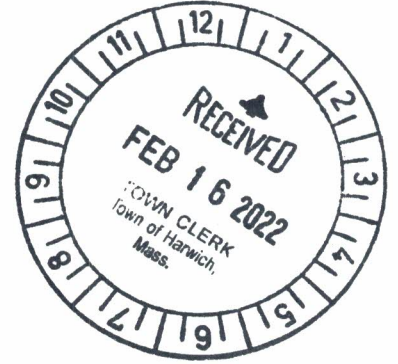


TOWN OF HARWICH



BOARD OF HEALTH  
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**TOWN OF HARWICH BOARD OF HEALTH  
TUESDAY, JANUARY 18, 2022- 6:30 P.M.  
HARWICH TOWN HALL – SMALL HEARING ROOM  
MEETING MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Pamela Howell, R.N., Vice Chairwoman Sharon Pflieger, M.S., Member Ronald Dowgiallo, D.M.D., Member Matthew Antoine & Member Kevin DuPont, R.N.

BOARD OF HEALTH MEMBERS ABSENT: STAFF MEMBERS PRESENT: Health Director Kathleen O'Neill & Executive Administrative Assistant Jennifer Clarke

OTHERS PRESENT: Stephen Fitzpatrick, Aaron Gingras & Jeff Brown

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**I CALL TO ORDER**

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

**II MINUTES OF PREVIOUS MEETING (Regular Meeting Minutes) – December 21, 2021 & December 28, 2021**

Mr. DuPont moved to approve the minutes of the December 21, 2021 Board of Health meeting as printed, 2<sup>nd</sup> by Mr. Dowgiallo and approved 4-0-1 (Pflieger).

Mr. DuPont moved to approve the minutes of the December 28, 2021 Board of Health meeting as printed, 2<sup>nd</sup> by Mr. Dowgiallo and approved 4-0-1 (Pflieger).



### III BOARD OF HEALTH WORK SESSION

#### A. **Board of Health discussion and vote to possibly amend the Declaration of Public Health Emergency Mask Order effective December 30, 2021**

Health Director O'Neill stated that it has been requested by the Community Center Director to include guidance for live performances and practices in Town owned buildings, singing and the playing of brass and wind instruments.

Ms. Pflieger suggested that when you are in town buildings, masks should be worn at all times and wanted to remove the 6' of social distancing. Dr. O'Neill recommended adding a clause that if an employee is sitting alone in their office, that they can remove their mask. Ms. Pflieger asked if employees are allowed to ask their co-workers if they are vaccinated and Health Director O'Neill responded that they are not. Ms. Pflieger thinks that when you are in a work place sitting closely, that masks should be worn. If you are sitting in your office alone, you can remove your mask, but if you share an office space, masks need to be worn.

Health Director O'Neill commented that we do have office spaces where desks are spread out. Mr. DuPont added that anyone in the same room in a town building should have their mask on no matter how far apart they sit. Ms. Pflieger added that most buildings, even new ones, are not properly ventilated.

Health Director O'Neill asked the Board if they want this amended declaration to supersede the existing mask order for board and committee meetings. The Board agreed yes.

Health Director O'Neill asked if the Board wants to allow masks to be removed to allow employees to eat and/or drink at their desk. The Board discussed that you should be able to remove your mask for a drink at your desk and that in the break rooms, breaks should be staggered if possible and 6' of social distancing maintained.

The new mask order will read as follows:

*"Pursuant to the Massachusetts General Laws, Chapter 111, Section 31, 122, 310 CMR 11.05, 105 CMR 300.200, and all other authorizing statutes and regulations, we the members of the Harwich Board of Health hereby order the following: Masks or cloth face coverings shall be worn: While indoors in any Town owned Buildings, including but not limited to: Town Hall, Public Safety, Community Center, Cultural Center, Harbor, DPW, Libraries, etc. This order applies to all employees, visitors, volunteers, and any member of the public who enters the buildings. If an employee is in their office behind closed doors they may remove their mask only while alone. If someone enters their office a mask must be added, regardless of if social distancing can be maintained. In the break room 6' of social distancing must be maintained, and staggered breaks are preferred. The face covering requirements of this order shall be in place until it is rescinded by the Harwich Board of Health. Full vaccination against COVID-19 remains important to reduce hospitalization and morbidity from the virus. We encourage all eligible persons who are not fully vaccinated to get immunized. For live performances and practices in Town owned buildings, singing and the playing of brass and wind instruments is highly discouraged. For performances or practices involving singing or brass or wind instruments, at least 25 feet between both the performers and the audience must be adhered to. Plexiglas barriers cannot be used to reduce required distance between performers, or between performers and the audience. Notwithstanding any provision in this Order, pursuant to guidance issued by the CDC, face coverings should not be placed on young children*

*under two years of age, anyone who has trouble breathing, anyone who is unconscious, incapacitated or otherwise unable to remove the mask without assistance, or anyone who due to disability or medical condition who is unable to wear a mask. This Order shall be effective January 19, 2022 and remain in effect until notice is given, pursuant to the Harwich Board of Health's judgement that the Public Health Emergency no longer exists. This order shall supersede any prior Emergency Orders."*

**Mr. Antoine moved that the Board of Health adopt the revised Declaration of Public Health Emergency Mask Order as discussed, 2<sup>nd</sup> by Ms. Pflieger and approved 5-0-0.**

### **B. COVID-19 Update**

Health Director O'Neill reported that Harwich has been a cumulative of 1,428 cases of COVID-19 and 60 deaths to date. We have seen 166 active cases over the past 10 days and we are tracking 33 active cases currently. Isolation has been changed from 10 days to 5 days. A COVID-19 flow chart was provided to all employees.

The Federal Government will ship 4 free COVID-19 tests to your house. If you go to covidtests.com you can register to receive the kits. Registration is very easy.

### **C. Board of Health Discussion on sewer extension criteria**

Water and Wastewater Superintendent Dan Pelletier was present and brought the Board up to speed on discussions that have been taking place from the town's perspective. What has been heard in public sessions are concerns from elderly residents being able to afford the connection as well as other financial hardships. Extensions could be granted so long as there is an agreement between the town and the applicant. Residents might be asked to provide design plans and then we could have a realistic discussion on a timeline for the connection. We also need to keep in mind that we need to balance the nitrogen removal requirement while being able to work with our residents. The Board of Health could have a standard list of caveats for extensions. If someone has a newer septic system, there might be a standard extension allotment. Ms. Pflieger asked what would happen if someone were granted an extension, and then their septic fails. Mr. Pelletier suggested that if an extension is granted, that the septic system be inspected every number of years to make sure that it is still functioning properly.

Health Director O'Neill commented that it puts a lot of extra work on the Health Department staff if the Board wants to hear every extension. The Board will need to be available to get meetings done, noting that at staff level, booking these meetings takes weeks of preparation. Ms. Pflieger suggested seeing each request on a case by case basis and that if we start to see large numbers of requests that the Board might decide to allow requests that meet a certain criteria to be heard at staff level.

Health Director O'Neill added that the Board has 2 years to work out extension criteria before we will start seeing applications. Mr. Pelletier commented that he feels it will be a smaller number than we think that will be asking for the extension. There are only about 440 customers in the first wave of connections.

Mr. Pflieger feels that we need to have a plan in place and be compassionate to the needs of the residents that need assistance.

Ms. Howell asked then the connection order letters will be sent out. Mr. Pelletier responded that while today's meeting was delayed, it has been rescheduled until tomorrow and he hopes to have good news to report.

#### **D. Discussion regarding revisions to Animal Regulations**

Ms. Pflieger has been working on the revisions to animal regulation and has hit a brick wall. She commented that Harwich is a right to farm community and that does include the keeping and raising of poultry and pigs. Ms. Pflieger asked for clarification on different town regulations that seem conflicting. Health Director O'Neill confirmed that Harwich is a right to farm town and that as long as a property has a minimum of 2 acres, and could demonstrate that they bring in \$1,000 per acre per year, then they would be exempt as an agricultural use. As a right to farm town, you can't prohibit the use through regulations, as determined by the zoning compliance officer. Ms. Pflieger stated that she has not been able to find anything in the town regulations regarding setbacks for animal regulations. Health Director O'Neill responded that it would be the Board of Health that would come up with the boundaries. Ms. Pflieger asked if we should check with zoning to see if they want to come up with the regulations or if they want the Board of Health to move forward. Health Director O'Neill responded that the Board could invite the Town Planner and/or Building Commissioner to meet with them.

Agricultural Commission member Jeff Brown was present and stated that he would be happy to meet with Ms. Pflieger. He added that they are looking to have some regulations to follow. Mr. Brown brought up this issue in August because he is looking to have more than 2 pigs.

Agricultural Commission member Aaron Gingras was present. Mr. Gingras stated that the bylaws that Ms. Pflieger is referencing are pretty old. Agriculture used to be big in Harwich and has become smaller over the years. The harder you make it for farmers, the less they will do. He hopes that we will be able to keep younger generations involved in the farming community.

Health Director O'Neill stated that we could schedule a joint work session meeting with the Board of Health and Agricultural Commission.

#### **E. Board of Health Review of Town of Harwich Fertilizer Policy Guidelines for Nutrient Control**

Ms. Pflieger suggested moving the definitions to the front of the policy. She also suggested that under the guidelines for plant nutrient (fertilizer) application that we should add that no applications of plant nutrients shall be made from December 1 through March 1.

Mr. Pelletier stated that he was just as disappointed to see the legal opinion that the fertilizer regulation needed to be rescinded. Upon receiving the memo from legal, Mr. Pelletier reached out to the Department of Environmental Protection to see how we can retain the 200kg/year of nitrogen credit. DEP is amicable to developing a local policy regarding fertilizer as well as a public relations campaign to retain our credits. Mr. Pelletier sees himself responsible for this and wants to work in concert with the Board of Health.

Ms. Pflieger said that based on the Comprehensive Watershed Management Permit, we did not elect to do bylaws and as a result we could not be grandfathered in to do bylaws or regulations. What we had agreed to do is fertilizer education. Up until then, we have not done much of anything. She asked if when the CWMP is updated, could it be revised in some way or are stuck with only doing education. Mr.

Pelletier stated that the CWMP is separate from the water shed permit. The water shed permit includes the 200kg of nitrogen credit. Whether or not we get the credit from the fertilizer education, if we install sewers and the nitrogen removal isn't meeting the requirements, we will need to keep moving forward with sewer. Mr. Pelletier proposed that over the next 2 years, that we work with DEP to come up with a plan in order to retain the credits. As the fertilizer policy solidifies, Mr. Pelletier would look to put together a public relations campaign to make sure that the boxes are being checked. When the Board has a final draft policy in place, Mr. Pelletier offered to bring it to DEP to talk about further education.

**F. Board of Health discussion of continuing to acknowledge and appoint the Town Clerk to fulfill the roll of special agent signing death certificates and burial permits**

Mr. Antoine moved that the Board of Health continue to acknowledge and appoint the Town Clerk to fulfill the role of special agent signing death certificates and burial permits, 2<sup>nd</sup> by Ms. Pflieger and approved 5-0-0.

**IV OLD/UNFINISHED BUSINESS**

**A. Continued Hearing-Faulkner, 38 Lincoln Village Road**, to consider variances to upgrade an existing failed septic system to a Title 5 septic system. Plan prepared by Dan A. Speakman Construction. Application also shows a proposed family room and garage addition on the first floor and proposed addition and storage addition on the second floor. (Continued from December 21, 2021 meeting)

Variances from 310 CMR 15.211- Minimum Setbacks

1. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 15' from the foundation where 20' is required. Variance request of 5'.
2. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 6' from the property line where 10' is required. Variance request of 4'.
3. Per 310 CMR 15.211: To allow a proposed septic tank to be 6' from the property line where 10' is required. Variance request of 4'.
4. Per 310 CMR 15.211: To allow a proposed septic tank to be 9' from the foundation where 10' is required. Variance request of 1'.

The Health Department received an email from the property owner who requested an extension until the February 15, 2022 Board of Health meeting.

Ms. Pflieger moved to continue the hearing for 38 Lincoln Village Road until the February 15, 2022 Board of Health meeting, 2<sup>nd</sup> by Mr. Antoine and approved 5-0-0.

**V NEW BUSINESS**

**A. Public Hearing**-to solicit public comment on the proposed creation of fee(s) for piggery applications & for the Board of Health to vote to adopt the fee(s)

Chairwoman Howell opened the public hearing. Health Director O'Neill stated that the Board does not have to vote on the fee tonight if they would like to have further discussions.

Aaron Gingras was present and stated that it might be hard to discuss fees if we don't know what we are talking about. He suggested that the Board talk about regulations before they discuss the fee structure.

The Board agreed to take the proposed creation of fee(s) for piggery applications under consideration for future discussion. No vote was taken.

**B. Show Cause Hearing-Fitzpatrick, 100 Route 28-** Show Cause hearing to discuss non-compliance with an order issued to upgrade a failed septic system/failure to comply with Board of Health conditions set on November 16, 2021

Chairwoman Howell opened the hearing. Stephen Fitzpatrick was present. He purchased the property in 2016 with the intention of converting it to a multi-family dwelling. He stated that he did not move into the property until 2020. When the system failed, Mr. Fitzpatrick had it power washed and vacuumed out and had water put in the tank. He puts water in the tank every month. Mr. Fitzpatrick acknowledged that he missed the November 16, 2021 Board of Health meeting, but he came into the office the next day. He also contacted an engineer right away. The property is for sale and there is a buyer. The original engineer that Mr. Fitzpatrick contacted was no longer available, so he contacted someone else. Soil tests were witnessed on the property today. The buyer has offered to upgrade the septic system.

Richard Thompson was present and is the potential buyer for the property. Mr. Thompson stated that he will take over the responsibility of having the system upgraded. While Mr. Thompson will not be living at the property, he would like to have it as a long-term rental. He will be applying for permits to make a living space on the 2<sup>nd</sup> level of the 2 car garage so he would be looking to upgrade to a 4 bedroom septic system. Mr. Thompson has asked Mr. Fitzpatrick to stay in the property until he returns to the Cape.

Health Director O’Neill asked the Board if they would allow the transfer of property with the failed septic system. If so, she would recommend that the septic be upgraded within 45 days of the date of transfer. Health Director O’Neill added that the Board could extend the water shut off until March or April with the provision that the system be installed within 45 days of the transfer.

**Mr. Dowgiallo moved to extend the water shut off condition until April 1, 2022 and to allow for the waiver of transfer, noting that the installation of the septic system must be completed within 45 days of date of transfer, monthly septic pumping records are required to be submitted to the Health Department and no further extensions to the water shut off will be given, 2<sup>nd</sup> by Ms. Pflieger and approved 5-0-0.**

Health Director O’Neill added that the owner and buyer will still need to complete the waiver process, which is a separate application through the Health Department.

**VI REPORT OF THE HEALTH DIRECTOR**

Health Director O’Neill read her monthly report.

**VII CORRESPONDENCE**

No correspondence was discussed.

**VIII PERMITS**

ESTABLISHMENT	ADDRESS	TYPE	TYPE	TYPE	TYPE
<b>SEPTIC INSTALLER</b>					
Accu Sepcheck *					
Borthwick & Summers *					
CC Construction *					

Cape Cod Septic Inspection *					
Cardinal Construction *					
Condons Excavating *					
Ellis Brothers *					
EZ Doze It Excavating *					
Holmes Land Service *					
J. O'Loughlin, Inc. *					
Lower Cape Excavation *					
Matthew A. Eldredge Bobcat Service *					
Northeast Construction *					
Peter J. Govoni Land Services *					
R.A. Spiller, Inc. *					
Richard Judd *					
Robert B Our Company *					
Rooter Man of Cape Cod *					
Speakman Excavating *					
T.W. Nickerson Inc. *					
Terry Walker Excavation *					
Wall Septic Service *					
<b>SEPTIC HAULER</b>					
Discount Septic *					
Ellis Brothers *					
J. O'Loughlin, Inc. *					
Robert B Our Company *					
Rooter Man of Cape Cod *					
Scott Frank Septic *					
Speakman Excavating *					
Tulloch Septic Service *					
Wall Septic Service *					
<b>FOOD SERVICE</b>					
AFC Sushi at Shaws *	18 Sisson Road	<50 sf (non PHF)			
Allen Harbor Yacht Club *	371 Lower County Road	>150 seats			
Barnaby Inn *	36 Route 28	<50 sf (non PHF)			
Bucas *	4 Depot Road	31-60 seats			
Cape Cod Cranberry Harvest *	33 Rocky Way	Residential Food Service	Event Permit		
Cape Cod Macarons *	11 Katie's Pond Lane	Event Permit	Limited Food Service		
Cape Cod Regional Tech School *	351 Pleasant Lake Avenue	Institution			
Cape Roots Market & Café *	557 Route 28	Retail: less than 5000 sf	1-30 seats	Milk & Cream	
Capeside Kitchen *	537 Route 28	61-150 seats			
Castaways *	986 Route 28	61-150 seats			
CBQ Barbeque *		Mobile Food Service			
Christ Church Episcopal *	671 Route 28	Institution			
Cove Clubhouse *	383 Route 28	Institution			

Cumberland Farms *	578 Route 28	less than 5000 sf	Milk & Cream	Limited Food Svc.	
CVS # 860	10 Post Office Road	Retail: 5000-25000 sf	Milk & Cream		
CVS # 1859	148 Route 137	Retail: 5000-25000 sf	Milk & Cream		
Depot Dogs *		Mobile Food Service			
Dominos *	16 Route 28	Take Out	1-30 seats		
Hands of Hope Food Pantry *	49 Route 28	Institution			
Harwich Port Dairy Queen *	443 Route 28	1-30 seats	Frozen Dessert		
Harwich Port House of Pizza *	330 Route 28	31-60 seats			
Hissho Sushi *	111 Route 137	<600 sf			
Hot Stove Saloon *	551 Route 28	61-150 seats			
Inn on the Beach *	16 Bank Street	Limited Food Service			
Jake Rooney's *	119 Brooks Road	61-150 seats			
L'Alouette *	787 Route 28	61-150 seats			
Mooncussers Tavern *	86 Sisson Road	61-150 seats			
Noble House *	21 Route 28	61-150 seats			
One Thirty Seven Gas *	110 Route 137	Retail: less than 5000 sf	Milk & Cream	Limited Food Svc.	
Pilgrim Lodge *	706 Main Street	Institution			
Pleasant Lake Pizza Shark *	403 Pleasant Lake Avenue	<600 sf	Frozen Dessert	Milk & Cream	Take Out
Regal Care at Harwich *	111 Headwaters Drive	Institution			
St. Peters Lutheran Church *	310 Route 137	Institution			
Starbucks @ Star Market # 4596 *	18 Sisson Road	1-30 seats			
Star Market # 4596 *	18 Sisson Road	Retail: Greater than 25000 sf	Milk & Cream	Take Out	
The Lanyard *	429 Route 28	61-150 seats			
The Lunch Stop *	1421 Orleans Road	Take Out			
The Seal Pub & Café *	703 Main Street	Retail: <50 square feet	1-30 seats	Caterer	Frozen Dessert
Upper Crust Pizza *	1421 Orleans Road	1-30 seats			
<b>STABLE</b>					
Brian & Gloria Savin *	117 North Westgate Road	Residential			
Cape Farm Supply/Leo Cakounes *	374 Main Street	Residential			
Cape Farm Supply/Leo Cakounes *	1590 Factory Road	Residential			
Catherine Karras *	105 Round Cove Road	Residential			
Christopher & Angela McNamara *	196 Bank Street	Residential			
Erin McWilliams *	758 Depot Street	Residential			
Forget Me Not Farm *	236 South Street	Residential			
Jody Ellis *	307 Queen Anne Road	Residential			
Kathy Gould *	98 Old Chatham Road	Residential			
Kristen Goulis & Ronald Daigle *	9 Sadie's Way	Residential			
MaKenna Arrigo *	28 Deacons Folly Road	Residential			
Memory Lane Farm *	331 Main Street	Commercial			
Sandra Smith *	941 Route 28	Residential			
Seahorse Equestrian Center *	34 Lynch Lane	Commercial			
Solomon & Laurie Jean Ellis *	15 North Westgate Road	Residential			
Tom & Ashby Crafts *	41 Gilbert Lane	Residential			



Westgate Farm *	210 South Westgate Road	Commercial		
<b>TOBACCO</b>				
AJ Luke's *	224 Route 28	Retail Tobacco		
Cranberry Liquors *	555 Route 28	Retail Tobacco		
Cumberland Farms *	578 Route 28	Retail Tobacco		
One Thirty Seven Gas *	110 Route 137	Retail Tobacco		
<b>UTILITY INSTALLER</b>				
Apex Excavating *				
Borthwick & Summers *				
Northeast Construction *				
Peter J. Govoni Land Services *				
Robert B Our Company *				
T.W. Nickerson Inc. *				
<b>TITLE 5 INSPECTOR</b>				
<b>A &amp; S Construction, Inc. (2022 NEW)</b>				
Caleb Paus *				
Dan Speakman *				
Darrell Stone *				
David J. Burnie *				
Jeffrey M. Wall *				
Joseph Martins *				
Michael O'Loughlin *				
Richard Judd *				
<b>REFUSE HAULER</b>				
The Brothers Disposal *				
<b>*2022 Renewal</b>				

Ms. Pflieger moved to approve the permits as listed, 2<sup>nd</sup> by Mr. Dowgiallo and approved 5-0-0.

**IX     OTHER**

No other items were discussed.

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

Ms. Pflieger moved to adjourn the meeting at 7:55 p.m., 2<sup>nd</sup> by Mr. Dowgiallo and approved 5-0-0.

Respectfully Submitted,



Jennifer Clarke

Next meeting is Tuesday, February 15, 2022 at 6:30 p.m.

Documents included in the January 18, 2022 Board of Health Meeting Packet:

- January 18, 2022 Board of Health Agenda
- Draft Board of Health Minutes dated December 21, 2021
- Draft Board of Health Minutes dated December 28, 2021
- Draft Declaration of Public Health Emergency Mask Order dated January 18, 2022
- COVID-19 update dated January 13, 2022
- COVID-19 Information Sheet & Flow Chart
- Massachusetts COVID-19 Vaccine Program Bulletin dated January 11, 2022
- Baker-Polito Administration Memo dated January 10, 2022
- Email from Jesse Gallante dated December 28, 2021
- Town of Chatham Board of Health Animal Regulation
- Town of Brewster Board of Health Animal Regulation
- Town of Dennis Animal Regulation
- Town of Yarmouth Board of Health Stable Regulation
- Town of Harwich Fertilizer Policy Guidelines for Nutrient Control
- Death Certificate Signatures memo dated December 5, 2017
- Death Certificate Signatures memo dated June 12, 1992
- Site Summary for 38 Lincoln Village Road dated December 21, 2021
- Variance Application and associated documents for 38 Lincoln Village Road dated November 22, 2021
- Town Fee Survey for piggery fees
- Legal ad for piggery fee hearing dated December 8, 2021
- Site Summary for 100 Route 28 dated January 18, 2022
- Notice to Appear Before the Board of Health for 100 Route 28 dated January 4, 2022
- Letter to owner of 100 Route 28 dated November 22, 2021
- Pumping record for 100 Route 28 dated November 29, 2021
- Health Director Monthly Report dated January 2022
- Any other documents submitted for/at the January 18, 2022 Board of Health Meeting