

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, DECEMBER 10, 2019-6:30 P.M.
HARWICH TOWN HALL – SMALL HEARING ROOM
MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Vice Chairwoman Sharon Pflieger, MS, Member Matthew Cushing, M.D., & Member Matthew Antoine

BOARD OF HEALTH MEMBERS ABSENT: Chairwoman Pamela Howell, R.N. & Member Ronald Dowgiallo, D.M.D

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

OTHERS PRESENT: Larry Ballantine, Greg Winston, Doug Henwood, Mike Scott & Bob Young, Christopher Garcia

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

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

II MINUTES OF PREVIOUS MEETING- November 12, 2019

Dr. Cushing moved to approve the minutes of the November 12, 2019 Board of Health meeting, 2nd by Mr. Antoine and approved 2-0-1 (Antoine).

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

A. Continued Review of Draft Town of Harwich Nutrient and Pesticide Control Bylaw/Education

Dr. Cushing stated that he has done more research on algae blooms and as he suspected, phosphorus, rather than nitrogen is the major culprit in fresh water. He suggested that in addition to nitrogen, that we keep in mind that phosphorous is not essential in grass growth and asked if it could be included in any potential ban. Dr. Cushing stated that he finds pelletized lime to be the best fertilizer.

Ms. Pflieger responded that she would find that difficult to ban. At the last meeting, the Board discussed focusing on education rather than developing regulations. Ms. Pflieger feels that through education, we will be able to get most people to comply. The standing question on creating regulations is how they would be enforced.

Larry Ballantine stated that his opinion is that a regulation might be a better way to get people's attention. With our CWMP, we have promised that we would take whatever steps we can to minimize nitrogen. Ms. Pflieger responded that she understands that if you call it a regulation, it may sound more official, but if it cannot be policed, what would be the point.

Health Director Eldredge reminded the Board that they cannot regulate pesticide use on private property due to State preemptive laws, that it can only be regulated on town owned land. Cranberry Valley Golf Course is managed

by Sean Fernandes who may be a great educational resource to the Board. She has asked him to attend one of the Board's winter meetings for discussion.

Mr. Ballantine added that Cranberry Valley has reduced their fertilizer use by 85% in the last few years. Harwich Port Golf Course, which is privately owned, has also reduced their % of fertilizer use as well.

The Board agreed to continue this discussion at their January meeting.

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

No old/unfinished business was discussed.

V NEW BUSINESS

A. Show Cause Hearing-Thomas DiModica-Violation of a Board of Health Order-Show Cause Hearing to discuss further corrective action for failure to upgrade a failed septic system at 321 Lower County Road

Health Director Eldredge reviewed the history of this property. No one was present at the meeting, however Mr. DiModica e-mailed the Health Department today and stated that the septic system would be upgraded soon and that the house is currently vacant. To date, Mr. DiModica has submitted a Disposal System Works Construction Permit application for the property and the old system was pumped. Health Director Eldredge added that Mr. DiModica is his own septic installer and the 6 month installer license that he was granted has expired.

Dr. Cushing moved to direct Health Department staff to send a first offense/written warning to Thomas DiModica, 321 Lower County Road, allowing an extension of the septic permit installation deadline and his installers license until January 15, 2020, 2nd by Mr. Antoine and approved 3-0-0.

B. Petition Request for Cape Cod Regional Technical High School- Variance request from the State Plumbing Code requires documentation of a petition of the local Board of Health. State Plumbing Code requires a dedicated tempered water loop throughout the building, variance request to allow the installation of emergency tempering valves at each fixture in lieu of dedicated water loop throughout the building

Christopher Garcia from Garcia Galuska DeSousa, Inc. was present. He reviewed the variance request from the State Plumbing Code that requires a dedicated tempered water loop throughout the building, variance request to allow the installation of emergency tempering valves at each fixture in lieu of dedicated water loop throughout the building. The variance request requires a letter from the Board of Health. Mr. Garcia explained that the reason they are requesting this variance is because of the magnitude of the floor plan and the considerable amount of water piping. With the school being open for only 180 days out of the year, there is a concern for bacteria in the piping. They would be looking to install emergency mixing valves at every fixture, which would be supplied by both the hot and cold water system in the building.

Ms. Pflieger asked if the mixing valve sites would be flushed periodically. Mr. Garcia responded that flushing would be part of their policy and that the school would be responsible for committing to running the valves to avoid any stagnant water. Ms. Pflieger questioned if there would be a log kept of when the valves are run.

Dr. Cushing stated that his concern is that non-shower emergency equipment is part of the system as well and he would like to have a guarantee that it will work. Mr. Garcia responded that they would have their own dedicated system as well.

Dr. Cushing moved to direct Health Department staff to provide a letter to the State Plumbing Board that the Board of Health has been petitioned with the request and that they support the request, 2nd by Mr. Antoine and approved 3-0-0.

C. Food Service Permit Application Discussion- The Seal Pub & Café, 703 Main Street (Currently Red's Pizza) Request to discuss seating capacity with potential new business owners

Bob Young & Mike Scott were present. Mr. Young provided the Board with a copy of what the signs will look at the new establishment. They feel that if they are able to move into this location, it would work towards the revitalization of Harwich Center, but they do understand the septic limitations for the site as well. Mr. Young is proposing to have a café portion where the existing take out area is located and then will have a bar/pub section. The current establishment is allowed 38 seats and are restricted to paper products only. Mr. Young would like the paper only restriction to be lifted. At this time, they are proposing to decrease seating from 38 to 30.

The Board and applicants reviewed the septic system location, design flow and the septic conditions that have been placed on the current business due to variances from Title 5. Mr. Young believes that they will be using less water than the current business and have discussed the possibility of installing low flow toilets and focusing on a general conservation model for running the business. They suggested monitoring the water use over an 18 month period to be sure that they are staying within the parameters. They have spoken to the abutting property owner about the possibility of getting an easement to locate a new septic system there. They would need the owner of the property to request that, they are leasing the building and not buying it.

Ms. Pflieger feels that washing dishes will increase water flow. Mr. Scott responded by reviewing the sinks that are on the property. Even if they were to add a dishwasher, there are low flow options that are just as effective and use less chemicals.

Mr. Young stated that they would like to propose a flex seating plan. The deck area will be a no smoking/no vaping area. They are looking to target the bike path users who can come in for light-fare takeout, smoothies and espressos. The proposed establishment would not be looking to serve a sit down breakfast like surrounding establishments.

Dr. Cushing asked how the applicant is figuring seating if they are talking about using benches. Mr. Young responded that they feel bench seating is more flexible. Dr. Cushing stated that it could be flexible either way.

Health Director Eldredge asked if the café would be open at the same time as the pub. Mr. Young responded that there would be an overlap and that they envision a menu change mid-day. Between 5:00 p.m.-6:00 p.m. they would want to have more seating available in the pub area.

Dr. Cushing requested that the applicant provide more information on a proposed seating layout.

Ms. Pflieger feels that if we have rules and regulations, we need to follow them instead of letting everyone slide. She is having a hard time trying to envision what will be open and available in the morning versus later in the day and why the applicant thinks that they can meeting the requirements for flow. Mr. Young responded that they are looking to reduce seating and that their menu will be heavily focused on take-out items. Ms. Pflieger asked the applicant what would happen if they find that their water usage is increasing. Mr. Young responded that they have been consulting with an engineer and that they would suggest an 18 month monitoring period. Mr. Young also stated that they will have the system pumped twice a year and that their engineer suggested adding a filter on the septic system.

Mr. Young also added that they thought about removing the 2nd floor apartments, but realized that it might not be a good idea considering the need for housing.

Ms. Pflieger asked the Health Director if the Board could ask for a comprehensive plan of exactly what the new business is proposing. We need to know exactly what they are looking to accomplish. Health Director Eldredge responded that the Board could ask for that plan. Mr. Young invited the Board to tour the current establishment to be able to better visualize the layout.

Health Director Eldredge thinks that it is inappropriate to look at the existing water use for the business because they are using disposal/paper products and the new business is looking to use glassware. Title 5 allows for water meter uses instead of the defined gallons per day for design flows that are unusual or not listed in Title 5. In order to use that method, the applicant would have to make a request at the state level and the applicants would need to obtain water meter usage from a similar business (a coffee/pub using glassware). The business does not have to

be in Harwich, it can be anywhere in Massachusetts. If the applicant wants to have a maximum of 21 seats they would be allowed to use glassware and have the paper restriction lifted because that is what the septic capacity is designed for. More than 21 seats will need a variance from Title 5. If the Board is going to consider possible seating plan variations, they need to see a seating plan and not just a concept.

Selectman Larry Ballantine was present and confirmed that there is an interest in revitalizing Harwich Center. The Board of Health does have regulations that they have to follow. Both the Health Director and Board of Health have offered the applicant options to provide additional data. He suggested that the applicant look into some additional information and come back before the Board.

Greg Winston was present and asked the Board to give the applicants a chance and let them show the Board that they will not exceed the flow, noting that they are not trying to take advantage of the community.

Ms. Pflieger suggested that the applicants start by having 21 seats, which is within the regulations and we know is allowable. The applicant can monitor the water use and see where they fall after a period of time. They always have the option to come back before the Board of Health at a later date and ask for something additional. When the municipal sewer is closer to being available here, the Board of Health may have more flexibility.

Health Director Eldredge recommended that the Board approve the permit application for The Seal Pub & Café, 703 Main Street, with the condition that they will have no more than 21 seats and provide a floor plan to the Board of Health at the January 21, 2020 meeting. The paper restriction on the previous conditions for the property is to be removed.

Dr. Cushing moved to accept the recommendation of the Health Director, 2nd by Mr. Antoine and approved 3-0-0.

VI REPORT OF THE HEALTH DIRECTOR (November 2019)

Health Director Eldredge read her monthly report for November 2019.

VII CORRESPONDENCE

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

VIII PERMITS

ESTABLISHMENT	ADDRESS	TYPE	TYPE	TYPE
FOOD SERVICE				
400 East *	1421 Orleans Road	>150 seats		
Alecsies House of Pizza *	181 Route 137	1-30 seats		
Allen Harbor Yacht Club *	371 Lower County Road	>150 seats		
Big Rock Oyster *	501 Depot Street	Caterer		
Bucas *	4 Depot Road	31-60 seats		
Cape Cod Reg. Tech *	351 Pleasant Lake Avenue	Institution		
Cape Cup *	4 Sou'West Drive	Limited Food Service		
Cape Sea Grille *	31 Sea Street	61-150 seats	Caterer	
Depot Dogs *	4 Depot Road	Mobile Food Service		
Dominos *	16 Route 28	1-30 seats	Take Out	
Dunkin Donuts *	110 Route 137	Take Out		
Dunkin Donuts *	481 Route 28	Retail: <600 sf	1-30 seats	Take Out
Dunkin Donuts *	173 Pleasant Lake Ave	Take Out		

Dunkin Donuts *	175 Route 137	Retail: <600 sf	1-30 seats	Milk & Cream
East Harwich Market *	1421 Orleans Road	Retail: Less than 5000 sf	Milk & Cream	
Ember *	600 Route 28	61-150 seats		
George's Pizza House *	564 Route 28	31-60 seats		
Hand of Hope Food Pantry *	49 Route 28	Institution		
Harwich Community Center *	100 Oak Street	Institution		
Harwich Golf Associates *	51 South Street	Limited Food Service		
Harwich Inn & Tavern *	77 Route 28	61-50 seats		
Harwich Port House of Pizza *	330 Route 28	31-60 seats		
Holy Trinity Church *	246 Route 28	Limited Food Service		
Hot Stove Saloon *	551 Route 28	61-150 seats		
Inn on the Beach *	16 Bank Street	Limited Food Service		
Lighthouse Café *	216 Route 28	Retail: Less than 5000 sf	31-30 seats	
Main Street Quik Pik *	715 Main Street	Retail: Less than 5000 sf	Milk & Cream	Limited Food Service
Mason Jar *	544 Route 28	1-30 seats	Caterer	
Moonshine Liquors *	4 Great Western Road	Retail: <600 sf	Milk & Cream	
One Thirty Seven Gas *	110 Route 137	Retail: Less than 5000 sf	Milk & Cream	Limited Food Service
Pilgrim Lodge AF & AM *	706 Main Street	Institution		
Port Restaurant *	541 Route 28	61-150 seats		
Scribano's *	302 Route 29	Retail: Less than 5000 sf	31-60 Seats	Milk & Cream
Ruggies *	707 Main Street	31-60 seats		
Star Market # 4596	18 Sisson Road	Retail: Greater than 25000 sf	Milk & Cream	Take Out
Stop & Shop *	111 Route 137	Retail: >25000 sf	Take Out	Milk & Cream
Stop & Shop-Starbucks *	111 Route 137	1-30 seats		
Subway *	1 Auston Road	1-30 seats		
The Family Pantry *	133 Queen Anne Road	Institution		
The Seal Pub & Café (2020 New)	703 Main Street	Retail: <50 sf (non PHF)	1-30 seats	Frozen Dessert
Upper Crust Pizza *	1421 Orleans Road	1-30 seats		
SEPTIC INSTALLER				
A.M.A Excavating *				
Abb-Solutely The Best Septic Service *				
Ambrose Homes *				
B & B Excavation *				
Bortolotti Construction *				
Bosetti Septic *				
Cape Dig *				
Chase & Merchant *				
E Z Doze It Excavatin *				
F.L. Quinn Const. *				
F.S. Rich Excavating *				
Harry Ellis Builder LLC *				
J. Iadonisi *				
J.W. Dubis & Sons *				

John Martin, Inc. *				
R.J. Bevilacqua *				
Ready Rooter Excavating *				
Ready Rooter Inc. *				
Rons Excavating *				
Terry Walker Excavation *				
Turner Brothers *				
STABLE				
Brian & Gloria Savin *	117 No. Westgate Road	Res. Stable		
Chrystal Kline *	324 Oak Street	Res. Stable		
Donald R. Dvorovy *	1639 Orleans Road	Res. Stable		
Duane & Elenah Reynolds *	1392 Halls Path One	Res. Stable		
Karin Bearse *	100 Main Street Ext.	Res. Stable		
Katie McIntosh Rhodes *	72 Hawksnest Road	Res. Stable		
Jennifer Cahoon *	1356 Halls Path One	Res. Stable		
Jody Ellis *	307 Queen Anne Road	Res. Stable		
Judith A. Davis *	6 Lynch Lane	Res. Stable		
Lynn Johnson *	235 Lothrop Ave	Res. Stable		
Mary & Brian Hastings *	4 Hildas Cartway	Res. Stable		
Matthew & Jaclyn Brooks *	50 Aladoe Farm Lane	Res. Stable		
Michael Eldredge *	72 Main Street Ext.	Res. Stable		
Stephanie J. Winslow *	94 Main Street Ext.	Res. Stable		
TITLE 5 INSPECTOR				
Rebekah A. Sheridan, P.E. (2020 New)				
David L. Quinn (2020 New)				
Nicholas Geneseo *				
Michael J. DeCosta Jr. *				
Troy Williams *				
Kevin J. Sullivan *				
John Schnaible *				
Stephanie J. Sequin, P.E. *				
Andrew P. Grover, R.S. *				
SEPTIC HAULER				
Aattaboy Septic Service *				
Abb-Solutely The Best Septic Service *				
B & B Excavation *				
Bortolotti Construction *				
Cape Cod Septic Services *				
J.W. Dubis & Sons *				
Ready Rooter Inc. *				
Scott Frank Septic *				
REFUSE HAULER				
Benjamin T. Nickerson *				

Cavossa Disposal Corp. *				
Chase & Merchant *				
Miley Trucking *				
Nauset Disposal *				
William R. Coffin & Sons *				
TOBACCO				
A.J. Lukes of Harwich *	224 Route 28			
East Harwich Market *	1421 Orleans Road			
Main Street Quik Pik *	715 Main Street			
Moonshine Liquors *	4 Great Western Road			
One Thirty Seven Gas *	110 Route 137			
2020 Renewal *				

Dr. Cushing moved to approve the permit list dated December 10, 2019, with the exception of The Seal Pub & Café, pending receipt and approval of a floor plan showing 21 seats, 2nd by Mr. Antoine and approved 3-0-0.

IX OTHER

No other items were discussed.

X ADJOURN -The meeting adjourned at 8:10 p.m.

Dr. Cushing moved to adjourn the meeting at 8:10 p.m., 2nd by Mr. Antoine and approved 3-0-0.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, January 21, 2020 at 6:30 p.m. in the Small Hearing Room.

Documents included in December 10, 2019 Board of Health Meeting Packet:

- December 10, 2019 Board of Health Agenda
- Draft Minutes from the November 12, 2019 Board of Health Meeting
- Site Summary for 321 Lower County Road dated December 10, 2019
- Letter to Thomas DiModica from Health Director dated November 18, 2019
- E-mail from Chris Garcia regarding Cape Cod Regional Technical HS dated November 27, 2019
- Variance from State Plumbing Code Pre Installation for CCRTHS dated November 20, 2019
- Plans for CCRTHS dated October 15, 2019
- Site Summary for 703 Main Street dated December 10, 2019
- Food Establishment & Retail Food Permit Application for The Seal Pub & Café dated November 27, 2019
- Various E-mail Correspondence between Robert Young and Health Director dated October 9, 2019, October 11, 2019, October 15, 2019, October 16, 2019, October 17, 2019 & October 18, 2019
- Board of Health Meeting Decision for 703 Main Street dated May 12, 2016
- Board of Health Variance approval for 703 Main Street dated January 16, 2002
- Site Plan of Proposed Construction for 703 Main Street dated November 12, 2001 and Revised November 21, 2001
- Health Director Monthly Report for November 2019 dated December 2, 2019
- Wastewater Management Information dated August 25, 1995
- Any other documents submitted for/at the December 10, 2019 Board of Health Meeting