would be granted for the installation of the sewage systems. The entire property including wetlands is 13 acres. Dr. Insley closed the hearing.

Health Director Champagne stated that the preliminary environmental impact report was approved at the November 2015 Board of Health meeting & recommended that the Board favorably consider the 8 lot subdivision with plan dated 10/19/2015 with the following conditions:

1. Development will follow the approved environmental impact report dated 11/10/2015.
2. The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations. Board of Health has raised concerns about Lot 2 & Lot 3 regarding coverage of environmental sensitivity.
3. Lot 8 is not buildable.
4. The subdivision will be served by town water.
5. All sewage disposal systems will exit the building on the street side.

Mr. Boyle moved accept the recommendation of the Health Director to approve the environmental impact report dated 11/10/2015. Ms. Bayerl seconded the motion. 4-0-0 Unanimous.

E. Hearing-4 bedroom dwelling on a noncompliant lot in a Water Resource Protection District-Hooper, 80 Nor'East Drive, to show cause why a return to compliance plan from 2005 for 3 bedroom building permit approval should be upheld, modified or withdrawn.

A request to withdraw the appeal was made by the property owners. No action taken.

VI

REPORT OF THE HEALTH DIRECTOR (December)

- **Accela Update**-Health Director Champagne would like to schedule a time for Assistant Town Administrator Charleen Greenhalgh to see the workings of the program and that it is not working at the pace it should be. The Board was shown an example license renewal and Health Director Champagne pointed out things that need to be manually. Should the Accela program not live up to the existing standards for licensing and continue to be a burden to efficiency rather than an improvement, we may need to thoroughly analyze our ongoing commitment with this portion of the Accela package.
- **WEBEOC**- We participated in a statewide drill for Boards of Health on 12/1/2015.
- **Employee Training**-Health Director Champagne has established a series of 6 workshops for town employees to be offered over the next six months. The first workshop, Preventing Workplace Harassment and Discrimination was held on 12/7/15 and attended by over 60 employees. A flier of all workshops has been included in the January Board of Health packet.
- **Saquatucket Marina Project**- Have met with the applicants upwards of 6 times at a staff level with engineering, harbormaster, waterways committee chair & conservation agent to review/comment on plans to redevelop the marina landside area-particularly with the acquisition of the Downey property. Given the environmental sensitivity of the site, we have had grave reservations concerning expansion and septic system issues. There is currently an I/A system (20 yr. vintage) connected to a pre-Title 5 leaching facility. We have expressed our concerns with the viability of this system; given expansion and need to comply with Reg. 1211: rejected several concepts: tie into the system and/or separate flow into smaller systems for the new buildings: generally propose topics not in keeping with past approval projects before the Board. We have requested the Assistant Town Administrator to facilitate a meeting on 12/15/15 which we outlined several options more in keeping with the policies of the Board of Health.
- **Wequassett Inn**- The facility is planning a complete renovation of the main kitchen this winter. The Health Director and Senior Health Inspector held a pre-construction onsite tour with management to review the structure and architectural plans.
- **Synthetic Cannabinoids**- A package of information has been distributed from the Barnstable County Health Department concerning growing issues from the police community to address the availability and misuse of synthetic marijuana products.
- **Complaints**
 - **Roosters in Harwich**-The Health Department has been requested to respond to an inquiry sent to the Cape Cod times regarding ongoing rooster noise issues. Zoning does not address residential animal issues. We have forwarded complaints to the Agriculture Committee in the hopes that they will visit the sites and mediate a solution.
 - **413 Queen Anne Road**- Trash Complaint-Met with the tenant who agreed to a plan to tidy debris in yard.
 - **27 Lakewood**- Complaint from neighbors of extreme conditions in yard and house. Site visit did not reveal excessive debris 'in plain view' street side. Have referred to COA for follow up and possible intervention.
- **RET's/Sewage Permit Review-Outstanding Issues**
 - **26 Kevin Road**- 1 bedroom deed restriction; continuing owner objections regarding seasonal restriction and use. May need to return to BOH for guidance.
 - **42 Shore Road (Monfredo)** - Resolution of 12/8/15 meeting action. We worked on a plan at office level to completely remove the walk-in shower and convert it into a closet with walls covered; fixtures removed.
 - **23 Ocean Avenue**- Final walk thru for compliance with 12/8/15 BOH order of conditions.
 - **21 Uncle Venie's Road**- Tight tank violations-10 deficiencies corrected, compliance issued. Property has been sold & new owner is planning renovations and will need a hearing before BOH. Staff is working with consultants.
 - **37 Sea Breeze**-Outstanding issues from 12/8/15 meeting regarding actual floor plan. Submittal showed 2nd floor-no permits & does not meet habitable requirements with a

ceiling height at approximately 5'8" in center. Also a finished isolated room in basement used as a bedroom. Return to compliance letter to be issued.

- **80 Nor'East Drive-** Dwelling is on the market and in need of a new septic system. Building permit from 2005; not built as approved. 4 bedrooms exist on the 2nd floor instead of 3 and 'open' room. Return to compliance plan requested. Owner objects to request/interpretation by Director & is requested a hearing before BOH for relief. Owner has since withdrawn their request for appeal.
- **UMASS Medical-** Health Department has received a check for the 2014 flu insurance reimbursement. Money will be deposited into the revolving fund to purchase vaccine.
- **Meeting with Cemetery Administrator-** Health Director has met with Cemetery Administrator regarding the development of a pet cemetery/crematorium in Harwich.
- **Frank's Cucina-** Health Director has issued a Cease & Desist/Notice of Non-Compliance for 'Frank's Cucina' aka 'Ciccios' Torquent'. It has come to the attention of the Health Department that the unlicensed dinner establishment, formerly 'Frank's Cucina' has reorganized and is now operating under the name 'Ciccio's Torquent.' The department received a copy of information from a potential client concerning the ongoing operation of the dinner club at 822 Queen Anne Road. 822 Queen Anne Road is in an environmentally sensitive area and is in a residential neighborhood which is not zoned for a restaurant. Health Director Champagne recommended that legal action be pursued thru Town Counsel. In addition, a letter will be sent to the Harwich Chamber of Commerce regarding 'Frank's Cucina' being listed as a food establishment.

Mr. Boyle moved to accept the recommendation of the Health Director to engage Town Counsel and seek maximum penalties. Ms. Bayerl seconded the motion. 4-0-0 Unanimous.

VII CORRESPONDENCE

- **Information from Cape Cod Rabies Task Force-**Documents were provided to BOH for review.
- **Massachusetts Cancer Registry-**Documents were provided to BOH for review.
- **DEP-Notice of Noncompliance-335 Lower County Road-**Documents were provided to BOH for review.

VIII PERMITS

SEE ATTACHED LIST DATED 1/12/2016

Ms. Howell moved to approve the list of permits for renewal dated 1/12/2016. Mr. Boyle seconded the motion. 4-0-0 Unanimous.

X ADJOURN- The meeting adjourned at 8:07 p.m.

Ms. Howell moved to adjourn. Mr. Boyle seconded. 4-0-0 Unanimous

Submittals of the meeting are part of the permanent record.

Respectfully submitted,

Jennifer Clarke

Next meeting is Tuesday, February 9, 2016 at 6:30 p.m. in the small hearing room.