

**TOWN OF HARWICH**



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

**Town of Harwich Board of Health  
Tuesday, November 10, 2015-6:00 PM  
TOWN HALL – SMALL HEARING ROOM  
MINUTES**

**BOARD OF HEALTH MEMBERS PRESENT:** Board Members Pamela Howell R.N., Dr. Robert Insley & Frank Boyle.

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

**OTHERS PRESENT:** Andrew Grover, Jeff Brown, Lucas Colburn, Thomas McLellan, Dot O'Connor, Dan Speakman & John O'Reilly.

Due to resignations of chair & vice chair, the committee needed to reorganize to be able to open the meeting. Frank Boyle nominated Dr. Robert Insley as temporary Chairman of the Board of Health for the next 3 meetings. With only 3 members for valid votes, all 3 need to vote on all issues. Ms. Howell seconded. VOTED 3-0

**I CALL TO ORDER-**

At 6:14 p.m. Dr. Insley called the meeting to order.

**II MINUTES OF PREVIOUS MEETING – 9/8/2015**

Motion made by Mr. Boyle, 2<sup>nd</sup> by Ms. Howell to adopt the minutes of the September 8, 2015 Board of Health meeting. Unanimous.

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

**REPORT OF THE HEALTH DIRECTOR- Covering the periods of September & October 2015**

- Accela-The window of opportunity for initializing the public portal for 2016 license renewals has passed. The consultant is not able to work within the goals of the department. In order for the license renewal to be electronic, the town would need to have an electronic payment system. There are still a few bugs with the system and we are disappointed that this is not up and running for the public portal as expected.

- Wixon Dock- Community Development team has again met with the owners. They are hoping to establish a shellfish hatchery/fishery & are now exploring new building designs. There now appears to be a water line to the building, which will be new use and require Board of Health involvement.
- Water Department Collaboration- Departments have met to develop permit review protocol following several disturbing issues of improper placement of water lines/septic lines in a short period of time. It became apparent that the 2 departments needed to establish protocol as how to best achieve maximum protection of the water infrastructure during septic installation. Both departments will now be part of the approval process for all waterline activity whether new construction or repair/replacement. A written policy has been forwarded to the design & construction community.
- Budgets- Capitol Budgets were due October 1, 2015. There are no projects on the horizon for the Board of Health. FY17 budget preparations which are due at the end of November 2015.
- Flu Clinics-The public was notified that public flu clinics will no longer be offered. We did offer an employee clinic & 122 people were vaccinated. The insurance reimbursement has been filed.
- Complaints- Waste water line at 36 Buttonwood has been resolved. The excessive debris/storage of materials issue at 5 Patricia Lane, Apt 1, has been resolved. The office has been in contact with the owners of 21 Uncle Venie's Road and has gone over the list for return to compliance. We have since learned that violations are worse than originally identified. While investigating the washing machine waste line, it was found that the kitchen sink was also exiting the building into the old cesspool. Due to the great difference in elevation, it appears the lines were never hooked into the tight tank and continued to drain into a cesspool 10ft+/- from the wetland for an additional 20 years.
- Food Service- A re-inspection was made and found satisfactory. The more time-consuming and costly repairs are necessary to be corrected prior to the 2016 license renewal. There were 17 food vendors at the 2015 Cranberry Festival. We will continue to work with the Cranberry Festival Committee to get more advanced notice of the vendors. Congratulations to Mark Polselli on successfully becoming ServSafe Certified. Mark was sent to a refresher course after a five year gap in training.
- Indoor Air Quality at Cape Cod Tech- There was a letter sent to the Business Manager at the Tech. Health Director Champagne noted a few suggestions for improvement in air quality. This is a facility that is training people to go out and start their own businesses. The students should be part of the daily operation and safety/OSHA should be part of the curriculum.
- 557 Route 28- Formerly known as the Dino's block is proposing re-use of the property with a restaurant, 1<sup>st</sup> floor shops and multiple units of residence on the 2<sup>nd</sup> floor. The proposal will exceed 2,000 gallons per day & increased flow. They will be required to file a full environmental impact report before the Board of Health and will need full Title 5 compliance.
- RET'S- The Health Director, Conservation Administrator and Fire Inspector met with the Harwich Realtor Group for a quick discussion into regulatory aspects of real estate transfers. We continue to spend a large amount of time in "after the fact" permitting for additions, bedroom & basements, some drastic enough to require deconstruction. Upon learning of discrepancies in floor plans, we meet with clients and generally do a walk-thru to formulate a return to compliance plan. In October, we were working with clients at 13 Homer Road, 9 Sketcheconet Way, 23 Ocean Ave, 26 Kevin Road & 900 Queen Anne Road. David B. Mason, DBC Environmental conducted a RET inspection at 900 Queen Anne Road. Health Director Champagne found deficiencies on the report regarding finished basement/illegal bedroom not identified on the plans. Mr. Mason was sent a notice informing him of the deficiency and advised his company to review their procedures for floor plans and be sure to provide a complete floor plan with future submittals.
- **2016 Board of Health Meeting Dates & Filing Deadlines-All meetings in 2016 will start at 6:30 p.m.**

#### IV 6:30 PM - OLD/UNFINISHED BUSINESS

No old/unfinished business was discussed.

**V NEW BUSINESS**

**A. Discussion-McKnight/Monfredo, 42 Shore Road-**update variance approval to reflect revised design plan dated 8/31/2015.

Dr. Insley opened the discussion. This item is on the agenda at the request of the Health Department staff. The Board approved a variance on 12/15/14 for a septic reconstruction in relation to major alterations. At the time of the septic install, we received calls that the septic system would need to be re-designed due to a discrepancy in the placement of a water line. The engineer was able to re-design and move the system in keeping with the original variances, however, the recorded letter referenced the old plan date. An amended document was issued on 9/9/2015. Mr. Boyle moved to close the discussion & Ms. Howell seconded. Unanimous.

Health Director Champagne recommends approval from the Board of Health for the amended document dated 9/9/2015.

**Mr. Boyle moved to approve the amended document dated 9/9/2015. Ms. Howell seconded the motion. Unanimous.**

**B. Discussion/Extension Request-MBA Real Estate Trust, LLC, 26 Neel Road-** request to delay compliance to repair/replace a sewage disposal system due to a real estate transfer inspection report. where 50' is required. Variance request of 10'.

Dr. Insley opened the discussion. There is an outstanding notice of violation for replacement of the cesspool for the barn. The owner has requested an extension until Spring 2016. The water to the barn has been disconnected and the system has been drained. Mr. Boyle moved to close the discussion & Ms. Howell seconded. Unanimous.

Health Director Champagne recommended that the Board of Health grant an extension until June 1, 2016 for upgrade of the system.

**Mr. Boyle moved to grant an extension until June 1, 2016 for the upgrade of the system. The water shall remain drained and the apartment will remain unoccupied. Ms. Howell seconded the motion. Unanimous.**

**C. Hearing-Raneo, 3 Vineyard Lane, Harwich-** to reconsider Order of Conditions granted 2/22/1996-no increase of square footage to the dwelling prepared by Lucas Colburn & Sons.

Dr. Insley opened the hearing. Lucas Colburn, Colburn & Sons, was present at the meeting. They are proposing to make a large family room out of the existing basement. They are not increasing the footprint of the home. The outside of the building will not change. No bathrooms or bedrooms are being proposed in the basement. Dr. Insley closed the hearing & Mr. Boyle seconded. Unanimous.

Health Director Champagne stated that in 1996 the Board had placed a condition that there would be no increase of square footage to the dwelling. Since 1996, the Board now uses a more descriptive definitive of habitable space. The basement shall remain one open room and does not meet the definition of a bedroom. The original order of conditions will remain and the floor plan will be recorded at the registry of deeds. Director Champagne recommended approval of the project in keeping with the conditions dated 2/22/1996 as well as the following:

1. The basement/family room will remain one open room.
2. This is not an increase in number of bedrooms.
3. Record the variances and floor plan at the Registry of Deeds as “margin referenced” and return a copy to the Health Department.

**Mr. Boyle moved to accept the recommendation of Director Champagne. Ms. Howell seconded the motion. Unanimous.**

**D. Hearing-Fagan, 2059 Route 28, Harwich,** to consider a request to install a new Title 5 septic system prepared by Ryder & Wilcox, Inc.

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

- 1. Per 310 CMR 15.405(1)(a): To allow a proposed reserve area to be 51’ from a wetland where 100’ is required. Variance request of 49’.**
- 2. Seeking approval to allow the continued use of an existing septic leaching facility**
- 3. Request to modify the existing order of conditions dated 5/18/1995**

Dr. Insley opened the hearing. Andy Grover, Ryder & Wilcox & Jeff Brown, J. Brown Inc. were present on behalf of the owner. They are wishing to demolish the existing dwelling which is located in the velocity flood zone and re-build on the upland portion of the property. This is a 1.6 acre lot which abuts Pleasant Bay to the East. The existing dwelling contains 3 bedrooms and its wastewater needs are met by a 1978 code septic system designed in May 1995 and consists of a 1000 gallon septic tank, pump chamber, distribution box & a leach pit. Per a septic inspection done 9/28/15 the leach pit is in good working condition. All requested modifications are improvements to the site & the new dwelling will be FEMA compliant. In order to demolish the existing dwelling and rebuild in a safer location, modifications to the existing order of conditions from 5/18/1995 septic upgrade are required. They are proposing to utilize the existing leach pit. A new septic tank will be outside the flood zone and the 50’ buffer. The garage on the property will be demolished and not rebuilt. The asphalt driveway will be removed but the footprint will remain for access.

Mr. Boyle asked if a clean out should be added from the tank to the distribution box as there is approximately a 13’ drop and 278’ run. A minimum slope of 1% is required. Schedule 40 PVC pipe will be used. Ms. Howell moved to close the hearing & Mr. Boyle seconded. Unanimous.

Health Director Champagne stated that this is a difficult site and the plan has been revised several times. The 2<sup>nd</sup> floor of the floor plan has been revised to show that the loft is a common area. It was requested that the stairs be opened to the loft so that the entire area is common and would not provide privacy for an additional bedroom. Since the dwelling is being demolished, the variances needed to be re-visited. Director Champagne recommended approval of the project with the following conditions:

1. New variances shall supersede variances on record from 1996.
2. No increase in square footage, flow or number of bedrooms from those identified on the plan dated 9/30/2015.
3. The loft will not be enclosed.
4. Record the variances and floor plan at the Registry of Deeds as “margin referenced” and return a copy to the Health Department.

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

**E. Hearing-O’Brien/Stalker, 413 Main Street, Harwich Port,** to consider variances to install a new Title 5 septic system prepared by Dan A. Speakman Construction.

**Variations from 310 CMR 15.211(1) Minimum Setback Distances:**

- 1. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 62' from a wetland where 100' is required. Variance request of 38'.**
- 2. Per 310 CMR 15.405(1)(a): To allow tanks to be 92' from a wetland where 100' is required. Variance request of 8'.**
- 3. Per 310 CMR 15.405(1)(c): To allow a 25% reduction of the soil absorption system.**

Dr. Insley opened the hearing. Health Director Champagne informed the Board that since the original filing, a change of ownership has happened. Dan Speakman, Speakman Excavating, was present on behalf of the owner. The plan is on behalf of Cliff Stakler, however the transfer took place and the new owner is Wissam R. Tarek. Mr. Speakman provided the Board with copies of water usage for the building. The use of the property will remain the same as an existing garage/repair shop. There is a wetland in the Southeast corner of the property. Mr. Boyle moved to close the hearing & Ms. Howell seconded. Unanimous.

Health Director Champagne stated that because this is a commercial garage, floor drains may be required. The applicant was directed to speak with the plumbing inspector regarding their floor drain regulations. At the time of permit approval, the Health Department would like verification of a fixtures test. There are currently no floor drains in the garage. This project will be referred to the plumbing inspector. Director Champagne recommended approval of the project with the following conditions:

1. The facility shall be the same as outlined on the plan dated 9/29/2015.
2. The applicant shall provide verification from the plumbing department regarding the floor drains.

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

**F. Hearing-Gurdziel, 7 Beverly Lane, Harwich,** to consider a request to install a new Title 5 septic system prepared by Bass River Engineering.

**Variations from 310 CMR 15.211(1) Minimum Setback Distances:**

- 1. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 18' from the cellar wall where 20' is required. Variance request of 2'.**
- 2. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 6' from the lot line where 10' is required. Variance request of 4'.**
- 3. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 5' from the lot line where 10' is required. Variance request of 5'.**

Dr. Insley opened the hearing. Tom McLellan, Bass River Engineering, was present on behalf of the owner. Mr. McLellan stated that this is an older, small lot & feels that the system has been designed in the area that allows the most room. Dot O'Connor, abutter, was present. Her property is located to the left of 7 Beverly Lane and she is concerned about trees falling on her property from the construction. Mr. McLellan told her that there will not be any interference with her property. If any damage does take place, the contractor would be liable for any damages. The vent pipe for the system will be located on the other side of Ms. O'Connor's fence. Mr. Boyle moved to close the hearing & Ms. Howell seconded. Unanimous.

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

1. The dwelling shall be restricted to 3 bedrooms.
2. No increase in square footage, flow or number of bedrooms.
3. Record the variances and floor plan at the Registry of Deeds as "margin referenced" and return a copy to the Health Department.

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

**G. Hearing-Akeley, 37 Sea Breeze Avenue, Harwich,** 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 soil absorption system to be 10' from the cellar wall where 20' is required. Variance request of 10'.**
- 2. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 5' from the lot line where 10' is required. Variance request of 5'.**
- 3. Per 310 CMR 15.405(1)(a): To allow a septic tank to be 6' from the cellar wall where 10' is required. Variance request of 4'.**
- 4. Per 310 CMR 15.405(1)(a): To allow a septic tank to be 6' from the lot line where 10' is required. Variance request of 4'.**

Dr. Insley opened the hearing. Tom McLellan, Bass River Engineering, was present on behalf of the owner. Mr. McLellan stated that this is a small lot & the proposed septic system has been designed on the largest part of the lot. Dr. Insley moved to close the hearing & Mr. Boyle seconded. Unanimous.

Health Director Champagne asked about the 16' distance from the proposed leaching facility to the abutting dwelling. An additional variance shall be added to the request to allow a soil absorption system to be 16' from the abutting cellar wall where 20' is required, Variance request of 4'. A question of the finished storage space on the 2<sup>nd</sup> floor was asked. Mr. McLellan said that there is inadequate head room in the space & cannot be used as a sleeping area. Dr. Insley asked is there has been any rental history with the property. Mr. McLellan does not think the property has been rented. A walk thru of the dwelling has been requested by Director Champagne. If there are any issues after the walk thru, this hearing can be brought back before the Board of Health.

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

1. A walk-thru of the dwelling shall be done to verify floor plan.
2. Addition of variance # 5: Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 16' from abutting cellar wall where 20' is required. Variance request of 4'.
3. The 2<sup>nd</sup> floor finished storage area shall remain finished storage only, not habitable space.
4. The dwelling shall be restricted to a total of 3 bedrooms.
5. Record the variances and floor plan at the Registry of Deeds as "margin referenced" and return a copy to the Health Department.

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

**H. Hearing-Pires, 9 Santos Lane, Harwich,** to consider a request to install a new Title 5 septic system prepared by Bracken Engineering.

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

- 1. Per 310 CMR 15.405(1)(a): To allow a soil absorption system to be 5' from side and rear property lines where 10' is required. Variance request of 5'.**
- 2. Per 310 CMR 15.405(1)(b): To allow the soil absorption system to be 4' below grade where 3' is required. Variance request of 1'.**

Dr. Insley opened the hearing. Don Bracken, Bracken Engineering was present. Due to the size of the lot & location of the existing onsite well, variances are being requested in order to upgrade the septic system.

They are not proposing any additional flow. Due to a slope at the South of the property, they are proposing an impervious barrier to prevent any breakout. The surrounding properties are either vacant or supplied by town water. Ms. Howell moved to close the hearing & Mr. Boyle seconded. Unanimous.

Health Director Champagne has met with the applicants several times & a walk thru of the dwelling has shown that interior walls in the basement need to be removed to come into compliance. There are also fire & safety issues with having a bedroom in the basement. We are working with the applicant on a return to compliance plan.

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

1. The dwelling shall be restricted to a total of 2 bedrooms.
2. The leaching facility shall be designed for under 330 gallon requirement.
3. Record the variances and floor plan at the Registry of Deeds as “margin referenced” and return a copy to the Health Department.

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

**G. Hearing-Preliminary 7 lot subdivision, 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, J.M. O’Reilly & Associates, Inc., was present on behalf of the owner. As part of Board of Health requirements (>2,000 gpd design flow) they are required to file an environmental impact report with the Board of Health. The total lot is approximately 13 acres which is comprised of a large wetland to the South, smaller wetland on the East & the rest being all upland. The lots will be served by town water and will have individual septic systems. They have calculated for 30 bedrooms on the property with the thought that each lot will have 4 bedrooms, and 2 additional bedrooms could be added. Soil testing for the property showed medium course sand on the property. Nitrogen loading calculations are 5.3ppm. Lot 8 is not buildable and will be left in its natural state. Eastern box turtle has been identified on this lot, consequently the crosshatch areas represent the limits of disturbance on each lot. Mr. Boyle moved to close the hearing & Ms. Howell seconded. Unanimous.

Health Director Champagne said that this is preliminary filing and a written report is not required for Planning Board, but due to Regulation 1.211, the Board does need to give a vote for compliance. The septic systems will be installed on the street sides of the property in anticipation of any potential sewer line hookups. No variances from the Harwich Board of Health regulations will be granted. A large portion of lot 2 is environmentally sensitive.

Health Director Champagne recommended approval of the preliminary subdivision plan and approves that it is in compliance with 1.211 and is meeting the intent of the CCMWP. The approval shall be made in 2 separate votes.

**Mr. Boyle moved to accept the recommendation of the Health Director regarding the approval of the preliminary subdivision plan. Ms. Howell seconded the motion. Unanimous.**

**Mr. Boyle moved to accept the recommendation of the Health Director regarding the approval of the Environmental Impact Plan 1.211 report dated 10/28/2015. Ms. Howell seconded the motion. Unanimous.**

**VII CORRESPONDENCE**

No correspondence was discussed.

**VIII PERMITS**

Cape Sea Grille	31 Sea Street	Catering Permit
Dunkin Donuts	Pleasant Lake Ave, Harwich Post Office Sq., Harwich Port Rte. 137 (2 Locations)	Take Out 1-30 Seats Retail Milk & Cream
Wicked Good Kettle Corn	Westport, MA	Temporary Food
Chelsea Fire Hot Sauce	Chelsea, MA	Temporary Food

Health Director Champagne recommended approval of the permit list.

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

**IX OTHER**

**X ADJOURN-The meeting adjourned at 7:55 p.m.**

Motion made by Ms. Howell to adjourn. Mr. Boyle seconded the motion. Unanimous.

**Submittals of this meeting are part of the permanent record.**

**Respectfully Submitted,**

**Jennifer Clarke**

**Next meeting is Tuesday, December 8, 2015 at 6:30 p.m. in the small hearing room.**