

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, JULY 21, 2020-6:30 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

STAFF MEMBERS PRESENT: Health Director Meggan Eldredge & 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 REORGANIZATION OF THE BOARD OF HEALTH

Chairwoman Howell stated that the Board of Selectmen have not officially reappointed Matthew Antoine to the Board of Health. Due to this oversight, Mr. Antoine will not be a voting member of tonight’s meeting and Ms. Howell recommended continuing the reorganization of the Board of Health until the August 18, 2020 meeting.

Ms. Pflieger moved to continue the reorganization of the Board of Health until the August 18, 2020 Board of Health meeting, 2nd by Mr. Dowgiallo. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

II CALL TO ORDER

Chairwoman Howell called the meeting to order at 6:32 p.m.

III MINUTES OF PREVIOUS MEETING (Regular Meeting Minutes) – June 16, 2020

Mr. Dowgiallo moved to approve the minutes of the June 16, 2020 Board of Health meeting as printed, 2nd by Ms. Pflieger. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

IV 6:30 PM - BOARD OF HEALTH WORK SESSION

A. COVID-19 Update

Health Director Eldredge read her weekly COVID-19 update dated July 16, 2020. Over the last 4 days, there have been 5 new cases of COVID-19 reported. Cases in Harwich are up to 136, with 7 of them being active. Quite a few of the active cases are related to younger hospitality workers. The Visiting Nurse Association is involved in contract tracing of those individuals. The Health Department has made hospitality employers aware that their employees may have been exposed at a large private gathering. We have asked them to keep a closer eye on their employees to make sure that they are not sick and to find out if they have attended any large gatherings, and to encourage them to seek testing if they have. Harwich has had great success with the COVID-19 enforcement agent that was hired through Barnstable County. He is very reactive and visits establishments as requested.

Mr. Dowgiallo asked how The Port Restaurant handled the positive case of one of their employees. Health Director Eldredge responded that they followed all state guidelines. There have been other restaurants and establishments in Harwich that are in the same situation. The Health Department is notified when an establishment in town has a positive case, however will not be making a public announcement about every establishment that has a positive case. With restaurants, as long as employees are wearing masks and frequently their hands, close contact with patrons in minimal.

B. Review of Town of Harwich Public & Semi-Public Bathing Beaches- testing frequency, results and regulation review

Health Department staff compiled information regarding public and semi-public bathing beaches at the request of the Board. Health Director Eldredge reviewed the information provided to the Board. Each beach needs to be tested prior to the bathing beach season and then they are tested weekly. There are 7 beach locations in Harwich that have a variance to allow for monthly testing. In granting a variance, the Board of Health and the Commonwealth shall review epidemiological data and a written sanitary survey of the bathing beach, as provided by the operator. If the Commonwealth does not see a reason that a beach would be impacted by any of the factors of the survey, they then look at the last 4 years of testing data. If a beach has not failed testing in the last 4 years, then they allow to modify the weekly testing to monthly. Barnstable County takes the samples for Harwich on Thursdays. The water is sampled in the morning and then the samples are brought to the lab. The results are received 24-hours later. If the results exceed the 104 colony forming unit per 100 ml of marine water or 235 colony forming units per 100 ml of fresh water, the town will receive a notification and the sample will need to be retaken. If the 2nd sample fails, the beach will be closed to swimming. One single exceedance does not mean that the beach will be closed for swimming. If a beach with a variance fails one time, then the variance becomes null and void.

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

A. Hearing-Delory/Murnane, 113 Brooks Road, to consider a variance request to upgrade a Title 5 septic system prepared by Moran Engineering, Associates, LLC. (Continued from May 19, 2020 Board of Health meeting)

Variances from 310 CMR 15.211: Minimum Setbacks

1. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 6.5' from the North property line where 10' is required. Variance request of 3.5'.
2. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 6' from the East property line where 10' is required. Variance request of 4'.
3. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 16' from the crawl space where 20' is required. Variance request of 4'.
4. Per 310 CMR 15.211(1): To allow a proposed septic tank invert to be 0.3' to high groundwater where 1' is required. Variance request of 0.7'.
5. Per 310 CMR 15.211(1): To allow a proposed pump chamber invert to be 0.2' to high groundwater where 1' is required. Variance request of 0.8'.

Variance from Harwich Board of Health Regulation 1.210

1. Per Harwich Board of Health Regulation 1.210: To allow a proposed soil absorption system to be 83' from the edge of wetland where 100' is required. Variance request of 17'.

Dan Croteau from Moran Engineering Associates, LLC and property owner Joseph Delory were present remotely. Mr. Croteau stated that they have made the decision to change the location of the leaching area, which will now be further away from the wetland. Mr. Croteau asked to withdraw this set of variances without prejudice.

Ms. Pflieger moved to withdraw the variance request for 113 Brooks Road without prejudice, 2nd by Mr. Dowgiallo. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

VI NEW BUSINESS

A. Hearing-Delory, 113 Brooks Road, to consider a variance request to upgrade a Title 5 septic system prepared by Moran Engineering Associates, LLC

Variances from 310 CMR 15.211(1) & 15.227 (5)

1. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 5' from the property line (North) where 10' is required. Variance request of 5'.
2. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 16' from the crawl space where 20' is required. Variance request of 4'.
3. Per 310 CMR 15.211(1): To allow a proposed soil absorption system to be 18.5' from the crawl space where 20' is required. Variance request of 1.5'.
4. Per 310 CMR 15.227(5): To allow a proposed septic tank invert to be 0.2' to high groundwater where 1' is required. Variance request of 0.8'.
5. Per 310 CMR 15.227(5): To allow a proposed pump chamber invert to be 0.1' above high groundwater where 1' is required. Variance request of 0.9'.

Chairwoman Howell opened the hearing. Dan Croteau from Moran Engineering Associates, LLC and property owner Joseph Delory were present remotely. Mr. Croteau reviewed the variances that are being requested. The request is for the purpose of upgrading the existing cesspool system to a Title 5 septic system only. There are no alterations to the building proposed at this time. The dwelling is on a crawlspace.

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

Health Director Eldredge recommended approval of the variance request for 113 Brooks Road with the following conditions:

1. No increase in bedrooms, habitable space or square footage without further review by the Board of Health.
2. The dwelling is restricted to a maximum of 4 bedrooms.
3. Record variances and conditions at the Barnstable County Registry of Deeds

Ms. Pflieger moved to accept the recommendation of the Health Director, 2nd by Mr. Dowgiallo. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

B. Hearing-Lawrence, 24 Central Avenue, to reconsider Order of Conditions granted May 1, 2012-No increase in square footage, the number of bedrooms beyond those as shown on said plan by Moran Engineering dated January 18, 2011 (further revised March 27, 2012)-Project consists of adding approximately 50 square feet on the first floor and expanding the second floor by approximately 200 square feet to become a full second story

Chairwoman Howell opened the hearing. Thadd Eldredge from East South-East, LLC was present remotely and reviewed the request. This property has previously approved variances that included lot line and property line variances as well as a 23% reduction in the soil absorption system size. The current proposal includes the addition of approximately 50 square feet on the first floor with the squaring off of the rear corner of the building and converting the porch to habitable space. The proposal continues with the expansion of the second floor by approximately 250 square feet to become a full second story. The existing dwelling contains approximately 1,120 square feet of living space and the proposed alterations will increase the living space to 1,420 square feet of living space. No change in bedrooms is proposed.

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

Ms. Pflieger asked for clarification on the process when someone asked for a reconsideration of the order of conditions for previously granted variances.

Health Director Eldredge recommended approval of the reconsideration for 24 Central Avenue with the following conditions:

1. No further expansion of square footage, habitable space or number of bedrooms is allowed without further review by the Board of Health.
2. The dwelling is restricted to a maximum of 3 bedrooms.
3. The reconsideration approval shall be recorded at the Barnstable County Registry of Deeds.

Ms. Pflieger moved to accept the recommendation of the Health Director, 2nd by Mr. Dowgiallo. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger and Mr. Dowgiallo voting aye by roll call.

C. Hearing-Wakeby Development Corp, 42 Marlin Road, to consider a variance request to upgrade a Title 5 septic system prepared by Engineering Works, Inc.

Variances from 310 CMR 15.405 (a) & (b)

1. Per 310 CMR 15.405(a): To allow a proposed soil absorption system to be 6' from the property line (side) where 10' is required. Variance request of 4'.
2. Per 310 CMR 15.405(a): To allow a proposed soil absorption system to be 6' from the property line (front) where 10' is required. Variance request of 4'.

3. Per 310 CMR 15.405(a): To allow a proposed soil absorption system to be 8' from the crawl space where 20' is required. Variance request of 12'.

4. Per 310 CMR 15.405(b): To allow for up to 6' of cover over the soil absorption system where 3' is allowed. Variance request of 3'.

Chairwoman Howell opened the hearing. Peter McEntee from Engineering Works, Inc. was present remotely and reviewed the request. The variances are being requested to upgrade a failed septic system and are being made to achieve maximum feasible compliance. The proposed soil absorption location was chosen for ease of upgrade and minimal disturbance to surroundings. No alterations are proposed for this existing 3-bedroom dwelling. The plan proposes to utilize the existing septic tank and replace the failed leaching system.

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

Health Director Eldredge recommended approval of the variance request for 42 Marlin Road with the following conditions:

1. Dwelling shall be restricted to a maximum of 3 bedrooms.
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 Barnstable County Land Court

Mr. Dowgiallo moved to accept the recommendation of the Health Director, 2nd by Ms. Pflieger. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

D. Show Cause Hearing-Borthwick, 7 Philip Court, failure to comply with Health Department order to upgrade failed septic system

Pam Ross, daughter of the owner of 7 Philip Court was present remotely. Health Director Eldredge provided the complaint history for this property. The original complaint was filed with the Health Department on May 28, 2020 and was verified by staff. The owner was sent a notice of violation on May 28, 2020 which notified them of the complaint, verified that the septic system serving the dwelling was overflowing sewage onto the ground and ordered them to engage a professional engineer or a registered sanitarian to design a new septic system. Said septic system was to be approved and installed within 45 days of receipt of the notice. On June 15, 2020, the Health Department received a complaint that there was a trailer on the property that was being occupied. Upon inspection, staff found that the septic system was still overflowing. As of this date, there had been no communication from the property owner that they were moving forward with the upgrade. On June 26, 2020, Bass River Engineering scheduled soil tests for the property, to be conducted and witnessed by the town on July 7, 2020. As of tonight's meeting, an application to upgrade the septic system has not been received by the Health Department and there has been no communication from the property owner.

Ms. Ross informed the Board that the septic system was pumped 4 weeks ago and it not overflowing at this time. She also stated that she would contact their septic installer, Robert B. Our Company, in the morning, to be sure that the paperwork process has started.

Health Director Eldredge recommended ordering the upgrade of the septic system to be completed by August 1, 2020 and the failing cesspool be pumped as needed to prevent overflow until the new system is connected to the dwelling. Failure to do either should result in fines according to the Harwich Septic Regulations. Health Director Eldredge reviewed the fine structure and process.

Ms. Pflieger moved to accept the recommendation of the Health Director and order that the septic system at 7 Philip Court be upgraded by August 1, 2020 and that the cesspool be pumped as needed to prevent overflow, 2nd by Mr. Dowgiallo. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

Health Director Eldredge noted that staff would visit the property tomorrow to make sure that the system is not overflowing.

E. Review and adopt a mandatory mask zone order, to consider implementing an Emergency Board of Health Order requiring the use of face coverings while in public along Route 28, Harwichport between Saquatucket Harbor and Lower County Road.

Health Director Eldredge read the draft mask zone order. She asked the Board to discuss the proposed area for the order. In her opinion, the focus should be where there is the most walking traffic, in Harwich Port.

Mr. Dowgiallo asked if the order would be in place from Memorial Day to Labor Day. Health Director Eldredge responded that the decision would be up to the Board, but they could say that it would be in place until further notice.

The Board agreed to accept the order as drafted. Health Director Eldredge informed the Board that staff has ordered and received large sandwich board signs that will contain mask messaging. The Chamber of Commerce has offered to help by announcing the order on the radio as well as a Facebook live broadcast.

Ms. Pflieger moved to accept the Declaration of Public Health Emergency Order as printed, 2nd by Mr. Dowgiallo. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

VII REPORT OF THE HEALTH DIRECTOR (June 2020)

Health Director Eldredge read her monthly report for June 2020. As of last week, 2,107 people in Harwich have been tested for COVID-19.

VIII CORRESPONDENCE

No correspondence was discussed.

IX PERMITS

| ESTABLISHMENT | ADDRESS | TYPE | TYPE | TYPE | TYPE |
|-------------------------------|-----------------------|----------------------|------|------|------|
| POOL | | | | | |
| A Beach Breeze Inn * | 169 Route 28 | | | | |
| The Tern Inn * | 91 Chase Street | | | | |
| Winstead Inn & Beach Resort * | 114 Parallel Street | | | | |
| Wyndemere Condominium * | 405 Lower County Road | | | | |
| BATHING BEACH | | | | | |
| Winstead Inn & Beach Resort * | 4 Braddock Street | Nantucket Sound | | | |
| FOOD SERVICE | | | | | |
| Dr. Cavity's * | 560A Route 28 | Limited Food Service | | | |

| | | | | | |
|--|------------------------------|---------------------------|-------------------------|-----------------------|-----------------|
| Irish Pub * | 126 Route 28 | Limited Food Service | | | |
| Judecraft Specialty Foods * | | Event Permit | | | |
| Monopati * | | Event Permit | | | |
| Pizza Shark (2020 New) | 403 Pleasant Lake Ave | Retail: <600 sf | Milk & Cream | Frozen Dessert | Take Out |
| Starbucks @ Shaws # 4596 (2020 New) | 18 Sisson Road | 1-30 seats | | | |
| Sweet Izzy (2020 New) | 296 Route 28 | frozen dessert | | | |
| FUNERAL DIRECTOR | | | | | |
| Doane, Beal & Ames * | 260 Main Street | | | | |
| MOTEL | | | | | |
| Seadar Inn By The Sea * | 1 Braddock Street | | | | |
| * 2020 Renewal | | | | | |

Mr. Dowgiallo moved to approve the permit list dated July 21, 2020, 2nd by Ms. Pflieger. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

X OTHER

Health Director Eldredge announced that her plan is to request that the vacant part time Health Inspector position be converted into a full time Health Inspector position, which will require town meeting approval. She feels that the Health Department needs it, even without the extra added duties relating to COVID-19.

The Board agreed that they support this request and that a formal vote to support would be put on the August 18, 2020 Board of Health agenda.

XI ADJOURN

Ms. Pflieger moved to adjourn the meeting at 7:42 p.m., 2nd by Mr. Dowgiallo. The vote was 3-0-0 with Ms. Howell, Ms. Pflieger & Mr. Dowgiallo all voting aye by roll call.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, August 18, 2020 at 6:30 p.m.

Documents included in July 21, 2020 Board of Health Meeting Packet:

- July 21, 2020 Board of Health Agenda
- Draft Minutes of the June 16, 2020 Board of Health Meeting
- Weekly COVID-19 Case Update dated July 16, 2020
- Bathing Beach Report & Supplemental Information
- Site Summary for 113 Brooks Road dated July 21, 2020
- Board of Health Variance Application and Associated Documents for 113 Brooks Road dated July 7, 2020
- Site Summary for 24 Central Avenue dated July 21, 2020
- Board of Health Variance Application and Associated Documents for 24 Central Avenue dated July 7, 2020

- Site Summary for 42 Marlin Road dated July 21, 2020
- Board of Health Variance Application and Associated Documents for 42 Marlin Avenue dated July 8, 2020
- Site Summary for 7 Philip Court dated July 21, 2020
- Order to Abate Nuisance and Notice to Appear Before the Board of Health for 7 Philip Court dated June 22, 2020
- Complaint & photos regarding 7 Philip Court dated June 15, 2020
- Notice to Property Owner of 7 Philip Court dated May 28, 2020
- Complaint & photos regarding 7 Philip Court dated May 28, 2020
- Draft Declaration of Public Health Emergency Order
- Health Director June Monthly Report dated July 16, 2020
- Health Inspector Vacancy Memo dated July 1, 2020
- Any other documents submitted for/at the July 21, 2020 Board of Health Meeting