

TOWN OF HARWICH



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BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH
WEDNESDAY, JANUARY 18, 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

STAFF MEMBERS PRESENT: Health Director Kathleen O'Neill & Senior Health Agent Carrie Schoener

OTHERS PRESENT: Renee Cole, Joe Astoccio, Joanne Arsenault, Harry Stiokas, Colette Cummings, Rob Foster, Michael MacAskill, Sharon Foster, Richard Waystack, Dan Ojala, Belinda Rawlings, Emma Bankman, Mark Giarrusso, James Connors, Sharon Foster.

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

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

II PUBLIC COMMENT

Chairwoman Pfleger requested a change in the agenda to discuss the Animal Regulations first, then the continued public hearing for 126 Route 28, followed by the Tobacco Regulation discussion. There was no objection from the public or the Board to the request.

III OLD/UNFINISHED BUSINESS

A. Continued-Public Hearing to solicit comment on the proposed revisions to Town of Harwich Board of Health Animal Regulations (continued from October 20, 2022 and November 15, 2022 meetings)

The Chair addressed the public requesting that comment be limited to fifteen minutes, and asked that comments not be repeated, as well as to address only the proposed changes.

Belinda Rowlings asked for clarification regarding the definition for when a permit is required. The point raised is something the Board will need to address during their discussion on the changes. James Connors thanked the Board on behalf of his clients for making the changes to the regulations to include the term "pet pigs". Sharon Foster questioned if the proposed changes to the regulations was setting a precedence by changing the definitions, simply because a single person or small group takes offense.

Emma Bankman spoke to Sharon Foster's point, noting that she was at risk to lose her home owners insurance. There was discussion regarding the need to include pet pigs in the regulations at all. The chair cut the conversation as the discussion should be on the changes and didn't want to begin to repeat discussions previously had. Attorney Blake noted that the board is well within their rights under Mass General Laws to regulate pet pigs and to address the concerns of pet pigs. Emily Mohring spoke on her experience with working with pet pigs. She wanted to address the question on why pet pigs should be distinguished, and she felt they needed to be separated from the meat supply. She also noted it is important to have a separate definition. The chair requested comment from the Board. Mr. DuPont felt that the change in definition was appropriate and aside from clearing up the language which requires a permit, he was happy with the changes. The remaining Board members accepted the changes. The chair requested the change in the definition to state, from one or more- to two or more, for commercial and non-commercial. Page 4, section 7.1 needed clarification: one pig does not require a permit. Page 5 section 7.9: states pet pig permits, which should include commercial, non-commercial and pet pigs. Page 7, section 9.2: change the language from "if your pig uses the bathroom" to "if your pig is not litter box trained".

Emma Bankman spoke requesting the board take "zebra" out of the definition of equine. The Chair stated that public hearing was closed. Michael MacAskill addressed the board noting the board must vote to close the public hearing. Health Director O'Neill requested revisions to section 9 to include all pig permits request a floor plan and 11.3 is missing one word.

Mr. DuPont made a motion to close the Public Hearing

Mr. Antoine seconded the motion

Approved 5-0-0

Mr. Dowgiallo moved to adopt the animal regulations as amended effective April 1, 2023

Seconded by Mr. DuPont

Approved 5-0-0

- B. Continued- Hearing-126 Route 28/Chase Escape Cape Cod LLC-**for the applicant to provide the Board of Health with sufficient evidence that a contract has been executed for a septic upgrade and to have further discussion on a possible extension of time for the septic upgrade of up to 45 days or longer (Continued from October 20,2022 and November 15, 2022)- *Vote to accept/deny/take this under consideration*

Attorney Blake updated the Board that the attorney for the applicant is out on maternity or paternity leave and the applicant is not feeling well. The applicant continues to request additional time from the Board of Selectman and Board of Health. The Select Board opted to not continue their hearing any longer, however the Board of Health can do as they see fit. The applicant cannot move forward with operations until a fully complaint septic system is installed. Director Dr. O'Neill recommended to the Board they select a date anywhere between six months and one year with the provision that they are not operating until the system is installed. Mr. DuPont noted he used to work in that building and would love to see it continue to operate and not become abandoned like many other properties on that section of Route 28. He felt that they should not be allowed to operate until everything that needs to be done there is completed. Mr. Dowgiallo felt that six months is plenty of time and they have had ample amount of time to act on this. The Chair agreed with Mr. Dowgiallo that work should be completed within six months. There was further discussion on the six months to a year time frame. After six months water will get shut off and fines will begin.

Mr. Dowgiallo moved to allow an extension for installation of a fully compliant septic system by June 1, 2023 with the condition that there is to be no occupancy of the building until a certificate of compliance has been issued.

Seconded by Mr. Antoine

Mr. DuPont denied the motion.

The motion was approved 4-1-0.

IV BOARD OF HEALTH WORK SESSION

A. Board of Health Discussion on Revisions to Regulations of Harwich Board of Health Restricting the Sale of Tobacco Products

Mr. DuPont did not like the language that limited the number of licenses issued, specifically the way the current regulations are written where the licenses would zero out over time as licenses were surrendered.

A fine schedule needs to be voted on and two options were provided to the Board. The Board would like to leave the two options open for public comment. Draft Regulations will be placed on the February Agenda for Public Comment.

V. NEW BUSINESS - *Vote to accept/deny/take this under consideration*

A. HEARING-7 Lot Definitive Subdivision Plan Off Littlefield Pond Road- Definitive Subdivision Plan prepared by Down Cape Engineering, Inc.- *Vote to accept/deny/take this under consideration*

Dan Ojala spoke on behalf of the applicants. The Board had previously approved this as a preliminary subdivision plan and the applicant is coming back before the Board with proposed modifications. A previously approved building lot is being redefined as a roadway; they are proposing 7 building lots. The site was mapped by NHESP as priority habitat through that filing and they were able to conserve some off-site areas. Nitrogen loading will be less than 5ppm when the 1 bedroom per 10,000 sq ft. Mr. Ojala explained the hydro-report that was submitted to the Board.

Mr. Dowgiallo moved to approve the 7 Lot Definitive Subdivision Plan, Off Littlefield Pond Road- Definitive Subdivision Plan prepared by Down Cape Engineering, Inc.

Seconded by Mr. DuPont

Motion was approved 5-0-0

B. HEARING- 560 A Route 28- Dr. Gravity's Snack Shack- to consider variances from the Food Code and Title 5.

1. *Chapter 4-301.12, relief requested from the requirement of a three bay sink. Alternate ware washing procedure proposed.*
2. *Chapter 5-203.13, relief requested from the requirement of a separate hand washing sink. Alternate handwashing location proposed.*
3. *Chapter 6-301.1, relief requested from the requirement of a service sink. Alternate service sink procedure proposed.*
4. *Per 310 CMR 15.203 (3): relief requested for the minimum allowable gallons per day for septic system design (1000 GPD required, 201 GPD provided).*

Collette Cummings was present and she gave the board some history about her business operations and how she came to own the candy shop. She would like to be able to serve chocolate by the pound, and they have an agreement with Sea Gulls Ice Cream to be able to utilize their ware washing sink. They have a vendor that will perforate the fudge to make it easier to cut and separate, and they plan on utilizing disposable gloves. The only new thing she would like to add is a Jelly Belly display where you cannot get the jelly beans back in once they are dispensed. Mr. Dowgiallo asked when they plan on opening and if they would be open year round. Ms. Cummings stated she would be open year round, and hopes to open as soon as she can. Mr. DuPont requested that someone inspect and approve the Jelly Belly display before they permit it. The Chair asked for clarification on what the process would be without a ware washing sink and an alternate location for handwashing. Ms. Cummings explained she will be using disposable gloves and will use the restroom bathroom sink. They will be using limited items that would require ware washing. Anything that needed to be washed would be brought to sea gulls ice cream. Richard Waystack spoke in favor of the operation as a neighbor of the business.

Mr. DuPont moved to approve the requested variances with the following conditions:

- 1. Equipment shall be washed and sanitized in a licensed kitchen (residential or commercial).**
- 2. No expansion of food service beyond the proposed operation.**
- 3. The variances are non-transferrable. Should the location or ownership change, variances are null and void.**
- 4. The Health Department reserves the right to revoke these variances at any time.**
- 5. Inspection of the Jelly Belly Machine is required prior to use.**

Seconded by Mr. Antoine, and approved 5-0-0.

- C. SHOW CAUSE HEARING – 10 Old County Road, Unit 15-** Show Cause hearing to discuss non-compliance with an order issued for violations of 105 CMR 410.00 Minimum Standards of Fitness for Human Habitation, violations issued December 1, 2022 and January 6, 2023- *Vote to accept/deny/take*

No one was present on behalf of the owner, therefore the Senior Health Agent, Carrie Schoener gave the board an update. On December 12, 2023, she spoke with Leon Narbone to confirm receipt of the meeting notice. He stated that he had picked up the mattress and roof shingles right away, and he was currently working on the other items named in the violation notice. He was advised to attend the meeting to update the board, and he confirmed he would be in attendance. Ms. Schoener went by the property on January 13, 2023 and confirmed the removal of the roof shingles and mattress. Mr. DuPont and Mr. Antoine were concerned over some of the other violations that have not been addressed.

Mr. DuPont moved to require the necessary correction be completed at 10 Old Colony Road, unit 15 and a re-inspection be conducted by the Health Department no later than February 28, 2023. If a re-inspection is not conducted by that date, begin fining the owner, utilizing the Non-Criminal Disposition fee schedule

Seconded by Mr. Antoine

Approved 5-0-0

VI MINUTES OF PREVIOUS MEETING (Regular Meeting Minutes) November 15, 2022

Chairwoman Pflieger requested the corrections be made to the November 15, 2022 meeting minutes.

Mr. Antoine moved to approve the minutes of the November 15, 2022 meeting (with corrections)
Seconded by Mr. DuPont
Approved 5-0-0

VII NEW BUSINESS

The Chair wanted to discuss the Handbook for Boards and Committees, she suggested the board look through it and keep it handy. She also wanted to talk with Michael MacAskill about clearing up the use of terms in the handbook.

VIII REPORT OF THE HEALTH DIRECTOR- Health Director report for the month of January, 2023.

Health Director O'Neill read her monthly report for the month of January, 2023.

IX COVID-19 Update

Health Director O'Neill read her COVID-19 update as provided in the packet.

X CORRESPONDENCE

- A. *POCCA Cape Cod- Fertilizer Plans in Orleans***
- B. *POCCA Cape Cod- Eversource's vegetation management plan 2023-2027***
- C. *Massachusetts DEP Drinking Water Program- Sample Schedule***
- D. *Massachusetts DEP Drinking Water Program-Sanitary Survey Report 2022***

XI PERMITS

Mr. DuPont moved to approve the permits as presented in the packet pending inspection of Dr. Gravity's Candy Shack
Seconded by Mr. Antoine
Approved 5-0-0

XII OTHER

No other items were discussed.

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

Mr. DuPont moved to adjourn the meeting of the Board of Health at 7:55 p.m.
Seconded by Ms. Howell
Approved 5-0-0

Respectfully Submitted,

Carrie Schoener

Next meeting is Tuesday, February 23, 2023 at 6:30 p.m.

Documents included in the January 18, 2023 Board of Health Meeting Packet:

- **January 18, 2023 Board of Health Agenda**
- **Draft Board of Health Minutes dated November 15, 2022**
- **COVID-19 update dated January 12, 2023**
- **Town of Harwich Committee Handbook**
- **Regulations of the Harwich Board of Health Restricting the Sale of Tobacco Products**
- **Draft Town of Harwich Board of Health Animal Regulations**
- **Email from Emma Bankman to the Health Director dated January 11, 2023**
- **Memo from Emma Bankman to the Board of Health dated January 11, 2023**
- **Letter from Ima Insurance to the Health Department**
- **News Article from the Washington Post dated May 10, 2021**
- **Letter from Attorney Blake to the Board of Health dated January 11, 2023**
- **Site Summary for 126 Route 28 dated October 20, 2022**
- **Site Summary for 7 Lot Definitive Subdivision Plan Off Littlefield Pond Road**
- **Letter from Down Cape Engineering to the Board of Health dated October 31, 2022**
- **Hydro-Geologic Data for Off Littlefield Pond Road dated June 25, 2019**
- **Site Plan for the 7 Lot Definitive Subdivision Plan Off Littlefield Pond Road dated January 26, 2022**
- **Roadway Profile for the 7 Lot Definitive Subdivision Plan Off Littlefield Pond Road dated January 26, 2022**
- **Notice of Violation to 10 Old County Road dated December 1, 2022**
- **Notice to Appear in front of the Board of Health to 10 Old County Road dated January 6, 2023**
- **Site Summary Dr. Gravity's Snack Shack 560A Route 28**
- **Letter to the Board of Health from Colette Cummings dated December 5, 2022**
- **Board of Health Variance application dated November 29, 2022**
- **Note from Seagulls Ice Cream dated December 5, 2022**
- **Abutters notification for Dr. Gravity's dated November 29, 2022**
- **Abutters list for 560A Route 28**
- **Variance Approval for Say it Sweetly 560A Route 28 dated March 23, 2021**
- **A Copy of the 2021 Limited Food Service Permit for Say it Sweetly**
- **Floor Plan for Dr. Gravity's**
- **Site Plan for 560A Route 28**
- **Proposed Menu for Dr. Gravity's**
- **Health Director Monthly Report for January 2023**
- **Town of Orleans Fertilizer Management Plan**
- **MDAR Fertilizer Management Plan**
- **Massachusetts DEP Drinking Water Program- Sample Schedule**
- **Massachusetts DEP Drinking Water Program-Sanitary Survey Report 2022**
- **Email from POCCA Cape Cod to Health Department dated November 17, 2022**