

TOWN OF HARWICH



BOARD OF HEALTH

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Town of Harwich Board of Health

Tuesday, April 11, 2017

6:30 PM

TOWN HALL – SMALL HEARING ROOM

MINUTES

BOARD OF HEALTH MEMBERS PRESENT: Chairman Dr. Robert Insley, Vice Chairman Pamela Howell, R.N., Clerk Frank Boyle and member Cynthia Bayerl.

STAFF MEMBERS PRESENT: Health Director Paula Champagne, Senior Health Inspector Meggan Tierney & Administrative Assistant Jennifer Clarke

OTHERS PRESENT: Bob Collett, Sarah McColgan, Kathy Wilbur, Paresh Patal, Kalib Patel, Sannil Patel, Paul Foley & others.

CALL TO ORDER

At 6:30 p.m., Chairman Insley called the Meeting to order.

I. MINUTES OF PREVIOUS MEETING-March 28, 2017

Motion made by Ms. Bayerl to accept the regular meeting minutes of the March 28, 2017 Board of Health meeting as amended. Ms. Howell seconded the motion. 4-0-0 Unanimous.

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

A. Public Hearing-To solicit comment on proposed amendments to the regulation, “Harwich Board of Health Restrictions for the Sale of Tobacco Products”, including raising the minimum age to purchase from 18 to 21 years.

Chairman Insley opened the hearing. Ms. Champagne read the legal ad. Staff has had multiple discussion on the proposed amendment and the draft regulation has been distributed to all of our tobacco permit holders. The department has received 2 letters from members of the public which were noted for the record. Patricia Mallius from American Heart Association submitted a letter as well as a letter to the editor in the Cape Codder from Walter McClennen.

Paresh Patel from East Harwich Market asked for the Board to explain the details of the amended regulation.

Paul Foley from Fully Baked Smoke Shop asked if there would be any way to stop raising the minimum age. He is opposed to raising the minimum age from 18 to 21. Dr. Insley asked if Mr. Foley has an idea of the number of his customers that would be affected by this change. Mr. Foley was not able to provide a definite number.

Bob Collett, Director of the Cape Cod Regional Tobacco Control Program was present. He is disappointed that he has not been involved in the discussions leading up to this point and stated that he would like to provide feedback to the Board regarding the regulations. He suggested that the Board delay their vote.

Kathy Wilbur from the Seven Hills Behavioral Health stated that data shows that increasing the age to 21 will save lives.

A speaker from the audience stated that he feels smoking is a personal choice and that increasing the age to 21 will not make a big difference. It will hurt the business community.

Sarah McColgan from MHOA echoed Bob Collett's concerns and also suggested postponing the vote.

Chairman Insley closed the hearing.

Mr. Boyle moved to continue the discussion until the May 9, 2017 Board of Health meeting, pending further input. Ms. Bayerl seconded the motion. 4-0-0 Unanimous. The Board invited members of the Cape Cod Regional Tobacco Control Program to attend the work session.

II. 7:00- OLD/UNFINISHED BUSINESS

None discussed.

VI NEW BUSINESS

A. Hearing-Roger Keane, 6 Summer Lane, to consider a variance request to install a new Title 5 septic system prepared by Moran Engineering Associates, LLC
Variances from 310 CMR 15.211(1) Minimum Setbacks

1. Per 310 CMR 15.405(1)(a): To allow a proposed septic tank to be 5' from the property line where 10' is required. Variance request of 5'.

2. Per 310 CMR 15.405(1)(b): To allow a proposed septic tank to be 7.5' from the cellar wall where 10' is required. Variance request of 2.5'

3. Per 310 CMR 15.405(1)(a): To allow a proposed soil absorption system to be 7' from the North property line where 10 is required. Variance request of 3'.

4. Per 310 CMR 15.405(1)(a): To allow a proposed soil absorption system to be 7' from the West property line where 10' is required. Variance request of 3'.

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

6. Per 310 CMR 15.405(1)(b): To allow a proposed soil absorption system to be 16' from abutters foundation where 20' is required. Variance request of 4'

Chairman Insley opened the hearing. Dan Croteau from Moran Engineering Associates LLC was present and reviewed the variance request. Roger Keane was present in the audience. Part of this proposal is a plan to demolish and re-build the home. The variances being requested are the same whether or not they kept the original dwelling. The property is currently served by cesspools.

Dr. Insley stated his concerns about the office area and it having the potential to be considered a bedroom. Ms. Champagne noted that Dr. Insley is bringing up concerns that staff has discussed.

Chairman Insley closed the hearing.

Health Director Champagne recommended approval with the following conditions:

1. The dwelling shall be restricted to a total of 2 bedrooms as submitted on the March 27, 2017 floor plan prepared by Zibrat & McCarthy & March 27, 2017 septic system design plan prepared by Moran Engineering Associates LLC.
2. The septic system design flow will be for 220 GPD. No increase in flow, number of bedrooms or square footage.
3. No provisions for a garbage disposal.

4. Record deed restriction as “margin referenced” and return a copy to the Health Department.

Mr. Boyle moved to accept the recommendation of the Health Director to approve the variance request. Ms. Bayerl seconded the motion. 4-0-0 Unanimous.

VII REPORT OF THE HEALTH DIRECTOR (March 2017)

- **Projects-**

- March is traditionally a very active month in the health dept. We are working on an accelerated timetable with all of the new/remodeled business to open for spring; renewal packets have been sent (electronically) for our seasonal businesses, motels, pools and beaches.
- Amendments to Tobacco sales regulations and Tobacco 21- We have not received any written or verbal comments on the posted hearing. There was a letter to the editor of the Cape Codder in opposition, a copy of which is in the packet.
- Community Development- we have met with proponents for a subdivision at Squantom Path, North Harwich to discuss design concepts and parameters. This location would be in a Zone II, utilize cluster design and would need to file an Environmental Impact Report with BOH. We have also met with owners of Winsted Inn to review agreements on design flow with respect to a request to add additional habitable space.
- 35 Chatham Rd- Resilient Family Farm- The volume and complexity of the complaints have reached the level of the Selectmen and Town Administrator. TA has arranged meetings with Town Counsel and staff to share case information and review of potential deficiencies. Health Department has been following closely as the project has been in Conservation Commissions jurisdiction attempting to establish wetland jurisdiction, grandfather rights and agriculture exemptions. All of this is germane to many of the enforcement depts. basis for compliance. Unfortunately, the farm continues to escalate operations without resolution of the basic issues. The Conservation Commission decision has been appealed to DEP which will result in further delay in implementation of plans. The Health Department is reviewing moving forward on addressing site conditions independently

- **Food Service Programs**

- The new Cumberland Farms has made rapid progress over the last few weeks. After an unsatisfactory initial inspection, a second visit was made and we were able to sign off on the occupancy permit application. The second inspection was much more favorable and showed an improvement in post-construction cleanliness. A full food service inspection will take place once the food is brought in and employees are on site for training.
- The Melrose Trustees contacted us to notify of a change in management Wise Management Company is no longer contracted with them. Wise removed all food service equipment from the building; the facility is now operating on a catering/take-out basis. The trustees are looking into the possibility of designing a new kitchen or keeping up with the take-out orders from the residents.
- The Toast of Harwich is scheduled for May 5th this year. The Chamber has been in contact with us early on in the planning stages and continues to keep us up to date. The plan is to have 5 “hubs” where various restaurants will come together to serve up a favorite dish. These hubs will have a certified food manager on site and each participating restaurant will be supplying us with an application indicating the types of food to be offered. We are planning on inspecting each of the hubs prior to operation and as the event takes place.
- Dr. Cavity’s Candy store has changed location without notifying the Health Department. A letter was sent out to the owner advising him of the need for plan review and pre-opening inspections. The septic system for this location was not inspected as part of the real estate transfer in October of 2016, a notice of violation has been sent to the owner.

- **RET’s/ Sewage permit review – outstanding issues**

- 1626 Orleans Rd- RET- Zone II- # BR's non-compliant w previous approved plan. Return to compliance plan completed. *Resolved*
- 24 Fernwood Circle- RET-Zone II- Finished basement – walk-thru verified not a bedroom- *resolved with a deed restriction*
- 30 Red Brook Rd- RET- Zone II- # BR- walkthrough did not identify a problem- floor plan mislabeled a living room as a bedroom- *resolved*
- 6 Broxburn Rd- Building addition- Zone II- deed restriction executed and final walk-thru for occupancy certificate compliance- *resolved*
- 14 McElway- building addition- approved plan allowing a major alteration required repurposing a potential BR to an open den; issue remained open for over a year as owner and builder objected to BOH requirement. Final walk-thru for compliance. *Resolved*

Frank Boyle left the meeting at 7:19 p.m.

VIII CORRESPONDENCE

None discussed.

IX PERMITS

ESTABLISHMENT	ADDRESS	PERMIT TYPE	PERMIT TYPE	PERMIT TYPE
FOOD SERVICE				
Cape Cod Kettle Corn		Event Permit		
Ember Pizza Inc.	600 Route 28	Food Service: 61-150 seats		
Harwich United Methodist Church	1 Church Street	Institution		
Jake Rooneys	119 Brooks Road	Food Service: >150 seats		
Mad Minnow Bar & Kitchen	554 Route 28	Food Service: 1-30 Seats	Mobile Food Truck	
Platinum Pebble Boutique Inn	186 Belmont Road	Food Service: 1-30 Seats		
Port Restaurant and Bar Inc.	541 Route 28	Food Service: 61-150 seats		
Sweet Daisies		Event Permit		
Viera	11 Route 28	Food Service: 31-60 seats		
Wequassett Resort-Main Kitchen	2173 Route 28	Food Service: 61-150 seats		
Wequassett Resort-Outer Bar & Grille	2173 Route 28	Food Service: 61-150 seats		
Wequassett Resort-Pavillion	2173 Route 28	Food Service: >150 seats		
Wequassett Resort-Tennis Grille	2173 Route 28	Food Service: 1-30 seats		
Wicked Good Kettle Corn		Event Permit		
MOTEL				
A Beach Breeze Inn	169 Route 28			
Cape Cod Wishing Well	212 Route 28			
Commodore Inn Ltd.	30 Earle Road			
TOBACCO				
West Harwich Sav-On-Gas	4 Route 28			
STABLES				
Brumbyrun Farm/Margaret Grey	32 Derby Lane	Commercial Stable		
Patrick Ellis & Jen Cahoon	1356 Halls Path One	Residential Stable		
Kathy Gould	98 Old Chatham Road	Residential Stable		
SEPTIC INSTALLERS				

Cardinal Construction	Cotuit			
Harry Ellis Builder LLC	South Chatham			
POOLS				
Commodore Inn Ltd.	30 Earle Road			
Wequassett Resort & Golf Club	2173 Route 28	Main Pool		
Wequassett Resort & Golf Club	2173 Route 28	Main Pool Spa		
Wequassett Resort & Golf Club	2173 Route 28	Lap Pool		
Wequassett Resort & Golf Club	2173 Route 28	Lap Pool Spa		
Wequassett Resort & Golf Club	2173 Route 28	Room 10 Spa		
Wequassett Resort & Golf Club	2173 Route 28	Room 12 Spa		
Wequassett Resort & Golf Club	2173 Route 28	Room 18 Spa		
Wequassett Resort & Golf Club	2173 Route 28	Room 20 Spa		
Wequassett Resort & Golf Club	2173 Route 28	Room 44 Spa		
Wequassett Resort & Golf Club	2173 Route 28	Room 46 Spa		
BATHING BEACH				
Wequassett Resort & Golf Club	2173 Route 28	Pleasant Bay		

Ms. Howell move to approve the permits as per the list dated April 11, 2017. Ms. Bayerl seconded the motion. 3-0-0 Unanimous.

III. OTHER

Ms. Champagne informed the Board that we have received a lawsuit regarding 5 Sea Street Extension. She provided a review of the basis of the suit. The information has been passed along to Town Counsel.

Dr. Insley stated that the Planning Board is looking for a letter of support from the Board of Health for their upcoming meeting regarding the regulations of the sale and distribution of marijuana in the Town of Harwich.

Ms. Bayerl moved to direct Health Department staff to draft a letter from the Board of Health to the Planning Board regarding the ban of the sale and distribution of marijuana in the Town of Harwich. Ms. Howell seconded the motion. 3-0-0 Unanimous.

IV. ADJOURN-The meeting adjourned at 7:40 p.m.

Ms. Howell moved to adjourn. Dr. Insley seconded the motion. 3-0-0 Unanimous.

Submittals of the meeting are part of the permanent record.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, May 9, 2017 at 6:30 p.m. in the small hearing room.