

TOWN OF HARWICH



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
TUESDAY, JANUARY 19, 2021-6:30 P.M.
HARWICH TOWN HALL – REMOTE MEETING**

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

STAFF MEMBERS PRESENT: Health Director Meggan Eldredge, Senior Health Agent Kathleen O’Neill & Executive Assistant Jennifer Clarke

Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Board of Health is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order.

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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 15, 2020

Ms. Pflieger moved to approve the minutes of the December 15, 2020 Board of Health meeting, 2nd by Mr. Dowgiallo. The vote was 5-0-0 with Ms. Howell, Ms. Pflieger, Mr. Dowgiallo, Mr. Antoine & Mr. DuPont all voting aye by roll call.

III **6:30 PM - BOARD OF HEALTH WORK SESSION**

A. COVID-19 Update

Health Agent O'Neill reviewed the Health Director's most recent COVID-19 update dated January 11, 2021 as presented in the Board of Health packet.

Mr. DuPont stated that Outer Cape Health Services is offering COVID-19 asymptomatic testing for travel for a fee of \$110.00. They are also offering the free COVID-19 testing which is expected to run through February.

Ms. Pflieger asked what vaccine is being used at Outer Cape. Mr. DuPont responded that they are using the Moderna vaccine. Health Agent O'Neill added that the existing COVID-19 vaccine clinics for first responders are using Moderna as well. Ms. Howell noted that Cape Cod Hospital was using the Pfizer vaccine for their healthcare workers.

Mr. Antoine asked how Harwich is keeping track of the number of people who have been vaccinated. Health Agent O'Neill responded that Barnstable County has likely been keeping track of vaccines that have been given and should have statistics released soon. Once we are in Phase 2 of the vaccine distribution plan, we will have better information.

B. Proposed FY22 Budget

Health Agent O'Neill read the Health Director's FY22 budget request memo dated December 4, 2020.

The Board did not have any questions about the information presented.

Ms. Pflieger moved that the Board of Health support the FY22 budget request as outlined in the memo dated December 4, 2020, 2nd by Mr. DuPont. The vote was 5-0-0 with Ms. Howell, Ms. Pflieger, Mr. Dowgiallo, Mr. Antoine & Mr. DuPont all voting aye by roll call.

IV **NO EARLIER THAN 7:00 PM -OLD/UNFINISHED BUSINESS**

No old/unfinished business was discussed.

V **NEW BUSINESS**

A. Hearing-Fuller, 26 Kevin Road- to reconsider Order of Conditions granted on February 11, 2014- There is to be no increase in habitable space, flow design, number of bedrooms (one bedroom maximum. Loft/storage not to be used as a bedroom-storage area access by ships ladder only) and square footage to the dwelling. Applicant is requesting to change ships ladder access to an upstairs storage area to a set of stairs

Chairwoman Howell opened the hearing. Present remotely were Attorney William Crowell, Robert Stello of Stello Construction and Colin Fuller.

Health Director Eldredge reviewed the history of the property.

Attorney Crowell was present to represent the property owners who are requesting to modify the existing order of conditions that there is to be no increase in habitable space, flow design, number of bedrooms (one bedroom maximum. Loft/storage space not be used as a bedroom-storage access by

ships ladder only) and square footage to the dwelling. The applicant is requesting to change the ships ladder access to the upstairs storage area to a set of stairs for health reasons to better access the loft for storage and exercise area. Attorney Crowell read into the record a letter from Mr. Fuller's doctor. He added that this request is all about the safety of Mr. Fuller. It was stated that the ships ladder is dangerous for Mr. Fuller to navigate.

Mr. Stello reviewed what the changes to the structure would be, noting that they did try to find alternatives.

Mr. Fuller asked for the Board's consideration of his request so he can safely maintain access to the loft area for storage and exercise.

Chairwoman Howell closed the hearing.

Health Director Eldredge read into the record an email from the previous Health Director dated October 5, 2015. The email references previous complaints about beds in the alcove area by the stairs to the loft. In the email, the owners were reminded that the property has a one bedroom deed restriction. Also in the email is a statement that the Board of health was adamant about the approved floor plan and that they were reluctant to even grant the loft, which they believed did not pass the straight face test. Mr. Fuller acknowledged the email and added that he had verbal agreement with the previous Health Director that a futon could remain in the alcove. Health Director Eldredge reviewed the existing and proposed floor plans of the dwelling.

This property was a very rustic cabin that was served by a cesspool. In 2013, the family had requested to demolish the cabin and construct a one bedroom seasonal cottage. The property is in a Zone II and is served by a tight tank because the lot does not have the space for a conventional septic system. The majority of the property is within 100' of the edge of wetland.

Health Director Eldredge stated that she cannot recommend approval of the request. The proposed staircase is quite large. If you keep the ships ladder, you would still have the living room space which she believes is an adequate amount of space for exercise needs. The loft area must remain for storage only.

Ms. Pflieger asked why the large sunroom could not be used for exercising, which would eliminate the concern of Mr. Fuller having to navigate any steps at all. Mr. Fuller responded that part of the sunroom is used as a dining room and also houses a large sofa and TV, noting that there is very little room for exercise. Mr. Fuller added that he needs access to the loft area to get items that are in storage. Ms. Pflieger asked why someone else couldn't go into the storage area, if Mr. Fuller is concerned about his balance. Mr. Fuller responded that his wife works, so he is alone in the house most of the time. They keep clothes, cooking pots, sailing equipment, swimming equipment etc. in the loft area because there are not many areas for storage on the first floor.

Attorney Crowell stated that he doesn't think that allowing the loft to be used for storage and exercise would rise to the level of making it habitable space. He suggested that the Board could put a limitation on the space that it be used for storage and exercise only, which would take away the assumption of it being considered habitable. He concluded by saying that if Mr. Fuller didn't have his medical condition, that the area could be used for storage and exercise anyways. This request is being made because Mr. Fuller's health has changed and he is not able to negotiate the ships ladder.

Ms. Howell asked what the size of the alcove is. Mr. Stello responded that it is approximately 7.8' by 9.5'.

Mr. DuPont asked if the loft area space would change at all with the addition of the stairs. Mr. Stello stated that there would be a closet that would need to be moved around.

Ms. Pflieger feels that by putting in a permanent staircase, it would make it easier for the loft area to be used as a bedroom or habitable space. She again stated that the sunroom seems like the most logical place for exercise activities to take place.

Mr. Dowgiallo moved to grant the request to modify the order of conditions and allow the ships ladder to be replaced with a permanent set of stairs, 2nd by Mr. DuPont. The vote was 2-3-0 with Mr. Dowgiallo and Mr. DuPont voting aye and Ms. Howell, Ms. Pflieger and Mr. Antoine voting nay. The request for reconsideration was denied.

B. Hearing-Skahen, 4 Lantern Lane- to consider a variance request to upgrade a Title 5 septic system. Plan prepared by Dan A. Speakman Construction
Variances from 310 CMR 15.211: Minimum Setbacks

1. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 7' from the property line where 10' is required. Variance request of 3'.
2. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 10' from the foundation where 20' is required. Variance request of 10'.

Chairwoman Howell opened the hearing. Dan Speakman of Dan A. Speakman Construction was present remotely. Health Director Eldredge reviewed the variances that are being requested. The application proposes to replace a failed septic system with a Title septic system. The septic system is designed for three (3) bedrooms and no major alterations or additions are proposed at this time.

Chairwoman Howell closed the hearing.

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

1. Property is restricted to a maximum of three (3) bedrooms.
2. No increase in square footage or habitable space allowed without further review by the Board of Health.
3. Variances and conditions to be recorded at the Barnstable County Land Court.

Ms. Pflieger moved to accept the recommendation of the Health Director, 2nd by Mr. DuPont. The vote was 5-0-0 with Ms. Howell, Ms. Pflieger, Mr. Dowgiallo, Mr. Antoine & Mr. DuPont all voting aye by roll call.

C. Hearing-Smith, 47 North Road, to consider a variance request to install a tight tank prepared by Ryder & Wilcox (variances were previously approved at May 14, 2019 Board of Health meeting)
Variance from 310 CMR 15.240(2)(a)

1. Per 310 CMR 15.203: To allow a tight tank to be 1,000 gallons where 2,000 gallons is required. Variance request of 1,000 gallons.
- Variances from 310 CMR 15.211 (Minimum Setbacks)
1. Per 310 CMR 15.211: To allow a proposed tight tank to be 3' from a property line where 10' is required. Variance request of 7'.

2. Per 310 CMR 15.211: To allow a proposed tight tank to be 7.1' from a property line where 10' is required. Variance request of 2.9'.
3. Per 310 CMR 15.211: To allow a proposed tight tank to be 7.9' from a foundation where 10' is required. Variance request of 2.1'.
4. Per 310 CMR 15.211: To allow a proposed tight tank to be 4.5' from a water line where 10' is required. Variance request of 5.5'.
5. Per 310 CMR 15.227: To allow a proposed tight tank to be less than 1' above the high groundwater elevation. Variance request of 1.7'.
6. Per 310 CMR 15.211: To allow a proposed tight tank to be 4' from the wetland where 50' is required. Variance request of 46'.

Variations from Harwich Board of Health Regulation 1.210

1. Per Harwich Board of Health Regulation 1.210: To allow a proposed tight tank to be 4' from the wetland where 50' is required. Variance request of 46'.
2. Per Harwich Board of Health Regulation 1.210: To allow a proposed building sewer to be 6' from the wetland where 50' is required. Variance request of 44'.

Chairwoman Howell opened the hearing. Tom Smith was present remotely. Health Director Eldredge read the variances that are being requested.

The existing dwelling contains one (1) bedroom and is used seasonally. No additions or alterations are proposed at this time. These variances were approved at the May 14, 2019 Board of Health meeting. The applicant is returning to the Board of Health because a disposal system construction permit was not applied for within six (6) months of the variance approval.

Chairwoman Howell closed the hearing.

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

1. Property is restricted to a maximum of one (1) bedrooms.
2. No increase in habitable space or square footage.
3. Property is limited to seasonal use for six (6) months per year.
4. Seasonal restriction shall be enforced by a water shut-off order from the Harwich Water Department.
5. An operation and maintenance agreement as outlined in the variance application package must be in place prior to issuing a Disposal Works Construction Permit. This agreement must indicate a monitoring and pumping schedule.
6. This approval letter and conditions must be recorded at the Barnstable County Registry of Deeds.

Mr. Antoine moved to accept the recommendation of the Health Director, 2nd by Mr. Dowgiallo. The vote was 5-0-0 with Ms. Howell, Ms. Pflieger, Mr. Dowgiallo, Mr. Antoine & Mr. DuPont all voting aye by roll call.

D. Hearing-Leonard, 52 North Road, to consider a variance request to install a new Title 5 septic system design prepared by Ryder & Wilcox (variances were previously approved at April 9, 2019 Board of Health Meeting)

Variations from 310 CMR 15.211-Minimum Setbacks

1. Per 310 CMR 15.211: To allow a proposed pump chamber to be 7' from the property line where 10' is required. Variance request of 3'.

2. Per 310 CMR 15.227(5): To allow a proposed septic tank and proposed pump chamber invert to be less than 1' above the high groundwater elevation. Variance request of 0.35' & 0.7'.
Variances from Harwich Board of Health Regulation 1.210

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

Chairwoman Howell opened the Hearing. Tom Smith was present remotely. Health Director Eldredge read the variances being requested.

The house is currently served by a cesspool system. The upgraded septic system requires variances due to the small lot, depth to groundwater and location of the wetlands.

These variances were approved at the April 9, 2019 Board of Health meeting. The applicant is returning to the Board of Health because a Disposal System Construction Permit was not applied for within six (6) months of the variance approval.

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

1. The property shall be restricted to a maximum of two (2) bedrooms.
2. No increase in habitable space or number of bedrooms without further review by the Board of Health.
3. The approval letter and conditions shall be recorded at the Barnstable County Registry of Deeds.

Mr. Dowgiallo moved to accept the recommendation of the Health Director, 2nd Ms. Pflieger. The vote was 5-0-0 with Ms. Howell, Ms. Pflieger, Mr. Dowgiallo, Mr. Antoine & Mr. DuPont all voting aye by roll call.

VI REPORT OF THE HEALTH DIRECTOR- DECEMBER 2020

No report of the Health Director was given.

VII CORRESPONDENCE

No correspondence was discussed.

VIII PERMITS

ESTABLISHMENT	ADDRESS	TYPE	TYPE	TYPE	TYPE
STABLE					
Brian & Gloria Savin *	117 North Westgate Road	Residential Stable			
Cape Farm Supply *	374 Main Street	Residential Stable			
Cape Farm Supply *	1590 Factory Road	Residential Stable			
CB Equestrianv *	32 Derby Lane	Commercial Stable			
Chrystal Kline *	324 Oak Street	Residential Stable			
Eliza Kendall *	90 Old Chatham Road	Residential Stable			
Erin McWilliams *	758 Depot Street	Residential Stable			
Kristen Goulis & Ronald Daigle *	9 Sadies Way	Residential Stable			
Lauren Thonus *	6 Wilma Way	Residential Stable			

Mary Ann & Joe Rego *	3 Jay Z Drive	Commercial Stable			
Michael R. Eldredge *	72 Main Street Ext.	Residential Stable			
Reaching for My Dreams Stable *	38 N. Westgate Road	Commercial Stable			
Sandra Smith *	841 Route 28	Residential Stable			
Seahorse Equestrian Center (2021 NEW)	34 Lynch Lane	Commercial Stable			
Susan Shaw *	326 Main Street	Residential Stable			
Thomas & Ashby Crafts *	41 Gilbert Lane	Residential Stable			
Westgate Farm LLC (2021 NEW)	210 South Westgate Road	Commercial Stable			
FOOD SERVICE					
3 Monkeys Street Bar *	554 Route 28	61-150 seats			
AFC Sushi at Shaws *	18 Sisson Road	Take Out			
Big Rock Oyster	501 Depot Street	Caterer			
Brax Landing *	705 Route 28	>150 seats			
Bucas Tuscan Roadhouse *	4 Depot Road	31-60 seats			
Cape Cod Cranberry Harvest *	33 Rocky Way	Limited Food Service			
Cape Cod Regional Tech School *	351 Pleasant Lake Ave	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			
Christ Church Episcopal *	671 Route 28	Institution			
Corner of Yum *	31 Sea Street	Caterer			
Cumberland Farms *	578 Route 28	retail: less than 5000 sf	milk & cream	limited food svc	
Depot Dogs *	4 Depot Road	Mobile Food Service			
Dominos Pizza *	16 Route 28	1-30 seats	Take Out		
Dunkin Donuts *	110 Route 137	Take Out			
Dunkin Donuts *	481 Route 28	retail: less than 600 sf	1-30 seats	milk & cream	
Dunkin Donuts *	175 Route 137	retail: less than 600 sf	1-30 seats	milk & cream	
Dunkin Donuts *	173 Pleasant Lake Ave	Take Out			
Elder Services of Cape Cod *	100 Oak Street	Institution			
Harwich Elementary *	263 South Street	Institution			
Harwich Mobil *	173 Pleasant Lake Avenue	retail: less than 5000 sf	milk & cream	limited food svc	
Harwich Port Golf Club *	51 South Street	Limited Food Service			
Harwich Port House of Pizza *	330 Route 28	31-60 seats			
Hissho Sushi at Stop & Shop *	111 Route 137	retail: <600 sf			
Hot Stove Saloon *	551 Route 28	61-150 seats			
Inn on the Beach *	16 Bank Street	Limited Food Service			
J. Bar *	537 Route 28	Take Out			
Kim Jerauld *	1281 Orleans Road	Limited Food Service			
L'Alouette *	787 Route 28	61-150 seats			
Mad Minnow Bar & Kitchen *	554 Route 28	31-60 seats			
Main Street Quik Pik*	715 Main Street	retail: less than 5000 sf	milk & cream	limited food svc	
Mason Jar *	544 Route 28	1-30 seats	caterer		
Monomoy Regional High School *	75 Oak Street	Institution			
Moonshine Liquors *	4 Great Western Road	retail: <600 sf			

One Thirty Seven Gas *	110 Route 137	retail: less than 5000 sf	milk & cream	limited food svc	
Pilgrim Congregational Church *	533 Route 28	Institution			
Pleasant Lake Farm *	2 Birch Drive	retail: <600 sf			
Pleasant Lake Pizza Shark *	403 Pleasant Lake Ave	retail: less than 600 sf	frozen dessert	milk & cream	take out
Rosewood Manor *	671 Main Street	Institution			
Starbucks @ Star Market *	18 Sisson Road	1-30 seats			
Star Market *	18 Sisson Road	retail: greater than 25000 sf	milk & cream	take out	
Szechuan Delight *	1421 Orleans Road	Take Out			
The Lunch Stop *	1421 Orleans Road	Take Out			
Value Mart *	435 Route 28	retail: less than 5000 sf	milk & cream	limited food svc	
Wingate at Harwich *	111 Headwaters Drive	Institution			
SEPTIC INSTALLER					
Aattaboy Septic Service *					
Abb-Solutely Septic Service *					
Accu Sepcheck *					
Cape Cod Septic Inspection *					
Condon's Excavating *					
Daluze Excavating *					
Holmes Land Service *					
J. O'Loughlin, Inc. *					
Lower Cape Excavation *					
Matthew A. Eldredge Landscape Const *					
Northeast Construction *					
Ready Rooter, Inc. *					
Richard Judd *					
Robert B Our Company *					
Rooter Man of Cape Cod *					
Sunwind LLC *					
Wall Septic Service *					
SEPTIC HAULER					
Abb-Solutely Septic Service *					
Debarros Septic Service *					
Discount Septic *					
J. O'Loughlin, Inc. *					
Josh M. Barros Septic Service *					
Liquid Environmental Solutions (2021 NEW)					
Ready Rooter, Inc. *					
Robert B Our Company *					
Rooter Man of Cape Cod *					
Tulloch Septic Service *					
Wall Septic Service *					
Wind River Environmental *					
UTILITY INSTALLER					
Borthwick & Summers (2021 NEW)					

Northeast Construction *					
Peter W. McIntire & Sons (2021 NEW)					
Robert B Our Company *					
TITLE 5 INSPECTOR					
Andrew Grover *					
Caleb Paus *					
Daniel Croteau *					
Darrell Stone *					
David Burnie *					
David Quinn *					
Jeffrey Wall *					
John Schnaible *					
Joseph M. Martins *					
Kevin J. Sullivan *					
Michael T. Bisienera *					
Rick Judd *					
Stephanie Sequin *					
TOBACCO					
A.J. Lukes of Harwich *	224 Route 28	Retail Tobacco			
Cumberland Farms *	578 Route 28	Retail Tobacco			
Fully Baked Smoke Shop *	216 Route 28-Unit # 5	Adult Only Tobacco			
Harwich Mobil *	173 Pleasant Lake Avenue	Retail Tobacco			
Main Street Quik Pik*	715 Main Street	Retail Tobacco			
Moonshine Liquors *	4 Great Western Road	Retail Tobacco			
One Thirty Seven Gas *	110 Route 137	Retail Tobacco			
Portside Liquors *	1421 Orleans Road	Retail Tobacco			
Royal Smoke Shop *	721 Main Street	Adult Only Tobacco			
Value Mart *	435 Route 28	Retail Tobacco			
West Harwich Sav On Gas *	4 Route 28	Retail Tobacco			

REFUSE HAULER

The Brothers Disposal *

Waste Management of Mass, Inc. *

*2021 Renewal

Ms. Pflieger moved to approve the permit list as presented, 2nd by Mr. DuPont. The vote was 5-0-0 with Ms. Howell, Ms. Pflieger, Mr. Dowgiallo, Mr. Antoine & Mr. DuPont all voting aye by roll call.

IX OTHER

No other items were discussed.

X ADJOURN

Ms. Pflieger moved to adjourn the meeting at 8:00 p.m., 2nd by Mr. Dowgiallo. The vote was 5-0-0 with Ms. Howell, Ms. Pflieger, Mr. Dowgiallo, Mr. Antoine & Mr. DuPont all voting aye by roll call.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, February 16, 2021 at 6:30 p.m.

Documents included in January 19, 2021 Board of Health Meeting Packet:

- January 19, 2021 Board of Health Agenda
- Draft Board of Health Minutes dated December 15, 2020
- COVID-19 update dated January 11, 2021
- COVID-19 update dated December 30, 2020
- COVID-19 update dated December 18, 2020
- COVID-19 update dated December 11, 2020
- COVID-19 update dated December 10, 2020
- FY22 Budget Request memo and associated documents dated December 4, 2020
- Site Summary for 26 Kevin Road dated January 19, 2021
- Application for Board of Health Variances for 26 Kevin Road dated December 21, 2020
- Site Summary for 4 Lantern Lane dated January 19, 2021
- Application for Board of Health Variances for 4 Lantern Lane dated December 23, 2020
- Site Summary for 47 North Road dated January 19, 2021
- Application for Board of Health Variances for 47 North Road dated December 16, 2020
- Site Summary for 52 North Road dated January 19, 2021
- Application for Board of Health Variances for 52 North Road dated December 16, 2020
- Any other documents submitted for/at the January 19, 2021 Board of Health meeting