

TOWN OF HARWICH



RECEIVED
TOWN CLERK
HARWICH, MA

2023 DEC 15 A 10:17

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
WEDNESDAY, JUNE 21, 2023, 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:

STAFF MEMBERS PRESENT: Senior Health Agent Carrie Schoener

OTHERS PRESENT & ONLINE: Kierran Healy, John Sennott, Alexander Watt, Jacques LaPointe

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

No public comments were heard.

III MINUTES OF PREVIOUS MEETINGS (Regular Meeting Minutes)

No minutes were provided at this time.

IV BOARD OF HEALTH WORK SESSION

A. POSTING BOARD OF HEALTH MEETING PACKETS ONLINE- Discussion

Sr. Health Agent, Carrie Schoener proposed providing packets electronically to the Board, in addition to the hard copy packets. This would allow the Board to begin their review without a physical hard copy in hand.

Mr. DuPont added that the electronic version would be beneficial to the both the Board and the public to view prior to the upcoming Board of Health meetings and Chairwoman Pfleger agreed.

Motion: Mr. Dowgiallo motioned approve the Health Director's suggestion to provide both a physical copy and an electronic copy of the meeting packets to the Board Members.

Second: Mr. DuPont seconded the motion.

Vote: Approved 5-0-0.

B. BOARD GUIDELINES FOR SEWER CONNECTION WAIVERS- Discussion

Ms. Schoener stressed to the Board the need for establishing guidelines for sewer connection waivers specifically for building permits that would be connecting to sewer in the future.

Chairwoman Pfleger recommended having a work session to discuss guidelines on the process of sewer waives in lieu of Title 5 systems or expanding properties while utilizing existing systems.

Ms. Schoener supplied the board with a list of questions and considerations for the discussion at the next meeting.

The board agreed to continue the work session to the July meeting to further discuss.

V OLD/UNFINISHED BUSINESS

None

VI NEW BUSINESS

A. APPEAL OF AN ORDER TO UPGRADE AN ADMINISTRATIVE FAILURE OF A SEPTIC SYSTEM -256 PLEASANT BAY ROAD - To consider variance request Title 5 310 CMR 15.00

Jacques LaPointe, the owner of 256 Pleasant Bay Road, presented and discussed how the home was on the market and the septic system had passed inspection, done by Ryder & Wilcox. The house was originally designed for four bedrooms per the design by Moran Engineering. Additions had been done to the house over time, and he is trying to account for the changes now and come into compliance. Currently, there is a total of seven bedrooms with a four-bedroom septic design. To reduce the bedroom count, he plans on combining two bedrooms on the second floor into one bedroom and plans on opening the dividing wall in his office space to create one bedroom. Mr. LaPointe is requesting the relief from the Board to upgrade his septic system to include the additional bedroom and he stated that the new homeowner(s) would be connecting to sewer once ordered.

Mr. DuPont asked for a walk-through pending approval of the building department to confirm the wall is removed which adjoins two bedrooms.

Mrs. Howell asked if the condition of pumping the system would be beneficial. Mr. Lapointe said the system was set to be pumped in a week. Ms. Schoener recommended some conditions.

Motion: Dr. Dowigallo moved to approve the appeal of the order to upgrade the septic for 256 Pleasant Bay Road, pending a walk-through to confirm two wall removals; one in the workshop and one in the main house was taken down, a 45-day limit to hook up to sewer once available, unless system failure before then, along with the following conditions:

- 1. A bedroom in the main house to be removed.**
- 2. The property is restricted to a maximum of 5 bedrooms.**
- 3. No garbage disposal is allowed.**

Board of Health Meeting Minutes,

4. The building be connected to sewer as it is available.

5. The conditions and approval shall be recorded at Barnstable Registry of deeds.

Second: Mr. Antoine seconded the motion.

Vote: 5-0-0

B. RECONSIDERATION OF A PREVIOUSLY APPROVED NITROGEN AGGREGATION PLAN -20 JULIA COURT - To consider variance request Title 5 310 CMR 15.00

Attorney Alexander Watt spoke on behalf of the property owner Robert Fratus. Mr. Fratus seeks to amend a previously approved nitrogen aggregation plan to allow credit land located on Off Depot Road to be combined with the parcel located at 20 Julia Court. Mr. Fratus wishes to construct a 2-bedroom dwelling at 20 Julia Court which has a lot size of 15,246 square feet. Julia Court does not meet the requirement of 20,000 square feet minimum for a 2-bedroom property in the water recharge area thus the applicant seeks to aggregate with other land within the same Zone II. The two vacant parcels lots 35 & 37 in section 1 of Belmont Gardens total approximately 5,000 square feet thus meeting the minimum requirements.

Title 5 of the State Environmental Code, 310 CMR 15.000, imposes a nitrogen loading limitation of 440 gallons per day (gpd) per acre design flow for systems serving new construction in nitrogen sensitive areas and for new residential construction where the use of both on-site systems and on-site drinking water supply wells are proposed. Under the provision for "Aggregate Determinations of Flows and Nitrogen Loadings," 310 CMR 15.216, the nitrogen loading limitation may be calculated in the aggregate through a Community Aggregation Plan, or a site-specific, Facility Aggregation Plan.

Lot 36 has a bad title due to taxes owed to the town. There is 15,246 square feet on the property. Mr. Fratus is seeking to build a two-bedroom home on the property and seeking modifications of the previous order that Lots 35 and 37 would be sufficient to meet the aggregation requirement and that Lot 36 would be dedicated to the same restrictions.

Mr. DuPont asked for clarification on how credit land works. Ms. Schoener explained that the areas noted fall within the same zones of contribution, therefore credit land can be acquired for that property.

Motion: Mr. Dowgiallo recommended that the parcels be added together dated June 7th, 2023, as well as the following conditions:

- 1 A fully executed Grant of Title 5 Nitrogen Loading Restriction and Easement be recorded at the Barnstable County Registry of Deeds with a copy returned to the Health Department.*
- 2 20 Julia Court be restricted to 2 bedrooms.*
- 3 The credit land shall adhere to the prohibitions and provisions set forth in the Easement documents provided with the application.*
- 4 The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations for the construction of the dwelling.*
- 5 The subdivision shall be served by town water.*

Second: Mr. DuPont seconded the motion.

Vote: Approved 5-0-0.

C. SEEKING RELIEF FROM THE TOWN OF HARWICH BOARD OF HEALTH BEDROOM DEFINITION REGULATION -141 BANK STREET - To consider a request to add a bonus room above a garage without considering it a bedroom under the Board of Health Bedroom Definition Regulation.

The applicant is seeking relief from the town of Harwich Board of Health local regulation to supplement title 5 state environmental code bedroom definition for the purpose of sizing a septic system and for building permit review. The applicant is proposing a two (2) car garage with unheated storage on the first level and a family room, un-heated storage, ½ bath, kitchenette, and deck area above.

The property owner has existing variances on the property from June 23, 1999, which include 5' setback variance from leaching field to the southerly and westerly property lines, a 9' setback variance from the leaching tot eh foundation and a 41' setback variance from the vegetated wetland. One of the conditions of the approval was there shall be no increase in square footage or number of bedrooms.

In 2011 the property owner came back to the Board proposing an addition to the main house. Part of that project also included the removal of a one (1) bedroom cottage. This proposal did not require further setback variance to the septic. The minutes from the 2011 meeting the Health Director states "...they are reducing one dwelling and this would reduce the impact on the site." The project was approved to increase habitable space as the one (1) bedroom cottage would be removed.

Kieran Healy with BSC Group spoke on behalf of the homeowner of the property providing the Board with the scope of the project and to discuss the definition of a bedroom. The room is question is an open space above a garage with a half bathroom. The home is not within a Zone II designated area, however, there is an existing five-bedroom deeded restriction on the property along with a restriction in increasing square footage. The open space above the garage would not be intended for sleeping purposes. Under Title 5 definitions the facility will remain a five-bedroom design flow. Sewer flows are within existing capacity. The existing septic system is currently operating normally. Come time to be sewered, they will connect within forty-five days and not wait the two-year period after receiving the order to connect.

Mr. DuPont added that Phase 6 may be in the next six or more years.

Ms. Schoener added that this property it is on the border which means is not even guaranteed to be included in Phase 6.

Mrs. Howell expressed concern with the half bath above the garage, and Mr. DuPont agreed.

Ms. Schoener added that under previously adopted Board of Health regulations for the definition of a bedroom – room over free standing garages that have heat, a bathroom or both. The adoption of the regulation considered the current regulation states: a finished room over a freestanding or finished garage or attached garage or finished base room space are considered bedrooms if they meet the definition of bedroom criteria.

The current Board of Health regulations consider the space above the garage a bedroom. Once the adopted regulations were added, the Board looked at being more inclusive with or without the bathroom. The regulations that were recently adopted in September meet the definition of a bedroom. The board would be setting a precedent with approving the space above a garage due to the current bedroom definitions. The board does have the ability to review the request under their discretion by a case-by-case basis as a collective board.

Chairwoman Pflieger raised the question regarding alternative options for this case.

Ms. Schoener stated that the applicant would need to return to the Board for an increase in square footage. If they chose to return for a review of the variances, the Health Department could waive the filing fee.

Mrs. Howell commented that this would be considered a bedroom.

Mr. DuPont added that due to the current bedroom regulations this would be determined as a bedroom, but he would be willing to waive the fee if the applicant choses to return to the Board.

Mr. Healy noted that per Title 5 definition of a bedrooms that states "a room primarily used for sleeping".

The project can return to the board once the Health Department receives clarification from the State that deems the property to be defined as a single family.

The board concluded that with the kitchenette and half bath included in the open space above the garage, and the deck, that space could easily be converted into a bedroom.

Mr. Healy requested a continuance to the July 18th meeting to await clarification from the DEP if the design would be considered a bedroom. If necessary, there would be an additional request to modify the original approval of the 1999 restriction of modification to the floor space.

Motion: Mr. Dowgiallo made the motion to continue the discussion to the July 19th meeting.

Second: Mr. Antione seconded the motion.

Vote: Approved to continue 5-0-0.

VII REPORT OF THE HEALTH DIRECTOR- Health Director Report for June 2023

Ms. Schoener read the Health Director's report as presented in the packet.

VIII CORRESPONDENCE

A. Barnstable County Informational Flyer – All about Ticks

Ms. Shoener provided the Board with tick information offered by Barnstable County along with their Lyme testing. The sampling fee is \$50 for testing. Tick season is high this year.

Mr. DuPont added that there are treatment options so to contact your primary care physician for more information.

B. Barnstable County Informational Flyer – Cape Cod Aquifund

Ms. Shoener made an update that new funding is available with the Cape Cod Aquifund for qualifying individuals whose septic systems need repairs, upgrades or facing sewer connection costs.

Chairwoman Pfleger added that this information is also available with the Wastewater Department.

IX PERMITS

ESTABLISHMENT	ADDRESS	TYPE
FOOD SERVICE		
*Cape Cod Regional High School Concession Stand	351 Pleasant Lake Ave	Take Out
Cape Cod Wicked Good Kettle Corn	100 Oak St	Single Event
*Docito Homemade	Yarmouth Port	Farmers Market
First Congregational Church	697 Main St	Institution
Judecraft Specialty Foods	Chicopee	Year-Round Festivals
*ROAR (Ride for Opioid Addiction Recovery)	Cape Cod Tech	Single Event
Schoolhouse Ice Cream & Yogurt	749 Route 28	Food Service Seats 36; Frozen Dessert
*Sunday School (new ownership)	606 Route 28	Food Service Seats 45; Frozen Dessert

*Squire Mobile	Chatham	Single Event
*The Dog Sled	Canton	Single Event
*The Gourmet Cup Board	Springfield	Year-Round Festivals
Veterans Lunch Box	Harwich	Food Truck
Winterbottom Ice Cream (Perry's Trucks X2)	Wareham	2 Food Trucks
RECREATIONAL CAMPS		
Pleasant Bay Community Boating	2287 Rt 28	
*Nike Field Hockey Camp	75 Oak Street	
*Nike Girls Lacrosse Camp	75 Oak Street	
RUBBISH HAULER		
*Brian Meritus/Merit Junk Removal	South Yarmouth	
SEPTIC INSTALLER		
PKM Contractors, Inc.	Dennis	
* DENOTES 2023 NEW LICENSE		

Motion: Mr. DuPont made the motion to approve the permits as listed on the agenda.

Second: Mr. Antoine seconded the motion.

Vote: Approved 5-0-0.

X OTHER

Ms. Schoener proposed the idea for site summaries to be discussed in the work session to provide the Board members with basic site summaries. This would essentially be an outline for voting. This would provide the Board members with basic language that they would need to use when making their decisions along with providing the members with the freedom to add what may be needed to be deemed fit.

XI ADJOURN

Motion: Mr. Dowgiallo moved to adjourn the meeting at 7:45pm.

Second: Mr. Antoine seconded the motion.

Vote: Approved 5-0-0.

Respectfully Submitted,

Jennifer Singleton

The next meeting will be held Tuesday July 18, 2023, at 6:30pm.