

TOWN OF HARWICH



BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH
TUESDAY, JULY 9, 2019-6:30 P.M.
HARWICH TOWN HALL – DONN B. GRIFFIN ROOM
MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Pamela Howell, Vice Chairman Frank Boyle, Members Sharon Pflieger, Matt Cushing, M.D., & Ron Dowgiallo, D.M.D

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

OTHERS PRESENT: Kapil Patel, Parim Patel, Bob Collett, Morissa Vital, Paresh Patel, Christian Beaulieu, Nick K, Robert Brogna, Robert Barre, Kelly Sattman, Paul Keane, Jake Domos, Molly Spalt, Drew Willett, Emily, Margaret Grey, Kathy Gould, Pat & Paul Gazaille, John Hogon, Walter Mason, Sarah Powell, Donna Hanson, Rick & Doris D'Ambrosio & 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 REORGANIZATION OF THE BOARD OF HEALTH

Mr. Boyle nominated Pamela Howell, R.N., as Chairwoman of the Board of Health, 2nd by Mr. Dowgiallo and approved 5-0-0.

Ms. Howell nominated Frank Boyle as Vice Chairman of the Board of Health, 2nd by Mr. Dowgiallo and approved 5-0-0.

Ms. Howell nominated Ronald Dowgiallo, D.M.D. as Clerk of the Board of Health, 2nd by Dr. Cushing and approved 5-0-0.

II CALL TO ORDER

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

The Board welcomed Sharon Pflieger as a new member of the Board of Health.

III MINUTES OF PREVIOUS MEETING- May 14, 2019 & June 11, 2019

Mr. Boyle moved to approve the minutes of the May 14, 2019 and June 11, 2019 Board of Health meetings, 2nd by Mr. Dowgiallo and approved 5-0-0.

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

A. Continued Review of Draft Tobacco Regulations to include a restriction on flavored tobacco products (continued from June 11, 2019 meeting)

Health Director Eldredge reviewed the changes that are being presented in the draft regulations.

The Board discussed the possibility of capping the number of tobacco permits that are issued by the Health Department.

Ms. Pflieger asked if it might be considered discriminatory to someone looking to open a retail establishment that would sell tobacco, if the number of permits are capped. Health Director Eldredge responded that the Board could consider reducing the number of permits as establishments do not renew or sell.

Bob Collette was present and stated that capping policies are known and proven to be an effective way to restrict access of tobacco to youth. Capping the number of permits will also make the privilege of selling tobacco in Harwich much more valuable.

Mr. Boyle asked if the Board should consider expanding the regulations to include having two adult only tobacco stores. He added that he would support capping the total number of tobacco permits available. If the Board discussed the possibility of capping the number of adult only tobacco stores within the total number of permits issued by the Town.

The Board discussed self-service displays. Health Director Eldredge informed the Board that she would see how other town's regulations handle self-service displays. Mr. Boyle and Ms. Pflieger agreed that they would like to be in line with other towns.

Health Director Eldredge stated that she provided a copy of the draft regulations to Town Counsel, in light of the lawsuit that has been filed by Cumberland Farms against the Town of Barnstable.

A speaker was present and that she knows that kids are using the vaping products. One of her children had a side effect from vaping. She would like to see youth access to tobacco products stopped.

Rob from Harwich Public Market was present. He assured the Board that retailers in town have been complying with the regulations of the Town of Harwich and that the retailers should not be punished. Youth are able to purchase tobacco products online. He would like to see some sort of compromise between the retailers and the Board.

The Director of Massachusetts Association of Health Boards was present and provided the Board with an update on the pending litigation in Barnstable. Cumberland Farms has filed suit against 5 other municipalities besides Barnstable.

Paresh Patel and Parin Patel were present. They are concerned about youth smoking, but they feel that what the Board is trying to do will not affect it. They feel that the retailers do not sell to underage people and that if the Board restricts the sale of flavored tobacco, it will encourage them to purchase it elsewhere.

The Board agreed that they will continue this discussion at their August 13, 2019 Board of Health meeting.

B. Discussion/review of revised fee waiver policy

At the last Board of Health meeting, there was a request from a non-profit organization asking for a fee waiver. Health Director Eldredge reviewed the revised fee waiver policy with the Board.

Mr. Boyle moved to adopt the revised fee waiver policy as presented, 2nd by Ms. Pflieger and approved 5-0-0.

C. Discussion regarding dogs on the premises of restaurants-citizen request to consider adopting regulations allowing dogs at outdoor spaces of food service establishments

Health Director Eldredge stated that she would like to get the Board's opinion on this topic before time is spent drafting regulations. Currently, per the Federal Food Code, Chapter 6, Section 501.115, dogs are prohibited on food establishment premises which includes the physical facility, unless it is a service animal.

Ms. Pflieger stated that there are people who are highly allergic to dogs and others who do not have control over their dogs whether they are on a leash or not. She would have concerns about allowing dogs on the premises of restaurants, even in the Board created regulations.

Mr. Dowgiallo believes that allowing dogs would create more of a problem than not. If you accommodate a few people, it could implode and become a larger issue. Ms. Pflieger agreed and stated that it would be difficult to enforce.

Walter Mason from 76 Miles Street was present and was the resident who requested the adoption of a regulation. He feels that if the Board creates a regulation or allows for a variance, then they can impose conditions. Mr. Mason feels that this issue is not currently being enforced. Health Director Eldredge disagreed and stated that when the Health Department is made aware of an issue, that it is investigated/enforced. When food inspections are done and there are dogs present, it is cited as a violation. Unfortunately, most violations happen afterhours.

Dr. Cushing asked Mr. Mason in what way would relaxing the federal regulation improve public health. Mr. Mason responded that if the dog uses the bathroom, it would need to be cleaned up and sanitized with bleach. The responsibility would be on the owner of the establishment.

Robert from Country Meadows was present. He is the owner of a well-controlled service dog. He stated that if dogs are going to be restricted, the restriction should include all pets. There are very few restaurants in Harwich who have outdoor seating and he does not feel that dogs are causing any type of public health issue. Dr. Cushing asked the speaker in what way would relaxing the federal regulation improve public health. The speaker responded that dogs do not harm the public health.

Jake Domos from The Port Restaurant was present. He stated that they would also like to allow dogs at their outside space.

Marna Bates was present and feels that one of the problems is the enforcement. Establishments that are lax about allowing dogs in are able to skate by, while establishments that don't allow dogs are hindered.

Dr. Cushing moved that the Health Department continue to enforce the Federal Food Code, Chapter 6, Section 501.115, 2nd by Ms. Pflieger and approved 5-0-0.

V OLD/UNFINISHED BUSINESS (NO EARLIER THAN 7:00 P.M.)

No old/unfinished business was discussed.

VI NEW BUSINESS

A. Show Cause Hearing-262 Oak Street/Shanley- Discuss violations in accordance with 105 CMR 410.000 "Minimum Standards of Fitness for Human Habitation" cited on April 23, 2019

Health Director Eldredge stated that she had communications with the property owner and was notified that the tenant has moved out and the building is vacant. The owner will contact the Health Department when the violations have been corrected. Now that the tenant has left the property, they will be able to fix the remaining items.

Mr. Boyle moved to continue the show cause hearing for 262 Oak Street/Shanley, until the August 13, 2019 Board of Health meeting, 2nd by Dr. Cushing and approved 5-0-0.

B. Hearing-Anchorage Condominiums, 15 Pleasant Street-North Building, to consider a request to install a new Title 5 septic system prepared by Moran Engineering Associates, Inc.

Chairwoman Howell opened the hearing. Richard Judd from Moran Engineering was present and reviewed the variance being requested. The property consists of four condominium buildings with 8 bedrooms per building. The system serving the North Building failed the Title 5 inspection and is now upgrading. Due to the location of the catch basins, the soil absorption system requires a variance to be closer to the foundation of the building. Chairwoman Howell closed the hearing.

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

1. The North Building shall be restricted to a maximum of 8 bedrooms.
2. No increase in square footage or habitable space without further review by the Board of Health.
3. Variance and conditions to be recorded at the Barnstable County Registry of Deeds.
4. Inspection required every three years.

Dr. Cushing moved to accept the recommendation of the Health Director, 2nd by Mr. Dowgiallo and approved 5-0-0.

C. Hearing-Environmental Impact Report-Off Littlefield Pond Road, to demonstrate compliance with Harwich Board of Health Regulation 1.211: Environmental Assessment

Chairwoman Howell opened the hearing. Dan Ojala from Down Cape Engineering was present and reviewed the request. The applicant is seeking approval for a 7 lot subdivision. This subdivision is located in the groundwater protection district and is proposed to include 7 homes. The Board of Health is required to review the environmental impact of any development which will exceed 2,000 gallons per day of wastewater. The applicant has shown that each lot can support a 4 bedroom home without any variances from Title 5 or local regulations.

Abutter Margaret Bray was present. She is concerned about the farms in the area that use the old easement to ride their horses onto the bridle trails. She is not opposed to development, but does not want to see farms squeezed out. Mr. Ojala responded that if there is a horse trail that cuts across the property, it can remain in place or be relocated. Having horses in the area is a nice amenity.

A resident spoke about his concerns with the traffic that goes down Fish and Game into the gun club. He would like to see the proposed road offset more. The resident also spoke about his concerns regarding noise and the amount of trees that are proposed to be removed. He would like to see as many trees as possible left as a noise buffer.

Richard and Doris D'Ambrosio were present. They are also concerned about the level of noise and would like as many trees as possible to remain so that there can be a noise buffer.

Mr. Ojala responded that they will work with all abutters regarding their concerns.

Mark Giarouso was present and stated that it will be a benefit to the area to have the road paved with asphalt rather than the existing dirt road.

Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval of the Environmental Impact Report with the following conditions:

1. The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations for any of the lots.
2. The subdivision will be served by Town Water.
3. Each lot will be restricted to one bedroom per 10,000 square feet of land.

Dr. Cushing moved to accept the recommendation of the Health Director, 2nd by Mr. Boyle and approved 5-0-0.

VII REPORT OF THE HEALTH DIRECTOR (June 2019)

Health Director Eldredge read her monthly report. She informed the Board about a fish consumption advisory for Mill Pond and White Pond.

VIII CORRESPONDENCE

Health Director Eldredge reviewed the correspondence provided in the Board’s packet.

XI PERMITS

ESTABLISHMENT	ADDRESS	TYPE
TOBACCO		
Smoke Shop (Name TBD)- New 2019	1421 Orleans Road-Unit 9	
POOL		
Coachman Motor Lodge *	774 Route 28	
Wychmere Village Condo *	767 Route 28	
MOTEL		
Coachman Motor Lodge *	774 Route 28	
Seadar Inn *	1 Braddock Street	
BATHING BEACH		
Wychmere Beach Club *	23 Snow Inn Road	
SEPTIC INSTALLER		
Daluze Excavating *		
FOOD		
Happy To Be (New 2019)	671 Route 28	Limited Food Service
2019 Renewal *		

Health Director Eldredge informed the Board that the one new tobacco permit has not had their establishment inspected because the space is still in transition and is a vacant store front currently. The applicant wanted to submit their paperwork before any new regulations were adopted.

Dr. Cushing moved to approve the permit list as presented, with the exception of the smoke shop application which should be returned to the Board for review at the next meeting, 2nd by Mr. Boyle and approved 5-0-0.

X OTHER

Ms. Pflieger stated that she has seen quite a few people in Stop and Shop with dogs on leashes or in the food carts. Health Director Eldredge responded that when we are made aware of an issue, it is investigated and enforced. Anyone can contact the Board of Health to file a complaint as well.

Mr. Boyle feels that the responsibility is on the restaurant to make sure that the regulations are followed. He would not be in favor of having signs placed at establishments. Health Director Eldredge added that Perk’s Coffee Shop & Beer Garden has had repeat violations regarding dogs and they were issued a written warning and made to put up signs stating “no dogs per Board of Health”.

Health Director Eldredge stated that staff could send a reminder notice to all food establishments reminding of the federal food code regulation regarding dogs in/at food establishments.

IX ADJOURN -The meeting adjourned 8:20 at p.m.

Dr. Cushing moved to adjourn the meeting at 8:20 p.m., 2nd by Mr. Dowgiallo and approved 5-0-0.

Respectfully Submitted,

Next meeting is Tuesday, August 13, 2019 at 6:30 p.m. in the Small Hearing Room.

Documents included in July 9, 2019 Board of Health Meeting Packet:

- July 9, 2019 Board of Health Agenda
- Harwich Board of Health Members & Staff List dated July 1, 2019
- Draft Minutes from the May 14, 2019 Meeting at COMM Fire Headquarters
- Draft Minutes from the June 11, 2019 Board of Health Meeting
- Draft Regulations of the Harwich Board of Health Restricting the Sale of Tobacco Products dated July 1, 2019
- List of Establishments holding Tobacco Permits in Harwich
- E-mail Correspondence from Michael Siegel Regarding Tobacco Products dated June 11, 2019
- Cape Cod Times Article Regarding Town of Barnstable dated June 25, 2019
- E-mail Correspondence from Jack Patel Regarding Tobacco Products dated June 24, 2019
- Draft Policy Regarding Board of Health Fee Waivers dated July 2019
- Topic Summary regarding dogs on restaurant property dated July 9, 2019
- Letter and associated documents from Walter Mason regarding dogs on restaurant property dated July 1, 2019
- Notice of Non-Compliance regarding 262 Oak Street dated June 17, 2019
- Notice of Violation regarding 262 Oak Street dated April 24, 2019
- Complaint for regarding 262 Oak Street dated April 23, 2019
- Complaint Inspections Form regarding 262 Oak Street dated April 23, 2019
- Site Summary for 15 Pleasant Street dated July 9, 2019
- Variance application and associated documents for 15 Pleasant Street dated June 11, 2019
- Site Summary for Preliminary Subdivision Plan Off Littlefield Pond Road dated July 9, 2019
- Preliminary Subdivision Documents dated June 26, 2019
- Health Director Monthly Report dated July 1, 2019
- Copy of Violation Notice sent to Fully Baked Smoke Shop dated June 26, 2019
- Copy of Board of Health Hearing Notice sent to Stella & Andrew Stenz dated June 17, 2019
- Letter from MSPCA dated May 2019
- Memo from Mass DPH regarding Arbovirus Surveillance Program for 2019 dated June 11, 2019
- 2019 Notice to Local Boards of Health regarding the MassDEP Drinking Water Program dated June 7, 2019
- Any other documents submitted for/at the July 9, 2019 Board of Health Meeting