

TOWN OF HARWICH



BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH
TUESDAY, AUGUST 13, 2019-6:30 P.M.
HARWICH TOWN HALL – LIBRARY MEETING ROOM
MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Pamela Howell, R.N., Vice Chairman Frank Boyle, Member Sharon Pflieger, Member Matthew Cushing, M.D., & Member Ronald Dowgiallo, D.M.D

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

OTHERS PRESENT: Mark Foss, Marissa Vital, Gary Bourne, Robert Bourne, Sarah McColgan, Kieran Healy, Larry Ballantine, Parrin Patel, Kenny Patel, K.P., A.J., Sunny Patel, Harry Patel, Paresh Patel, Saumil Patel, Irene Bourne & 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.

II MINUTES OF PREVIOUS MEETING- July 9, 2019

Dr. Cushing moved to approve the minutes of the July 9, 2019 Board of Health meeting, 2nd by Mr. Dowgiallo and approved 5-0-0.

III 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 July 9, 2019 meeting)

Health Director Eldredge reviewed the proposed revisions that still need Board of Health discussion. Harwich has issued 16 tobacco permits and has received 2 new permits for review, which if approved, would give a total of 18 tobacco permits issued by the Town. Health Director Eldredge has spoken with KP Law as well as the Tobacco Control Program regarding the potential to cap the number of tobacco permits issued by the Town.

The Board discussed different possibilities on capping the number of tobacco permits issued and whether or not they should include adult only stores within the cap, or have a separate cap.

Dr. Cushing suggested that after 2-3 years of revised regulations, that the Board discuss the possibility of making all nicotine products sold solely in adult only stores.

The Board had a discussion on the “adult only retail tobacco store” definition. They decided to wait on further information from the state regarding a clearer definition.

Mark Foss from Fletcher Tilton was present and stated that capping permits does not sit well with him. If tobacco is sold in an adult only store, any other items sold in the store should be incidental to tobacco.

The Board agreed that they would like to cap the total number of tobacco permits issued to 18, which would include 2 adult only stores. When permits expire, are not renewed or are revoked, the total number of permits would be lowered. The Board also agreed that they would like to have further discussion on how tobacco permits might be able to be transferred.

Mr. Boyle moved to continue the review of draft tobacco regulations until the September 10, 2019 Board of Health meeting, 2nd by Dr. Cushing and approved 5-0-0.

Irene Bourne was present and asked if Harwich has any other adult only tobacco stores in town besides the 2 applications that are being reviewed during the permit discussion. She feels that Harwich is bringing in 2 more tobacco stores due to the proposed permit cap. Mr. Boyle disagreed and stated that we are trying to have a cap on the number of stores and not have an excessive amount.

Saumil Patel was present and wanted to confirm that a cap is not already in effect. Mr. Boyle responded that there is not currently a cap on the number of tobacco permits.

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

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 (Continued from July 9, 2019 Meeting)

Health Director Eldredge reported that she has been in contact with the property owner and that the dwelling is still vacant. The owner informed the Health Department that they are still working on the issues and the building will remain unoccupied until all issues are resolved.

Mr. Boyle moved to continue the show cause hearing for 262 Oak Street/Shanley, until the September 10, 2019 Board of Health meeting, 2nd by Dr. Cushing and approved 5-0-0.

V NEW BUSINESS

A. Hearing-Environmental Impact Report & Definitive Subdivision Plan, 79 Headwaters Drive- to demonstrate compliance with Harwich Board of Health Regulation 1.211- Installation of a sewage disposal system that will accommodate over 2,000 gallon per day-Environmental Assessment prepared by J.M. O'Reilly & Associates-Definitive Subdivision Plan prepared by Ryder & Wilcox

Chairwoman Howell opened the hearing. John O'Reilly from J.M. O'Reilly & Associates, Becky Sheridan and Stephanie Sequin from Ryder & Wilcox and Christian Davenport were present. Mr. O'Reilly indicated that the proposed is within the Herring River Estuary and not in a Drinking Water Recharge Area/Zone II. This area of Town is not proposed to be sewerred. The nitrogen loading calculations provided by the Engineer indicate an average nitrogen loading of 9.11 ppm.

Ms. Pflieger noted that the proposed nitrogen loading of 9.11ppm is above the Cape Cod Commission's approved 5 ppm. She asked if they would consider an alternate system for the project, given the nitrogen issues that we are facing in Harwich. Mr. Boyle & Ms. Howell agreed. Mr. O'Reilly responded that they are meeting the state requirement keeping the nitrogen below 10 ppm.

Dr. Cushing added that this property is one lot away from Hinckley's Pond, where there have been algae bloom issues in the past. He feels that the less nitrogen you put into the groundwater the better. Mr. O'Reilly responded that the groundwater flows away from the pond.

Mr. O'Reilly stated that he would need to speak with his client to review other options. They would either look to modify the wastewater flow, or introduce Innovative/Alternative technology to some of the homes, to reduce the nitrogen loading.

Mr. Boyle moved to continue the Environmental Impact Hearing for 79 Headwaters Drive until the September 10, 2019 Board of Health meeting, 2nd by Ms. Pfleger and approved 5-0-0.

Selectman Larry Ballantine was present and stated that the Board may want to obtain a legal opinion on decreasing the nitrogen ppm number.

Becky Sheridan from Ryder & Wilcox was present to present the Definitive Subdivision Plan prepared for the property. The proposal includes developing each lot with a four bedroom duplex (8 bedrooms per lot), for a total septic design flow of 32 bedrooms.

Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval of the Definitive Subdivision Plan as presented with the following conditions:

1. The lots shall be served by Town Water.
2. Fully compliant septic systems are required to serve the dwellings.

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

B. Hearing-MNT Realty Trust, 1, 2, 6, 10, 14 Saltwater Lane & Saltwater Lane (aka 123 Riverside Drive)- Definitive Subdivision Plan prepared by Coastal Engineering Co.

Chairwoman Howell opened the hearing. No one was present to represent the application.

Mr. Boyle moved to continue the hearing for 1,2,6,10,14 Saltwater Lane & Saltwater Lane (aka 123 Riverside Drive), until the September 10, 2019 Board of Health meeting, 2nd by Dr. Cushing and approved 5-0-0.

C. Hearing-John E. Pina & Thomas J. Jodie C. Blute, J's Path- Definitive Subdivision Plan prepared by BSC Group

Chairwoman Howell opened the hearing. Kieran Healy from BSC Group was present with John Pina. The applicant is proposing a three lot definitive subdivision plan off Obed Brooks Road. The lots are located within a Zone II water recharge area and are also served by private drinking wells. Mr. Healy reviewed the existing conditions for each of the lots. Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval of the Definitive Subdivision Plan as presented with the following conditions:

1. The lots shall have a total septic flow of less than 2,000 gallons per day.
2. Should town water become available, the dwelling shall abandon the private wells and connect to the public water supply.
3. Fully compliant septic systems are required to serve the dwellings.

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

D. Hearing-McCabe, 25 Grey Neck Lane, to reconsider Order of Conditions granted January 28, 1998- There shall be no increase in square footage or number of bedrooms in the dwelling. Project consists of three small additions to the existing dwelling. Plan prepared by Thomas A. Moore Design Company

Chairwoman Howell opened the hearing. Thomas Moore was present. The applicant is applying for a reconsideration of previous conditions for variances from Title 5 imposed on February 3, 1998 which state "no increase in square footage to the dwelling". The applicant is proposing to add three additions to the existing house using crawl space foundations. The dwelling will remain three bedrooms and the existing septic system is proposed to be utilized. The new foundations are proposed to maintain the 5' setback previously approved in 1998. Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval to allow for an increase in habitable space with the following conditions:

1. The dwelling is restricted to a maximum of three bedrooms.
2. No further increase in habitable space or square footage without further review by the Board of Health.
3. Garbage grinder is prohibited.
4. The conditions and approval shall be recorded at Barnstable County Registry of Deeds to run with the property.

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

VI REPORT OF THE HEALTH DIRECTOR (July 2019)

Health Director Eldredge read her monthly report for July 2019.

The Board briefly discussed the fertilizer regulations. Mr. Dowgiallo stated that he would like to go on record that the Board is against the use of glyphosates. Ms. Pflieger disagreed. The Board agreed that they would like additional information for future discussions.

VII CORRESPONDENCE

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

VIII PERMITS

ESTABLISHMENT	ADDRESS	TYPE	TYPE
RECREATIONAL CAMP			
Nike Lacrosse Camp/US Sports (2019 New)	75 Oak Street		
FOOD SERVICE			
Inn on the Beach *	16 Bank Street	Limited Food Service	
Judecraft Specialty Foods *		Event Permit	
Ridiculous Fun (2019 New)	24 Mabel Canto Way	Event Permit	Ltd. Food Service
TOBACCO			
Smoke Shop (Name TBD) (2019 New)-Continued from July 9, 2019			
Harwich Smoke Shop (2019 New)	16 Route 28		
SEPTIC INSTALLER			
All Cape Septic LLC *			
M.J. DiModica Exavating *			
2019 Renewal *			

Health Director Eldredge recommended approval of the recreational camp permit pending a passing inspection. There are also 2 new tobacco permits that have been applied for that will be adult only tobacco retail permits. These applications have been received and date stamped by the Health Department. Until new regulations are in place, the Health Department cannot reject receipt of a tobacco application. The Board agreed that they would hold the 2 new tobacco permit applications until the September 10, 2019 Board of Health meeting.

Dr. Cushing moved to approve the permit list dated August 13, 2019 with the exception of the 2 tobacco permits, which will be continued until the September 10, 2019 Board of Health meeting, and the recreational camp permit will be issued after a passing inspection, 2nd by Ms. Pflieger and approved 5-0-0.

IX OTHER

X **ADJOURN** -The meeting adjourned at 7:54 p.m.

Mr. Boyle moved to adjourn the meeting at 7:54 p.m., 2nd by Dr. Cushing and approved 5-0-0.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, September 10, 2019 at 6:30 p.m. in the Small Hearing Room.

Documents included in August 13, 2019 Board of Health Meeting Packet:

- Board of Health Agenda dated August 13, 2019
- Draft Board of Health Minutes dated July 9, 2019
- Letter from Michael Siegel, MD, MPH regarding possible flavored tobacco product regulations
- Letter from Robert S. Bourne regarding tobacco discussion
- Draft Regulations of the Harwich Board of Health Restricting the Sale of Tobacco Products dated August 7, 2019
- Site Summary for Headwaters Drive dated August 13, 2019
- Environmental Impact Report and Associated Documents for Headwaters Drive dated July 19, 2019 & revised July 29, 2019
- Definitive Subdivision Plan of Land in Harwich for Headwaters Drive dated July 11, 2019
- Topographic Plan showing Area Available for Septic for Headwaters Drive dated July 11, 2019
- Site Summary for 123 Riverside Drive/Saltwater Lane dated August 13, 2019
- Board of Health Definitive Subdivision Plan Filing Package dated July 23, 2019
- Site Summary for J's Path dated August 13, 2019
- Definitive Subdivision Plan of Land for J's Path dated July 22, 2019
- Site Summary for 25 Grey Neck Lane dated August 13, 2019
- Request for Reconsider of Order of Conditions from Thomas A. Moore Design Company dated July 29, 2019
- Health Director July 2019 Monthly Report dated August 1, 2019
- Cape Cod Municipal Health Group FY20 Wellness Grant Application
- Memo from Health Director to Town Administrator regarding report of response to tornado July 23, 2019
- Letter from American Dairy Queen Corporation dated June 18, 2019
- Memo from CDM Smith to Town of Harwich dated July 16, 2019
- Town of Harwich Contract No. 2 Bidding Approach dated July 2019
- Any other documents submitted for/at the August 13, 2019 Board of Health Meeting