

TOWN OF HARWICH



BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH
TUESDAY, DECEMBER 21, 2021- 6:30 P.M.
HARWICH TOWN HALL – DONN B. GRIFFIN ROOM
MEETING MINUTES**

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

BOARD OF HEALTH MEMBERS ABSENT: Vice Chairwoman Sharon Pflieger, M.S., & Member Matthew Antoine

BOARD OF HEALTH MEMBERS ABSENT: STAFF MEMBERS PRESENT: Health Director Kathleen O’Neill & Executive Administrative Assistant Jennifer Clarke

OTHERS PRESENT: Darren Meyer, Stephen Haas, Jim Faulkner, Dan Speakman & Don Howell

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 (Regular Meeting Minutes) – November 16, 2021

Mr. DuPont moved to approve the minutes of the November 16, 2021 Board of Health Meeting as printed, 2nd by Mr. Dowgiallo and approved 3-0-0.

III BOARD OF HEALTH WORK SESSION

A. COVID-19 Update

Health Director O’Neill stated that today, Governor Baker announced that the National Guard will be deployed to assist with medical personnel as well as help with the statewide mask advisory. Harwich is currently tracking 73 active cases and we are seeing a high positivity rate post-Thanksgiving. A 2nd COVID-19 clinic for children is being held tomorrow at Harwich Elementary School. The Health Department will be hosting a COVID-19 testing clinic on Thursday, December 23, 2021 from 11:00 a.m. - 1:00 p.m. at the Harwich Community Center.

Health Director O'Neill stated that it is up to the Board if they would like to make any changes/recommendations or direct staff to take any action regarding COVID-19 policies in Harwich. Ms. Howell suggested that the Board might want to consider a policy that anyone who enters a town building be required to wear a mask. Health Director O'Neill responded that the Board would need to schedule a meeting to make any official decisions.

IV OLD/UNFINISHED BUSINESS

No old unfinished business was discussed.

V NEW BUSINESS

A. Hearing-Faulkner, 38 Lincoln Village Road, to consider variances to upgrade an existing failed septic system to a Title 5 septic system. Plan prepared by Dan A. Speakman Construction. Application also shows a proposed family room and garage addition on the first floor and proposed addition and storage addition on the second floor.

Variances from 310 CMR 15.211- Minimum Setbacks

1. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 15' from the foundation where 20' is required. Variance request of 5'.
2. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 6' from the property line where 10' is required. Variance request of 4'.
3. Per 310 CMR 15.211: To allow a proposed septic tank to be 6' from the property line where 10' is required. Variance request of 4'.
4. Per 310 CMR 15.211: To allow a proposed septic tank to be 9' from the foundation where 10' is required. Variance request of 1'.

Chairwoman Howell opened the hearing. Health Director O'Neill read the variances being requested. Dan Speakman of Dan A. Speakman Construction was present along with property owner Jim Faulkner. Mr. Speakman stated that the cesspools that serve the property are working, but that the owner is looking to do a voluntary upgrade. There is room for the system to be installed on the Route 28 side of the property, however the owner is looking to put an addition on the house as well as a garage. Mr. Speakman noted that Title 5 allows for this expansion, with the Board of Health needing to approve the variance request. They are not asking for any additional flow to the system.

Historically this Board has not allowed variances for new construction. This project is not located in a Zone II, or in an environmentally sensitive area. Title 5 Subsection E was provided to the Board as an attachment for their review, which allows the Board to approve variances for new construction, at the Board's discretion. However; Title 5 also states that the goal is full compliance. This property could have a fully compliant system without the proposed garage addition. The variance request is for a self-created hardship. Denying this request would not create a manifest injustice to the owner, and would not deprive the applicant of substantially all beneficial use of the subject property. Health Director O'Neill cautioned the Board that if they do vote to approve this request, that it would set the precedence for future applications.

Mr. Faulkner stated that he is hoping to retire here in the next few years and added that they are trying to be as responsible as possible with their approach.

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

Ms. Howell stated that even though they are not increasing flow to the system, her concern is the increase in building space, noting that this property may be sewer down the road and we don't want to stress the septic system. She also stated her concern that if the Board grants these variances, that it would open it up for future requests of this nature. Mr. DuPont agreed and added that it would clearly change the precedence that has already been set. Mr. Speakman responded that they are looking to change the precedence and does not understand why the Board is not helping out the people of Harwich.

Health Director O'Neill noted that Title 5 does allow for the Board to grant these variances. She thinks that the intent of Title 5 allows for new construction where the system meets the setbacks. Her only issue is that they could have a fully compliant septic system on the property where the garage is being proposed. The property is currently served by cesspools, so any building permit application that is filed will require an upgrade of the system. This application is creating its own hardship and the Board has never approved a variance of this nature. Typically, the variances granted are for the other side of the house and approvals in the past have been septic dependent.

Health Director O'Neill added that the thought is having an additional family room would allow for more people in the house; more people equals more flushes. This request would not be approved as a new construction if it were a vacant lot. Mr. Faulkner responded that there is no closet space in the existing house and they are talking about using the current area behind the bedroom to add closet space.

Mr. DuPont asked that if the Board were to vote to approve the request, how we would be able to ensure that the flow remains as approved if the property were to transfer. Mr. Speakman responded that Title 5 inspections are done every time a house is sold and that a floor plan is required to be submitted with the report. The floor plans are thoroughly reviewed by the Health Department. Mr. Speakman feels that no one is going to take advantage of the variance approval. Ms. Howell responded that the Board has heard that before.

Ms. Howell suggested that the hearing be continued until the January 18, 2022 meeting when full Board would be present.

Mr. Dowgiallo moved that the hearing be continued until the January 18, 2022 Board of Health meeting to no earlier than 6:30 p.m. so that the full Board can be present, 2nd by Mr. DuPont and approved 3-0-0.

B. Hearing-Carney, 6 Saquatucket Point, to consider variances to upgrade an existing septic system to a Title 5 septic system. Plan prepared by Stephen A. Haas, P.E. Application also includes a reconsideration of previous order of conditions granted on January 10, 2001-"There is to be no increase in square footage, habitable space or number of bedroom beyond those presently existing in the dwelling". The applicant is proposing 2 small additions of the dwelling. The first is an enlarged and reconfigured master bedroom and an additional bathroom on the second floor. The second is an enlargement and reconfiguration of the garage/laundry area.

Variances 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 78' from the bulkhead at the edge of the boat basin where 100' is required. Variance request of 22'.
2. Per Harwich Board of Health Regulation 1.210: To allow a proposed soil absorption system to be 50' from the top of coastal bank where 100' is required. Variance request of 50'.

Chairwoman Howell opened the hearing. Health Director O'Neill read the variances being requested. Stephen A. Haas was present. The plan proposes to upgrade an existing septic system with a Title 5 septic system. The system will contain a 1500 gallon septic tank, Norweco NK 2000 disinfection unit, distribution box and soil absorption system and has been designed for 5 bedrooms. The plan also includes a proposal for 2 small additions to the existing dwelling. The first is an enlarged and reconfigured master bedroom and an additional bathroom on the 2nd floor. The second is an enlargement and reconfiguration of the garage/laundry area.

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

Health Director O'Neill stated that the Board approved this request in 2001, however the system was never installed. The only change to the application is the addition of I/A Technology and the addition of the garage. The additions are not creating any hardships for the septic system.

Health Director O'Neill recommended approval of the variance request with the following conditions:

1. No further increase in square footage or habitable space without review by the Board of Health.
2. The property shall be deed restricted to a maximum of five (5) bedrooms.
3. Variances and conditions are to be recorded at the Barnstable County Registry of Deeds.
4. An alternative septic system or treatment is required and must be under an operation and maintenance contract for the life of the system.
5. The alternative septic system must be tested and maintained in accordance with the Health Department's requirements for testing.
6. Previous conditions apply.

Ms. Howell asked that the cost is for the additional treatment. Mr. Haas responded that the cost might be around \$2000.00. He added that the system would need quarterly maintenance feeding with tablets. Health Director O'Neill added that we do monitor the testing with Barnstable County and we know quickly if the requirements are not being followed.

Mr. DuPont moved to accept the recommendation of the Health Director, 2nd by Mr. Dowgiallo and approved 3-0-0.

- B. Hearing-Sail Loft Road Nominee Trust, 6 Sail Loft Road,** to consider variances to upgrade a failed septic system to a Title 5 septic system. Plan prepared by Eco Tech Rapid Response. Application also proposes renovations to the existing 3 bedrooms dwelling with no proposed increase in flow.

Variances from 310 CMR 15.211- Minimum Setbacks

1. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 9' from the dwelling foundation where 20' is required. Variance request of 11'.
2. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 6' from the property line where 10' is required. Variance request of 4'.
3. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 7' from the property line where 10' is required. Variance request of 3'.

Chairwoman Howell opened the hearing. Health Director O'Neill read the variances being requested. Darren Meyer of Meyer & Sons, Inc. was present. On June 16, 2021, Ready Rooter Excavating was called to 6 Sail Loft Road for a collapsed cesspool. Ready Rooter reported that the overflow cesspool had been driven over and the side wall had collapsed. The primary cesspool for the property had a septic capacity

of 400 gallons. Patrick Sullivan from Ready Rooter noted that in order for the property to be habitable, he thought it was necessary for install a 1500 gallon h-20 septic tank. The tank would be installed to the left, front side of the house where the main sewer line leaves the foundation. Ready Rooter Excavating applied for an emergency repair permit to install the above referenced septic tank on June 17, 2021. The Health Department issued the permit the same day with the condition that the new system must be installed within 45 days and have maintenance pumping. On June 29, 2021, the Health Department was notified that they had been contracted by the property owners to move forward with the upgrade.

On September 7, 2021, the Health Department received a Zoning Board of Appeals application for staff review. The application proposed to create an addition and reconfigure the existing floor plan. It was noted that a complete septic application with a fully compliant septic system would need to be submitted and variance approvals would need to be recorded at the Registry of Deeds prior to any building permit sign off.

The proposed septic shows utilizing the previously installed 1500 gallon h-20 septic tank and adding a distribution box and soil absorption system. The existing cesspool will be pumped, collapsed and filled. The flow will be piped to the existing septic tank and pump chamber might be required if gravity flow cannot be achieved.

Modification to the floor plan include reconfiguration of rooms on the first floor, including turning an existing mudroom into a bathroom and mud hall. Modification to the floor plan also include reconfiguration of rooms on the second floor including the addition of a home office with cased opening, changing a bedroom into a family room and adding a bathroom. There is no increase in flow being proposed beyond what currently exists.

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

Health Director O'Neill stated that it is up to the Board if they want to allow the request for the 600 square foot increase and ask for I/A Technology. Due to the size of the lot, they will have to approve some kind of variances for the system upgrade.

Ms. Howell asked the applicant if their client would consider I/A Technology. Mr. Meyer responded that he thinks that this addition is important to his client, and that if the Board requires the I/A Technology, that they will do it.

Mr. DuPont feels that requesting I/A Technology is perfectly acceptable, given the request for additional space. Mr. Meyer responded that that his client is not adding any additional flow and questioned what the Board is trying to achieve with I/A Technology. Mr. DuPont responded that the environmental impact might not be now, but we will start to see the effect on the environment as projects increase.

Health Director O'Neill asked if the Board would want to re-review the application that will include I/A Technology once it has been received, or if they would be ok with having a staff level review. The Board agreed to a staff level review.

Health Director O'Neill recommended approval of the variance request with the following conditions:

1. No further increase in square footage or habitable space without review by the Board of Health.
2. The property shall be deed restricted to a maximum of three (3) bedrooms.
3. Variances and conditions are to be recorded at the Barnstable County Registry of Deeds.

4. An alternative septic system or treatment is required and must be under an operation and maintenance contract for the life of the system.
5. The alternative septic system must be tested and maintained in accordance with the Health Department's requirements for testing.

Mr. DuPont moved to accept the recommendation of the Health Director, 2nd by Mr. Dowgiallo and approved 3-0-0.

VI REPORT OF THE HEALTH DIRECTOR

Health Director O'Neill read her monthly report.

VII CORRESPONDENCE

No correspondence was discussed.

VIII PERMITS

ESTABLISHMENT	ADDRESS	TYPE	TYPE	TYPE	TYPE
SEPTIC INSTALLER					
A & S Construction *					
Aaron Gingras *					
Abb-Solutely Septic * (minor repairs only)					
AMA Excavating *					
Ambrose Homes *					
B & B Excavation *					
Better Cape Plumbing *					
Bortolotti Construction *					
Cape Cod Septic Services *					
Cape Dig *					
Cape Excavating Service *					
Chase & Merchant *					
DG Digging *					
Dig It Construction *					
F.L. Quinn Construction *					
F.S. Rich Excavating *					
Harry Ellis Builder *					
J. Brown, Inc. *					
J. Iadonisi Construction *					
J.W. Dubis *					
John Martin Inc. *					
Ken Rose Septic Service *					
Pastore Excavation *					
R.J. Bevilacqua Construction Corp *					
Ready Rooter Excavating *					
Ready Rooter, Inc. *					

R.E. Farrell *					
Ruberti Construction (2022 NEW)					
SunWind, LLC *					
Turner Brothers *					
TOBACCO					
East Harwich Market *	1421 Orleans Road	Retail			
Fully Baked Smoke Shop *	216 Route 28 Unit 5	Adult Only			
Harwich Gas & Propane *	729 Main Street	Retail			
Harwich Mobil *	173 Pleasant Lake Avenue	Retail			
Main Street Quik Pik *	715 Main Street	Retail			
Moonshine Liquors *	4 Great Western Road Unit 1	Retail			
Portside Liquors *	1421 Orleans Road	Retail			
Royal Smoke Shop *	721 Main Stret	Adult Only			
Value Mart *	435 Route 28	Retail			
FOOD SERVICE					
400 East Inc.*	1421 Orleans Road	>150 seats			
711 Food Mart *	711 Main Street	Retail: Less than 5000 sf	1-30 seats	Milk & Cream	Take Out
Alecsies House of Pizza *	181 Route 137	1-30 seats			
Big Rock Oyster *	501 Depot Street	Caterer			
Brax *	705 Route 28	>150 seats			
Cape Cup *	4 Sou'West Drive	Residential Food Service			
Cape Sea Grille *	31 Sea Street	61-150 seats			
Dunkin Donuts *	481 Route 28	Retail: <600 square feet	1-30 seats	Milk & Cream	
Dunkin Donuts *	175 Route 137	Retail: <600 square feet	1-30 seats	Milk & Cream	
Dunkin Donuts *	109 Route 137	Take Out			
Dunkin Donuts *	173 Pleasant Lake Avenue	Take Out			
East Harwich Market *	1421 Orleans Road	Retail: Less than 5000 sf	Milk & Cream		
Elder Services of Cape Cod & the Islands *	100 Oak Street	Institution			
Ember Pizza *	600 Route 28	61-150 seats			
Georges Pizza House *	564 Route 28	31-60 seats			
Harwich Inn & Tavern *	77 Route 28	61-150 seats			
Harwich Mobil *	173 Pleasant Lake Avenue	Retail: Less than 5000 sf	Milk & Cream	Limited Food Svc.	
Lighthouse Café *	216 Route 28	Retail: Less than 5000 sf	31-60 seats		
Main Street Quik Pik *	715 Main Street	Retail: Less than 5000 sf			
Moonshine Liquors *	4 Great Western Road Unit 1	Retail: less than 600 sf			
Pleasant Lake Farm *	2 Birch Drive	<600 square feet			
Rosewood Manor *	671 Main Street	Institution			
Ruggies *	707 Main Street	31-60 seats			
Scribanos *	302 Route 28	Retail: Less than 5000 sf	31-60 seats	Milk & Cream	
Szechuan Delight *	1421 Orleans Road Unit 24	Take Out			
The Family Pantry *	133 Queen Anne Road	Institution			
The Family Pantry *	133 Queen Anne Road	Mobile Food Service			
The HarWitch *	86 Old Chatham Road	Residential Food Service			

The Platinum Pebble *	186 Belmont Road	Limited Food Service			
The Port *	541 Route 28	61-150 seats			
The Tern Inn *	91 Chase Street	1-30 seats			
Town of Harwich-Community Center *	100 Oak Street	Institution			
Value Mart *	435 Route 28	Retail: Less than 5000 sf	Milk & Cream	Limited Food Svc.	
TITLE 5 INSPECTOR					
Adam Riker *					
David Quinn *					
James Sears *					
John O'Reilly *					
Kevin J. Sullivan *					
Michael T. Bisienere *					
Robert Reedy *					
Troy Williams *					
REFUSE HAULER					
Benjamin Nickerson, Inc. *					
Cavossa Disposal *					
Chase & Merchant *					
Del Mar Vacations *					
M.A. Frazier *					
Milley Trucking *					
Nauset Disposal *					
Seaside Disposal *					
William Coffin & Sons *					
STABLE					
Brian & Mary Hastings *	4 Hildas Cartway	Residential			
CB Equestrian *	32 Derby Lane	Commercial			
Christine Menard *	39 Lexington Drive	Residential			
Chrystal Kline *	324 Oak Street	Residential			
David & Betsy Coleman *	26 North Westgate Road	Residential			
Deacons Folly Farm/Costa *	41 Deacons Folly Road	Commercial			
Donald Dvorovy *	1639 Orleans Road	Residential			
Duane Reynolds *	1392 Halls Path	Residential			
Eliza Kendall *	90 Old Chatham Road	Residential			
Jeff Brown *	650 Depot Street	Residential			
Karin Bearse *	100 Main Street Ext.	Residential			
Katie McIntosh-Rhodes & Jason Rhodes *	72 Hawksnest Road	Residential			
Matthew & Jaclyn Brooks *	50 Aladoe Farm Lane	Residential			
Jennifer Cahoon *	1356 Halls Path One	Residential			
Judith A. Davis *	6 Lynch Lane	Residential			
Reaching for My Dreams Stable/Miller *	38 North Westgate Road	Commercial			
Stephanie J. Winslow *	94 Main Street Ext.	Residential			
True North Farm *	339 Queen Anne Road	Commercial			

SEPTIC HAULER					
Abb-Solutely Septic *					
B & B Excavation *					
Bortolotti Construction *					
Cape Cod Septic Services *					
M.A. Frazier *					
Ready Rooter, Inc. *					
Wastewater Services *					
UTILITY INSTALLER					
Bortolotti Construction *					
John Martin Inc. *					
MOTEL					
Inn on the Beach *	16 Bank Street				
*2022 Renewal					

Mr. DuPont moved to approve the permits as listed, 2nd by Mr. Dowgiallo and approved 3-0-0.

IX OTHER

The Board agreed to schedule a meeting on December 28, 2021 at 6:30 p.m. to discuss a possible mask advisory.

X ADJOURN

Mr. Dowgiallo moved to adjourn the meeting at 7:15 p.m. 2nd by Mr. DuPont and approved 3-0-0.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, January 18, 2022 at 6:30 p.m.

- December 21, 2021 Board of Health Agenda
- Draft Board of Health Minutes dated November 16, 2021
- COVID-19 update dated December 15, 2021
- Memo from The Commonwealth of Massachusetts Executive Office of Elder Affairs dated November 22, 2021
- COVID-19 Vaccine Program Bulletin dated December 2, 2021
- Site Summary for 38 Lincoln Village Road dated December 21, 2021
- Application for Board of Health Variances and associated documents for 38 Lincoln Village Road dated November 22, 2021
- Site Summary for 6 Saquatucket Point Road dated December 21, 2021
- Application for Board of Health Variances and associated documents for 6 Saquatucket Point Road dated December 8, 2021
- Site Summary for 6 Sail Loft Road dated December 21, 2021
- Application for Board of Health Variances and associated documents for 6 Sail Loft Road dated December 2, 2021

- Health Director Monthly Report dated December 2021
- Any other documents submitted for/at the December 21, 2021 Board of Health Meeting