

TOWN OF HARWICH



BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH
TUESDAY, JANUARY 21, 2020-6:30 P.M.
HARWICH TOWN HALL – SMALL HEARING ROOM
MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Pamela Howell, R.N., Member Ronald Dowgiallo, D.M.D., Member Matthew Cushing, M.D. & Member Matthew Antoine

BOARD OF HEALTH MEMBERS ABSENT: Vice Chairwoman Sharon Pfleger

STAFF MEMBERS PRESENT: Health Director Meggan Eldredge & Executive Assistant Jennifer Clarke

OTHERS PRESENT: Laura Kelley, Bob Kroeger, Barbara Gill, Mike Scott, Parin Patel, Stephanie Sequin & others

Recording & Taping Notification: 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 Howell called the meeting to order at 6:30 p.m.

II MINUTES OF PREVIOUS MEETING- December 3, 2019 & December 10, 2019

Dr. Cushing moved to approve the minutes of the December 3, 2019 Board of Health meeting, 2nd by Mr. Dowgiallo and approved 4-0-0.

Dr. Cushing moved to approve the minutes of the December 10, 2019 Board of Health meeting, 2nd by Mr. Dowgiallo and approved 4-0-0.

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

A. Protect Our Cape Cod Aquifer (POCCA), Laura Kelley- Request to present information regarding glyphosate and eliminating use from town-owned lands. Follow-up from May 2019 Board of Health decision to move forward with a regulation prohibiting glyphosate use on town owned lands.

Laura Kelly from POCCA was present to request that the Board of Health write a policy or regulation to voluntarily not use glyphosate products on town owned property. She provided the Board with a pamphlet on glyphosate & a copy of the Town of Dennis Pesticide Management on Town Owned Property Policy dated January 7, 2020. Last year, the Board moved forward to state that they would write a regulation, but it has not yet been done. Moving forward, Ms. Kelly stated that there is a lot of science that has been shown that glyphosate harms pollinators and is harmful to developing children. There are other companies available that can educate town departments if there is any interest. Ms. Kelley feels that we should be airing on the side of caution and that there are many reasons for the town to voluntarily not use glyphosate products.

Dr. Cushing stated that is another side to this argument and he read comments from the EPA. From personal experience, Dr. Cushing added that he has used about 1/3 of the alternative products and they do not work. He

also referenced a product called Spectracide, which is found in most local stores and could also be considered harmful. Ms. Kelly agreed that there are many products available that are worse than glyphosates.

Mr. Dowgiallo would like to find alternatives to using glyphosate.

Health Director Eldredge stated that over the last couple of months the Board has been working towards a nutrient management/fertilizer policy or regulation. If a policy is created, she would recommend that glyphosate be included in the language. Golf Superintendent Shawn Fernandes will be coming to the Board's February meeting to talk about fertilizer. Health Director Eldredge feels that it would be beneficial for the Board to hear from him before moving forward.

Clara McLardy was present and stated that she supports POCCA and their initiative. They own a one acre property in Harwich and are finding many viable alternatives, mostly mechanical. She urged the Board to think of people's health instead of the fact that our society is generally focused on cosmetic features.

Ms. Howell closed discussions by stating that the Board is in the process of discussing fertilizer use on town properties and that they would take all information provided under advisement.

B. Continued Review of Draft Town of Harwich Nutrient and Pesticide Control Bylaw/Education

The Board has been discussing whether they would like to create a regulation, a policy or focus on education. During their discussion, the board agreed that they would like to see information from other towns and agencies. Health Director Eldredge provided the Board with information from the Cape Cod Cooperative Extension, MDAR and the Town of Chatham.

Ms. Howell stated that she would like to have a full Board present to continue discussions but that she likes the idea that if you are going to be applying fertilizer you would need to have a training certificate.

Mr. Dowgiallo would like to wait until the Board meets with Mr. Fernandes in order to continue discussions.

Dr. Cushing stated that he would prefer to educate the public rather than have a regulation. He can think of homes in town where the owners are only here for 2-3 weeks and they pay a company to maintain their property when they are not there. He feels that ridicule might be an effective form of education.

Health Director Eldredge suggested that the Board wait until after meeting with Mr. Fernandes to move forward. The Board can schedule a work session in February to take any action.

Laura Kelley from POCCA was present and feels that it is imperative to lessen the amount of nitrogen and phosphorus going in the groundwater. She suggested that the Board start with a written policy and send out information to residents.

IV OLD/UNFINISHED BUSINESS (NO EARLIER THAN 7:00 P.M.)

A. Continued-Food Service Permit Application Discussion-The Seal Pub & Café, 703 Main Street (Formerly Red's Pizza) - Request to review proposed seating plan presented by new business owners.

Mike Scott was present.

Health Director Eldredge stated that the applicants were before the Board at last month's meeting to discuss the new food service application for The Seal Pub & Café. The new owners wish to change to full service restaurant use, utilizing glassware, china and silverware. Title 5 calculations would allow for a maximum of 21 seats. Since the last meeting, Mr. Scott has provided the Board with a seating plan for the establishment where they propose to have 15 seats inside at all times and have the other 6 seats that are flexible seasonally. In the warmer months, the 6 seats would be located outside and in the winter, they would be moved inside into the space off of the café.

Health Director Eldredge recommended approval of the seating plan pending a pre-opening inspection done by Health Department staff.

Mr. Dowgiallo asked Mr. Scott when they intend to open. Mr. Scott responded that they are still waiting on their liquor license, and are hoping to open by mid-February.

Dr. Cushing moved to approve the recommendation of the Health Director to approve the seating plan as presented, pending a pre-opening inspection to be completed by Health Department staff, 2nd by Mr. Dowgiallo and approved 4-0-0.

V NEW BUSINESS

A. Fully Baked Smoke Shop- Convert existing Tobacco Sales license to Adult Only Retail Tobacco Sales license

Paul Foley from Fully Baked Smoke Shop was present. He met with the Health Director in December to discuss his tobacco permit. Mr. Foley stated that he has always been an adult-only store and would like his permit to reflect that. At this time, the Board had approved a limit of 3 adult-only stores. This is not a transfer of business or a new owner. In approving the change, the total number of retail permits will be reduced from 16 to 15. The total number of adult only stores in Harwich will be 2 in operation, 1 pending inspection and operation by February 15, 2020.

No public comment was heard.

Dr. Cushing moved to approve the request from Fully Baked Smoke Shop to convert their existing tobacco sales license to adult-only retail tobacco sales, 2nd by Mr. Dowgiallo and approved 4-0-0.

B. Hearing-Monteiro, 11 Braddock Street, to consider a variance request to upgrade a Title 5 septic system prepared by Ryder & Wilcox, Inc.

Harwich Board of Health Regulation 1.210

1. Per Harwich Board of Health Regulation 1.210: To allow a proposed soil absorption system reserve area to be 87' from the edge of a coastal dune where 100' is required. Variance request of 13'

Chairwoman Howell opened the hearing. Stephanie Sequin from Ryder & Wilcox, Inc. was present. Health Director Eldredge read the variance being requested. The existing 4 bedroom home is being razed and replaced with a new 4 bedroom home farther away from the coastal dune. The existing system meets setbacks to the new building and would be permitted to remain, however the owners wish to relocate it outside of the 100' coastal dune setback. In doing so, a reserve area is required, which requires a variance from the resource. This project has been approved by the Conservation Commission.

No public comment was heard. Chairwoman Howell closed the hearing.

Health Director Eldredge stated that this new system is an improvement over the existing and recommended approval of the variance with the following conditions:

1. The property shall be restricted to a maximum of 4 bedrooms.
2. No increase in square footage or habitable space without further review by the Board of Health.
3. Variance and conditions to be recorded at the Barnstable County Registry of Deeds with a copy to be returned to the Health Department.

Dr. Cushing moved to approve the recommendation of the Health Director for 11 Braddock Street, 2nd by Mr. Dowgiallo and approved 4-0-0.

C. Hearing-Moynagh, 14 Grassy Pond Road, to consider a variance request to upgrade a Title 5 septic system prepared by Moran Engineering Associates, LLC

Variances from 310 CMR 15.211: Minimum Setbacks

1. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 5' from the south property line where 10' is required. Variance request of 5'.
2. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 5' from the east property line where 10' is required. Variance request of 5'.
3. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 15' from the cellar wall where 20' is required. Variance request of 5'.

Chairwoman Howell opened the hearing. Dan Croteau from Moran Engineering Associates, LLC was present. Health Director Eldredge read the variances that are being requested.

The existing 2 bedroom dwelling is currently served by a cesspool. Due to the proximity of the wetland and size of the lot, setback variances are needed to upgrade this system to a Title 5 system. No construction or alterations to the dwelling are proposed.

No public comment was heard. Chairwoman Howell closed the hearing.

Health Director Eldredge stated that the proposed septic system is an improvement over the cesspool and recommended approval of the variances with the following conditions:

1. The property shall be restricted to a maximum of 2 bedrooms.
2. No increase in square footage or habitable space without further review by the Board of Health.
3. Variance and conditions to be recorded at the Barnstable County Registry of Deeds with a copy to be returned to the Health Department.

Dr. Cushing moved to approve the recommendation of the Health Director for 14 Grassy Pond Road, 2nd by Mr. Dowgiallo and approved 4-0-0.

D. Phase 2 Sewer Waiver Request-Cakounes, 86 Bay Road- Owner requests hearing before the Board of Health to allow the use of an existing non-conforming septic system until such time as the municipal sewer is available for connection. Property is located in Phase 2/Contract 2 area currently being constructed.

Leo Cakounes was present and is requesting a waiver from upgrading a failed component of a sewage disposal system due to the upcoming sewer installation. The property is located in the Phase 2 sewer service area of the Comprehensive Wastewater Management Plan and is scheduled to be sewered within the next year and a half, with the availability to connect to the municipal sewer system shortly thereafter. A Title 5 inspection was done, showing the system is in good working condition with the exception of the distribution box. The inspector found that the distribution box requires replacement because it is not rated for vehicular traffic and is located in the driveway and the sides are showing signs of wear and require reinforcement in order to maintain its structure.

Mr. Cakounes provided the Board with a background of his ownership of the property. He has provided a letter to the Board stating a repair cost of over \$1200.00. He would be willing to put the funds into an account so that if the house is not connected to municipal sewer, the money would be available to make the repair.

Health Director Eldredge stated that she spoke with Joe Martins who completed the Title 5 inspection. He noted that there are 2 knockouts that are showing wear. Mr. Martins informed Health Director Eldredge that shoring up the distribution box with extra concrete would be beneficial.

Health Director Eldredge reviewed the waiver process with Mr. Cakounes and added that Health Department staff can write a "pass with advisory" letter, which should suffice with the bank. She recommended approval of the request with the following conditions:

1. Waiver request form be completed by owner and seller (if applicable).
2. Connection to the municipal sewer is required within 45 days of the order to correct.
3. Should the existing system become a public or environmental hazard, it must be remedied immediately.

Mr. Dowgiallo moved to approve the recommendation of the Health Director for 86 Bay Road, 2nd by Dr. Cushing and approved 4-0-0.

VI REPORT OF THE HEALTH DIRECTOR (December 2019)

Health Director Eldredge reviewed her monthly report.

VII CORRESPONDENCE

Health Director Eldredge reviewed correspondence that was included in the Board's packet.

VIII PERMITS

ESTABLISHMENT	ADDRESS	TYPE	TYPE	TYPE
SEPTIC INSTALLER				
Accu Sepcheck *				
All Cape Septic *				
Barrows Excavating *				
Better Cape Plumbing *				
Borthwick & Summers Inc. *				
C.C. Construction, Inc. *				
Cape Cod Septic Inspection *				
Condon's Excavating *				
Copper Moon Landscape *				
D.G. Digging *				
Dig It Construction *				
Ellis Brothers Construction *				
GFM Enterprises *				
Holmes Land Service *				
J. O'Loughlin Inc. *				
JTC Contractors (2020 New)				
Ken Rose Septic *				
Matthew A. Eldredge Bobcat Service *				
Minot Reynolds *				
Northeast Construction *				
Pastore Excavation *				
Reis Services *				
Richard Judd *				
Robert B. Our Company *				
Robert E. Farrell *				
Rooter Man of Cape Cod *				
Sweeney Excavating Corp. *				
T.W. Nickerson Inc. *				
TOBACCO				
7-Eleven # 34434 *	5 Route 28			
Cranberry Liquors *	555 Route 28			

Cumberland Farms # 2305 *	578 Route 28			
Fully Baked Smoke Shop *	216 Route 28			
Harwich Gas & Propane *	729 Main Street			
Harwich Mobil *	173 Pleasant Lake Ave			
Portside Liquors *	1421 Orleans Road			
Royal Smoke Shop *	721 Main Street			
Value Mart *	435 Route 28			
West Harwich Sav On Gas *	4 Route 28			
FOOD ESTABLISHMENT				
3 Monkeys (2020 New)	554 Route 28	31-60 seats		
7-Eleven # 34434 *	5 Route 28	Retail: Less than 5000 sf	Milk & Cream	Take Out
AFC Sushi @ Shaws 4596 *	18 Sisson Road	Take Out		
Barnaby Inn *	36 Route 28	Limited Food Service		
Brax Landing *	705 Route 28	>150 seats		
Capeside Kitchen *	537 Route 28	61-150 seats		
Castaways *	986 Route 28	61-150 seats		
Christ Church Episcopal *	671 Route 28	Institution		
Commodore Inn *	30 Earle Road	31-60 seats		
Cumberland Farms # 2305 *	578 Route 28	Retail: Less than 5000 sf	Milk & Cream	Limited Food Service
Cove Clubhouse *	383 Route 28	Institution		
CVS # 860 *	481 Route 28	Retail: 5000-25000 sf	Milk & Cream	
CVS # 1859 *	148 Route 137	Retail: 5000-25000 sf	Milk & Cream	
Dennis Public Market *		Mobile Food Service		
Elder Services of Cape Cod & Islands *	100 Oak Street	Institution		
First Congregational Church *	697 Main Street	Institution		
Friends of South Harwich Meetinghouse *	270 Chatham Road	Limited Food Service		
Harwich Elementary School *	263 South Street	Institution		
Harwich Mobil *	173 Pleasant Lake Ave	Retail: Less than 5000 sf	Milk & Cream	Limited Food Service
Harwich Port Dairy Queen *	441 Route 28	1-30 seats	Frozen Dessert	
Hisho Sushi *	111 Route 137	Retail: <600 sf		
J. Bar *	537 Route 28	<600 sf	1-30 seats	
La'Louette *	787 Route 28	61-150 seats		
Mad Minnow Bar & Kitchen *	554 Route 28	31-60 seats		
Mobile Mixers *		Mobile Food Service		
Monomoy High School *	75 Oak Street	Institution		
Noble House *	21 Route 28	61-150 seats		
Rosewood Manor *	671 Main Street	Institution		
St. Peters Lutheran Church *	310 Route 137	Institution		
Ten Yen *	554 Route 28-Suite B	1-30 seats		
The Lanyard Bar & Grill *	429 Route 28	61-150 seats		
The Lunch Stop *	1421 Orleans Road	Take Out		
The Platinum Pebble Boutique Inn *	186 Belmont Road	Limited Food Service		
The Seal Pub & Café (2020 New) (Cont from 12.10.19 BOH)	703 Main Street	Retail: <50 sf (non PHF)	1-30 seats	Frozen Dessert

The Tern Inn *	91 Chase Street	1-30 seats		
Value Mart *	435 route 28	Retail: Less than 5000 sf	Milk & Cream	Limited Food Service
Wingate *	111 Headwaters Drive	Institution		
TITLE 5 INSPECTOR				
Adam Riker *				
Caleb Paus *				
Darrell Stone *				
David J. Burnie *				
James D. Sears *				
John M. O'Reilly *				
Michael Bisienere *				
Richard Judd *				
Robert F. Reedy *				
STABLE				
Cape Farm Supply *	374 Main Street	Res. Stable		
Cape Farm Supply *	1590 Factory Road	Res. Stable		
Catherine Karras *	105 Round Cove Road	Res. Stable		
CB Equestrian, Inc/Claire Bangert (2020 New)	32 Derby Lane	Com. Stable		
Chris & Angela McNamara *	196 Bank Street	Res. Stable		
Christine Menard *	39 Lexington Drive	Res. Stable		
Clare Bergh *	34 Lynch Lane	Res. Stable		
Deacons Folly Farm *	41 Deacons Folly Road	Com. Stable		
Forget Me Not Farm *	236 South Street	Res. Stable		
Full Circle Farm *	214 South Westgate Road	Com. Stable		
James Atherton *	1030 Factory Road	Res. Stable		
Joe & Mary Ann Rego *	3 Jay Z Drive	Com. Stable		
Kathy Gould *	98 Old Chatham Road	Res. Stable		
Lauren Thonus *	6 Wilmas Way	Res. Stable		
Reaching For My Dreams Stable *	38 North Westgate Road	Com. Stable		
Ron & Eliza Kendall *	90 Old Chatham Road	Res. Stable		
Sandra Smith (2020 New)	841 Route 28	Res. Stable		
Tom & Ashby Crafts *	41 Gilbert Lane	Res. Stable		
True North Farm *	339 Queen Anne Road	Com. Stable		
REFUSE HAULER				
Del Mar Vacations *				
Seaside Disposal *				
The Brothers Disposal *				
Waste Management of Mass *				
SEPTIC HAULER				
Daniels Recycling *				
Debarros Septic *				
Discount Septic Pumping *				
Ellis Brothers Construction *				

J.M. Barros Septic Service *				
J. O'Loughlin Inc. *				
M.A. Frazier (2020 New)				
Robert B. Our Company *				
Rooter Man of Cape Cod *				
Tulloch Septic Service LLC *				
Waste Water Services, In. *				
Wind River Environmental *				
MOTEL				
Handkerchief Shoals *	888 Route 28			
LICENSED UTILITY INSTALLER				
C.C. Construction, Inc. (2020 New)				
2020 Renewal *				

Dr. Cushing moved to approve the permit list dated January 21, 2020, 2nd by Mr. Dowgiallo and approved 4-0-0.

IX OTHER

No other items were discussed.

X ADJOURN -The meeting adjourned at 7:57 p.m.

Mr. Dowgiallo moved to adjourn the meeting at 7:57 p.m., 2nd by Dr. Cushing and approved 4-0-0.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, February 18, 2020 at 6:30 p.m. in the Small Hearing Room.

Documents included in January 21, 2020 Board of Health Meeting Packet:

- Board of Health Agenda dated January 21, 2020
- Draft Board of Health minutes dated December 2, 2019
- Draft Board of Health minutes dated December 10, 2019
- E-mail and attachments from Laura Kelley/POCCA dated January 9, 2020
- Town of Dennis Pesticide Management on Town Owned Property Policy dated January 7, 2020
- Cape Cod Cooperative Extension Lawn Care Practices Pamphlet
- MA Plant Nutrient Regulations: Non-Agricultural Turf and Lawns dated January 2016
- Town of Chatham Board of Health Fertilizer Use Regulation Information
- Draft Town of Harwich Nutrient and Pesticide Control Bylaw
- Harwich Board of Health History dated November 14, 2013
- Questions/Comments regarding Harwich Board of Health Fertilizer Use Regulations dated September 17, 2013
- Working Draft of Harwich Board of Health Regulation on the Content and Application of Fertilizer dated October 9, 2013
- CWMP Information regarding Fertilizer Education
- Town of Brewster Fertilizer Nutrient Control dated July 18, 2019
- Town of Orleans Fertilizer Nitrogen and Phosphorus Control dated November 5, 2018
- Town of Chatham Board of Health Regulation on the Content and Application of Fertilizer dated November 19, 2014

- Town of Eastham Regulations Pursuant to the Eastham Wetlands Bylaw dated December 9, 2014
- Town of Eastham Town Land Policy
- Site Summary for 703 Main Street dated January 21, 2020
- Proposed Seating Plan for 703 Main Street dated December 18, 2019
- Site Summary for 216 Route 28/Fully Baked Smoke Shop dated January 21, 2020
- Tobacco Permit Application and Associated Documents for Fully Baked Smoke Shop dated December 13, 2019
- Site Summary for 11 Braddock Street dated January 21, 2020
- Board of Health Variance Application and Associated Documents for 11 Braddock Street dated January 8, 2020
- Site Summary for 14 Grassy Pond Road dated January 21, 2020
- Board of Health Variance Application and Associated Documents for 14 Grassy Pond Road dated January 7, 2020
- Site Summary for 86 Bay Road dated January 21, 2020
- Request from 86 Bay Road dated January 8, 2020
- Minor Repairs Necessary Letter for 86 Bay Road dated January 2, 2020
- Health Director Monthly Report dated January 3, 2020
- 2019 Annual Bathing Beaches Report
- 2019 Semi-Public Swimming Pools & Spas Status Report
- Memo from US Nuclear Regulatory Commission dated July 25, 2019
- Health Director memo to BOS, TA, BOH & Finance Director dated January 10, 2020
- Any other documents submitted for/at the January 21, 2020 Board of Health Meeting