

TOWN OF HARWICH



BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH
TUESDAY, JANUARY 15, 2019-6:30 P.M.
HARWICH TOWN HALL – SMALL HEARING ROOM
MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Pamela Howell R.N., Vice Chairman Frank Boyle, Cynthia Bayerl, Matthew Cushing M.D., and Ron Dowgiallo, D.M.D

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

OTHERS PRESENT: Selectman Larry Ballantine, Cyndi Williams, Dan Croteau, Attorney Bill Reilly, Taylor Powell, Rob McPhee, Sarah Turano Flores & 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.

Chairwoman Howell welcomed Ron Dowgiallo, D.M.D as the newest member of the Board of Health.

II MINUTES OF PREVIOUS MEETING- December 11, 2018

Dr. Cushing moved to approve the minutes of the December 11, 2018 Board of Health meeting, 2nd by Mr. Boyle and approved 4-0-1 (Dowgiallo).

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

A. Discussion-Accessory Apartments-Wastewater Flows- update from Liaison Larry Ballantine regarding the Board of Selectmen and Planning Board discussions regarding land use controls, zoning and accessory apartments and the Board of Health's involvement.

Board of Health Liaison Larry Ballantine was present to discuss the Board of Health's involvement regarding land use controls, zoning and accessory apartments with regard to wastewater flows. Mr. Ballantine's concern is that Harwich may seem to be supporting two possibly competing directives-affordable housing versus sewerage/septic guidelines. He contacted the Department of Environmental Protection and Cape Cod Commission for input on how we might be able to increase the ability to add a bedroom above what our Title 5 regulations currently allow. Once the dwelling is connected to municipal sewer, the Board of Health will no longer have jurisdiction over the septic flow.

Ms. Bayerl asked which department would be responsible for monitoring the flow that is sent to the Chatham Treatment Facility. Mr. Ballantine responded that it would be the responsibility of Harwich to monitor their flow and added that there will be flow gauges going into the treatment facility to make sure that we are not exceeding our capacity. There is a financial benefit to Harwich to not go over our allowed flow.

Mr. Ballantine reviewed what neighboring towns have adopted in regards to expansion.

Mr. Boyle asked if Mr. Ballantine feels that there will be demands from citizens who would like to have restaurants in the sewer area, and if there will be competition for sewerage flow. Mr. Ballantine responded that he could foresee those requests coming forward.

Ms. Bayerl asked who might oppose allowing accessory dwelling units. Mr. Ballantine responded that there is always a concern that expansion will go beyond the towns control and there will be an explosion of growth.

At this time, Mr. Ballantine hopes that the Board of Health will continue this discussion to try and work towards developing a policy that will encourage accessory housing units within the concept of wastewater flow control.

B. Discussion-Sewer Connection Extension Requests- Discuss how the Board would like to proceed with the process of reviewing requests to extend the mandatory connection time to the municipal sewer.

Health Director Eldredge reported that in approximately 2 years, the Board of Health will be sending out the first orders to connect to the municipal sewer system. As of now, it will be a 1 year connection requirement, which will hopefully be extended to 2 years. When the first round of connection orders go out, the Health Department will likely receive requests for extension and there should be a set of criteria that is followed.

Dr. Cushing feels that the age of the existing septic system should be an important criteria when considering requests.

Ms. Howell would like to make sure that there is a way to assist those residents who might be house-bound in keeping them up to date on information.

At this point in the process, Health Director Eldredge and the Town Administrator feel that current staff can handle the workload. As the project moves forward, staffing requirements may change with the long term goal that a sewer department will be created.

This discussion will be continued at a future meeting.

C. Discussion-Reconsideration Requests- Discuss guidelines for the review of requests to reconsider previous orders of conditions regarding a change in habitable space

In 2018, there were 7 requests for reconsideration of previous orders of conditions, which is an increase from 3 requests in 2017 and 3 requests in 2016. The reason that conditions are placed on properties is because a compliant septic system cannot be installed due to site restraints-lot coverage or proximity to a resource like a wetland/coastal dune/stream.

Dr. Cushing wondered if there would be a way to monitor wastewater flow versus water usage. The Board continued a brief discussion on what would be the most efficient way to obtain correct and up to date water records.

Ms. Howell stated that her concerns regarding reconsideration requests are with the properties that are close to the water in the campground area.

Mr. Boyle feels that the bump in reconsideration requests are in line with the current economy. He also feels that consistency is important and the Board's current process of reviewing reconsiderations works well. The Board reviews floor plans to ensure the added space does not lend itself to accessory apartment use or extra bedrooms unless the septic system is compliant.

Dr. Dowgiallo asked what other towns are doing regarding these requests. Health Director Eldredge responded that Harwich is consistent with Dennis, Yarmouth and Chatham, while Brewster has a more strict definition of a

bedroom. In Dennis, when an applicant asks for an increase near a resource area, they are almost always required to install Innovative Alternative Technology.

IV 7:00 PM- OLD/UNFINISHED BUSINESS

A. Continued Hearing-Perks/Taylor & Sarah Powell, 545 Route 28- request to amend the restrictions on the current food service permit and allow an expansion of space into the existing retail area of the building. Proposal includes a request for indoor service space, and patron use of a restroom (to be installed) (Continued from December 11, 2018)

Chairwoman Howell opened the hearing. Attorney William Riley and Taylor Powell were present. Attorney Riley wanted to specifically discuss the possibility of adding Innovative Alternative (I/A) Technology to the septic system to provide relief. Health Director Eldredge responded that an I/A system would reduce both BOD and nitrogen, not necessarily the size of the leach field; an engineer would be able to recommend what would best work for the site.

Mr. Powell informed the Board that he would like to be able to take advantage of the indoor space on inclement weather days. The current proposal is for the front space to be an open bar area with no seats and that the lack of seats would allow for the Board to grant relief. Mr. Boyle disagreed and stated that it would work in the opposite direction. When there are no seats, there is space for unlimited patrons.

Ms. Howell added that Mr. Powell is not addressing the situation that the establishment is already over the allowed septic capacity.

Dr. Cushing feels that the real issue is the use of the restroom. Health Director Eldredge added that the only reason the public is not allowed to use the existing restroom is because the access goes through the kitchen. They can modify their floor plan to make the restroom accessible to the public without the Board's permission.

Health Director Eldredge stated that she could consider recommending the request if the applicant were to eliminate the plumbing fixtures from the 2nd story apartment converting it to storage space, integrate I/A technology into the septic system, install a composting toilet for patron use and remain seasonal with a paper restriction. Additionally, an inspection of the existing septic system would also need to be done. A new application would need to be filed, outlining this business plan. While these considerations would not guarantee approval, they would allow her to look more favorably on the request.

Dr. Cushing stated that he would be in favor of a composting toilet and suggested that the restrooms be limited to patron use only. The Board and applicant discussed how that would be enforced.

Mr. Powell does not want to be required to close his outdoor business on bad weather days and move business indoors. He would like to utilize the indoor space.

Before making any decisions, Ms. Bayerl stated that she would like to see the proposed changes in writing and would like more information on the properties water use.

Chairwoman Howell closed the hearing.

Mr. Boyle made the suggestion that Mr. Powell invest his money into the kitchen and a public restroom, and focus on the space that they currently have in operation. At some point, this property might be connected to municipal sewer which would change the current restrictions. Ms. Howell agreed.

Attorney Riley requested a continuance until the February 12, 2019 Board of Health meeting so that his client can work on a plan that would incorporate the Health Director's recommendations.

Dr. Cushing moved to continue the hearing for Perks/Taylor & Sarah Powell, 545 Route 28 until the February 12, 2019 Board of Health meeting, 2nd by Ms. Bayerl and approved 5-0-0.

V NEW BUSINESS

Board of Health-January 15, 2019

A. Public Hearing-To solicit public comment on the proposed creation of fees for new license and permit types. These new types include Licensed Utility Installers and Sewer Connection Permits.

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

Mr. Boyle moved to approve a fee of \$125.00 for the Licensed Utility Installer Permit Application, 2nd by Ms. Bayerl and approved 5-0-0.

Dr. Cushing moved to approve a fee of \$0.00 for the Sewer Connection Permit, with the condition that the Board of Health reserves the right to revisit the fee in the future, 2nd by Mr. Boyle and approved 5-0-0.

B. Hearing-Walsh, 9 Fiddlers Landing- To reconsider Order of Conditions dated August 12, 1997-There is to be no expansion of the dwelling beyond the existing floor plan or square footage. Proposal to renovate the existing finished basement by adding 345 square feet of livable space to the existing basement (no additional bedrooms proposed).

Chairwoman Howell opened the hearing. Rob McPhee from McPhee Associates was present. At this time, the owners are requesting to an increase of habitable space by finishing the basement. The proposed alteration would include a living space and half bathroom with no shower proposed. The finished area would be used as a playroom and does provide direct access outside.

Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval of the reconsideration with the following conditions:

1. The dwelling is restricted to a maximum of 4 bedrooms.
2. No increase in habitable space or square footage without further review by the Board of Health.
3. The room in the basement shall not be used for sleeping purposes.
4. A copy of the floor plan and the approval shall be recorded at the Barnstable County Registry of Deeds to run with the property.

Dr. Cushing stated that he does not see the connection between sleeping space and water use and that just because a room doesn't have a bed in it, doesn't mean that the property will not have additional water use. A discussion on how wastewater flow is calculated took place.

Ms. Bayerl moved to accept the recommendation of the Health Director for 9 Fiddlers Landing, 2nd by Dr. Cushing and approved 5-0-0.

C. Hearing-Oceanside Property Investments LLC, 540 Route 28- to consider a variance request to install a new Title 5 septic system prepared by Moran Engineering Associates, LLC

Variations from 310 CMR 15.211-Minimum Setbacks

1. Per 310 CMR 15.211(1): To allow a proposed septic tank to be 6' from the crawl space foundation where 10' is required. Variance request of 4'.
2. Per 310 CMR 15.211(1): To allow a proposed septic tank to be 7' from the water line where 10' is required. Variance request of 3'. (New sleeved water line installed in December 2018).
3. Per 310 CMR 15.410: To allow septic system to be located beyond the property line-pursuant to an easement. (Existing easement recorded at Barnstable County Registry of Deeds as Book 2894, Page 156 and Book 4006, Pages 155 & 156).

Chairwoman Howell opened the hearing. Dan Croteau from Moran Engineering Associates, LLC was present. The proposed septic upgrade includes a 1500 gallon two compartment septic tank, dbx and slab over the existing leach pit to enable vehicular traffic load. A recorded easement exists for the septic system, however official approval from the Board of Health was never given.

Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval of the variances with the following conditions:

1. Building is to be restricted to uses with wastewater flows of 300 gallons per day or less.
2. No increase in square footage or habitable space
3. Variances and conditions to be recorded at the Barnstable County Registry of Deeds.
4. No garbage disposal.

Dr. Cushing moved to accept the recommendation of the Health Director for 540 Route 28, 2nd by Ms. Bayerl and approved 5-0-0.

D. Hearing-Wang, 4 Quason Lane- to consider a variance request to install a new 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 6' from the property line where 10' is required. Variance request of 4'.
2. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 16' from the cellar wall where 20' is required. Variance request of 4'

Chairwoman Howell opened the hearing. Dan Croteau from Moran Engineering Associates, LLC was present. The owners are proposing to demolish and rebuild the dwelling with no increase in the number of bedrooms. The new floor plan consists of an unfinished full basement under the existing dwelling and a full basement with bathroom/laundry facilities under the guest living quarters. The existing property consists of a 5 bedroom dwelling with a 1 bedroom guest cottage.

Sarah Turano-Flores was present to represent the owners of 2 Quason Lane. She noted that the right of way shown on the plan is the sole right of way for her clients. They would like to be assured that the proposed components can sustain the traffic flow. Her client would also like a time of year limitation as to when the system is installed, so that the installation does not disrupt the use and access to their property. Mr. Croteau responded that the proposed components have the capacity to be driven on, and that the final installation will be inspected by Moran Engineering as well as the Town of Harwich Health Department. Mr. Croteau spoke with Attorney William Crowell's office regarding the time of year that the installation would be completed. The agreement would be between the property owners and not with the Board of Health.

Chairwoman Howell closed the public hearing.

Health Director Eldredge recommended approval of the variances with the following conditions:

1. Property is restricted to a maximum of 5 bedrooms per plans dated 12.27.18 by Sandbox Design Studio LLC
2. No increase in square footage or habitable space without further review by the Board of Health
3. Variances and conditions to be recorded at the registry of deeds
4. No garbage disposal.
5. The construction/installation of the septic system will not take place between July 1 and Labor Day.

Dr. Cushing moved to accept the recommendation of the Health Director for 4 Quason Lane, 2nd by Ms. Bayerl and approved 5-0-0.

VI REPORT OF THE HEALTH DIRECTOR (December 2018)

Health Director Eldredge read her monthly report for December 2018.

VII CORRESPONDENCE

No correspondence was discussed.

VIII PERMITS

ESTABLISHMENT	ADDRESS	TYPE	TYPE	TYPE
MOTEL				
Cape Cod Wishing Well *	212 Route 28			
The Commodore Inn *	30 Earle Road			
STABLE				
Catherine Karras *	105 Round Cove Road	Res. Stable		
Christopher & Angela McNamara *	196 Bank Street	Res. Stable		
Chrystal Kline *	324 Oak Street	Res. Stable		
Deacons Folly Farm *	41 Deacons Folly Road	Com. Stable		
Eliza Kendall *	90 Old Chatham Road	Res. Stable		
Grace B. Watling *	1622 Orleans Road	Res. Stable		
James & Susan Atherton *	1030 Factory Road	Res. Stable		
Memory Lane Farm *	331 Main Street	Com. Stable		
Reaching For My Dreams Stable *	38 N. Westgate Road	Com. Stable		
Ronald Daigle & Kristen Goulis *	9 Sadies Way	Res. Stable		
Solomon & Laurie Jean Ellis *	15 N. Westgate Road	Res. Stable		
SEPTIC INSTALLER				
Accu Sepcheck *				
AMA Excavating LLC *				
Ambrose Homes *				
Better Cape Plumbing *				
Borthwick & Summers Inc *				
Bosetti Septic Systems *				
C.C. Construction, Inc. *				
Cape Cod Septic Inspection *				
Copper Moon Landscape *				
D.G. Digging *				
Dan A. Speakman Const *				
E-Z Doze It Excavating *				
F.L. Quinn Construction *				
F.S. Rich Excavating *				
GFM Enterprises *				
J. Iadonisi Construction *				
J.W. Dubis & Sons Inc. *				
John Martin Inc. *				
Ken Rose Septic Service *				
Matthew A. Eldredge Bobcat Svc *				
Minot Reynolds *				
Northeast Construction *				
P.K.M. Contractors *				
Pastore Excavation *				
Ready Rooter Excavating *				
Ready Rooter Inc. *				
Reis Services *				
Richard Judd, R.S. *				
Riker Land Construction *				
Rons Excavating *				
T.W. Nickerson *				
Turner Brothers *				
Wall Septic *				
SEPTIC HAULER				

Aatta Boy Septic Service *				
Dan A. Speakman Const *				
Debarros Septic *				
Discount Septic Pumping *				
E.F. Winslow *				
J.W. Dubis & Sons Inc. *				
Josh M. Barros Septic Service *				
P.K.M. Contractors *				
Pastore Excavation *				
Ready Rooter Inc. *				
Tulloch Septic Service LLC *				
Waste Water Service Inc. *				
Wall Septic *				
FOOD SERVICE				
AFC Sushi at Shaws *	18 Sisson Road	Take Out		
Barnaby Inn *	36 Route 28	Limited Food Service		
Bucas *	4 Depot Road	31-60 seats		
Capeside Kitchen *	537 Route 28	61-150 seats		
Castaways *	986 Route 28	61-150 seats		
Commodore Inn *	30 Earle Road	31-60 seats	Event Permit	
Cove Clubhouse *	383 Route 28	Institution		
CVS Pharmacy # 860 *	10 Post Office Square	Retail: 5000-25000 sf	Milk & Cream	
CVS Pharmacy # 1859 *	148 Route 137	Retail: 5000-25000 sf	Milk & Cream	
Depot Dogs *		Mobile Food Service		
Domino's Pizza *	16 Route 28	1-30 seats	Take Out	
First Congregational Church *	796 Main Street	Institution		
Hands of Hope Food Pantry *	49 Route 28	Institution		
Harwich Elementary School *	263 South Street	Institution		
Harwich Golf Associates Inc. *	51 South Street	Limited Food Service		
Harwich Port House of Pizza *	330 Route 28	31-60 seats		
Harwich United Methodist Church *	1 Church Street	Institution		
Holy Trinity Church *	246 Route 28	Limited Food Service		
L'Alouette *	787 Route 28	61-150 seats		
Mad Minnow Bar & Kitchen *	554 Route 28	31-60 seats		
Mobile Mixers-NEW		Mobile Food Service		
Monomoy Regional H.S. *	75 Oak Street	Institution		
Moonshine Liquors *	4 Great Western Road	Retail: <600 sf		
Rosewood Manor *	671 Main Street	Institution		
Starbucks *	111 Route 137	1-30 seats		
Stop & Shop # 475 *	111 Route 137	Retail: Greater than 25000 sf	Milk & Cream	Take Out
The Lanyard Bar & Grill *	429 Route 28	61-150 seats		
The Mason Jar *	544 Route 28	1-30 seats	Caterer	
The Tern Inn *	91 Chase Street	1-30 seats		
REFUSE HAULER				
M.A. Frazier *				
Waste Management of Mass Inc. *				
TITLE 5 INSPECTOR				
Adam Riker *				
Caleb Paus *				
Dan A. Speakman *				
Darrell Stone *				
James D. Sears *				
Jeffrey M. Wall *				
Joe Martins *				

Kevin J. Sullivan *				
Richard Judd, R.S. *				
TOBACCO				
Harwich Gas & Propane *	729 Main Street			
Moonshine Liquors *	4 Great Western Road			
2019 Renewal *				

Ms. Bayerl moved to approve the permit listed dated January 15, 2019 as presented, 2nd by Dr. Cushing and approved 5-0-0.

IX OTHER

Ms. Bayerl asked to have a discussion at the February 12, 2019 meeting regarding the short term rental tax.

XII ADJOURN -The meeting adjourned at 8:46 p.m.

Mr. Boyle moved to adjourn at 8:46 p.m., 2nd by Dr. Cushing and approved 5-0-0.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, February 12, 2019 at 6:30 p.m. in the Small Hearing Room.

Documents included in January 15, 2019 Board of Health Meeting Packet:

- Board of Health Agenda dated January 15, 2019
- Draft Board of Health minutes dated December 11, 2018
- Email correspondence and associated documents regarding accessory apartments dated November 8, 2018
- Site Summary for Sewer Connection Requests Dated January 15, 2019
- Site Summary for Reconsideration Requests Dated January 15, 2019
- Site Summary for Perks dated January 15, 2019
- Letter of Continuance for Perks dated December 19, 2018
- Copy of Site Plan for Perks
- Water Usage Report for Perks dated November 28, 2018
- Request Letter for Perks dated January 2, 2019
- Site Summary for Public Hearing Regarding Fees dated January 15, 2019
- Legal Ad for Public Hearing Regarding Fees dated December 13, 2018
- Site Summary for 9 Fiddlers Landing dated January 15, 2019
- Reconsideration Application and Associated Documents for 9 Fiddlers Landing dated December 31, 2018
- Site Summary for 540 Route 28 dated January 15, 2019
- Variance Application and Associated Documents for 540 Route 28 dated January 2, 2019
- Site Summary for 4 Quason Lane dated January 15, 2019
- Variance Application and Associated Documents for 4 Quason Lane dated January 2, 2019
- Health Director Monthly Report and Associated Documents dated December 2018
- Any other documents submitted for the January 15, 2019 Board of Health meeting