

# TOWN OF HARWICH



## BOARD OF HEALTH

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### Town of Harwich Board of Health Tuesday, May 10, 2016-6:30 PM TOWN HALL – SMALL HEARING ROOM MINUTES

**BOARD OF HEALTH MEMBERS PRESENT:** Members Chairman Dr. Robert Insley, Vice Chairman Pamela Howell, R.N., Frank Boyle & Cynthia Bayerl

**STAFF MEMBERS PRESENT:** Health Director Paula Champagne & Administrative Assistant Jennifer Clarke

**OTHERS PRESENT:** Robert and Patricia Shelley, Bob and Gaylene Heppe, Attorney Peter Farber, Mike Aucoin, Dan Ojala and Paul Foley.

#### **I CALL TO ORDER**

At 6:30 p.m., Chairman Dr. Robert Insley called the meeting to order.

#### **II MINUTES OF PREVIOUS MEETING (Regular Meeting Minutes) – 4/12/16**

Motion made by Mr. Boyle, seconded by Ms. Bayerl to accept the regular meeting minutes of the 4/12/16 Board of Health meeting. 3-0-0 Unanimous

*Pam Howell arrived at 6:35 p.m.*

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

No scheduled items.

#### **IV 7:00- OLD/UNFINISHED BUSINESS**

**A. Discussion-Tonka Girl, LLC, 0 Main Street, 4 lot definitive subdivision,** request to reconsider order of conditions to approval issued 4/12/16, # 3-All sewage disposal systems will exit the building on the street side.

Chairman Insley opened the discussion. Attorney Peter Farber was present representing the developer, Tonka Girl, LLC. The applicant had presented the Board of Health letter to the Planning Board, and there was a request to change the wording of condition # 3-*All sewage disposal systems will exit the building on the street side*. The subdivision is located in an industrial zone and commercial buildings will be on the lots. Attorney Farber stated that he feels the condition placed is outside of the jurisdiction of the Board of Health. Chairman Insley closed the discussion.

Health Director Champagne reported that a request was made on behalf of Tonka Girl, LLC to reconsider condition # 3. Following a written extension request extending the 45 day time line for response per MGL Cc.41 § 81U, the item was posted for the May 10, 2016 meeting of the Board of Health. After considerable review and discussion, the Board of Health favorably considered a request for language clarification of item #3. The modified orders of condition to the subdivision shall now read:

1. The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations for any of the lots.
2. The subdivision will be served by town water.
3. In order to prepare for any connection to a sewer system, a sewer line will exit the building on the street side.

Mr. Boyle moved to accept the recommendation of the Health Director. Ms. Howell seconded the motion. 4-0-0 Unanimous.

## V NEW BUSINESS

### **A. Hearing- Heppe, 311 Route 28, to reconsider Order of Conditions granted 12/9/1998-no increase of square footage to the dwelling-proposal to add a 14'x16' family room with 6'x8' connecting hallway.**

Chairman Insley opened the hearing. Bob and Gaylene Heppe were present who purchased the property in 1999. Prior to the purchase, the seller was granted permission to install a 3 bedroom septic system with variances. A condition of the variances was no increase in square footage or number of bedrooms to the dwelling. The owners are proposing to add a 14'x16' family room with 6'x8' connecting hallway and are seeking relief from the condition placed on December 9, 1998. Conservation Commission has approved the plan on February 18, 2016. Chairman Insley closed the hearing.

Health Director Champagne has visited the property to verify the existing floor plan and met with several times with the owner. The proposed family room will be part of the flow of the house and will not be considered a bedroom as it enters to the exterior. Health Director Champagne recommends approval of the project in keeping with the variances/orders of conditions granted December 9, 1998, and the additional conditions:

1. The dwelling shall be restricted to a total of 3 bedrooms per the plan of October 15, 1998. No increase in number of bedrooms, flow or square footage.
2. Record deed restriction & floor plan 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 reconsideration based on plan submitted dated April 1, 2016. Ms. Bayerl seconded the motion. 4-0-0 Unanimous.

### **B. Hearing- Morrill, 7 Uncle Wills Lane, to consider a variance request to replace a sewage disposal system prepared by All Cape Septic, LLC.**

#### Variances from 310 CMR 15.211(1) Minimum Setback Distances

1. Per 310 CMR 15.405: To allow a proposed septic tank to be 1' from the road property line where 10' is required. Variance request of 9'.
2. Per 310 CMR 15.405: To allow a proposed septic tank to be 5.5' from the existing dwelling where 10' is required. Variance request of 4.5'.
3. Per 310 CMR 15.405: To allow a proposed pump chamber to be 1' from the road property line where 10' is required. Variance request of 9'.
4. Per 310 CMR 15.405: To allow a proposed pump chamber to be 5.5' from the existing dwelling where 10' is required. Variance request of 4.5'.

Chairman Insley opened the hearing. Mike Aucoin was present. The existing septic tank on the small lot is in the front of the building right up against the ROW property line. The best alternative is to try and lay a pump chamber next to it and put the leaching area in the back yard. All of the variances are for the septic tank and the pump chamber. The road is a narrow gravel road which services 2 houses only besides this residence. This is an existing 2 bedroom home and they are not seeking to add any bedrooms for this proposal. Chairman Insley closed the hearing.

Health Director Champagne said that this property is a 2 bedroom dwelling asking for variances so it is required that the septic system be downsized for gallons so that it will remain a 2 bedroom dwelling. Health Director Champagne recommends approval of the project with the following conditions:

1. The dwelling shall be restricted to a total of 2 bedrooms as submitted on the 4/26/16 plan. The septic system design flow will be for 220 GPD. No increase in flow, number of bedrooms or square footage.
2. No provisions for a garbage disposal.
3. Record deed restriction as "margin referenced" and return a copy to the Health Department.
4. Variance requests are for setbacks only and not environmental.

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.

**C. Hearing-Hydrogeological Impact Statement, Caroline Harwich, owner and Orthopedic & Sports Physical Therapy of Cape Cod, applicant, c/o Michael B. Stusse, Esq., representative, seek approval of a Site Plan Special Permit pursuant to the Code of the Town of Harwich §325-55 and §325-51 as set forth in MGL c. 40A §9. The proposal seeks to construct a 6,625 SF medical clinic structure with certain appurtenant site improvements. The property is located at 0 Stagg Drive, a.k.a 172 Route 137, Map 86, Parcel M9-2 in the CH-2 zoning district and W-R overlay district and Six Ponds Special District.**

Chairman Insley opened the hearing. Dan Ojala from Down Cape Engineering was present. The applicant is seeking relief from the Planning Board and site plan approval. The site is in a mapped Zone 2 to public wells per the local and DEP mapping. The site is also in the Upper Muddy Creek watershed as mapped by the Mass Estuaries project and also in the Six Ponds District of Harwich, Zone A, which has special thresholds for limiting impervious lot coverage. The existing paved parking area will be removed and replaced with a 6,625 sf footprint building and accessory parking to serve Orthopedic & Sports Physical Therapy of Cape Cod. The building will be served by a 40 car parking lot with a paved loading area with fenced dumpster on impervious surface, and the property will be improved with upgraded landscaping and more green space as well. The site has been designed to fully comply with the Mass DEP Storm Water Management Guidelines and is designed per local requirements for infiltrating the entire 25 year design storm onsite. The depth of dry sand beneath the onsite storm water leaching and the Title 5 septic leaching area is many times the required depth set by local and state guidelines. The use is listed as professional office, and medically orientated gym.

Title 5 limits design flow in a nitrogen sensitive area to 110GPD/10,000st of land area which would allow a design flow of 729GPD on this site. To achieve less than 5 ppm, the site utilizes a MicroFAST 0.9 I/A system with flow equalization and recycling components to assure that the site will comply with the local requirements. The use of the building will not allow for the storage of any hazardous materials beyond residential limits. Chairman Insley closed the hearing.

Health Director Champagne recommended that the Board of Health accept the Hydrogeological Impact Statement dated 4/26/2016 & Drainage Calculations dated 4/11/2016, prepared by Down Cape Engineering, Inc., Floor Plan dated 4/12/2016, prepared by ES Design and Site Plan dated 4/11/2016, prepared by Down Cape Engineering, Inc. The approval of the Board of Health is for the conceptual project design only. The following findings were made:

1. The proposed medical gym and office complex water use will be well within the guidelines for Title 5-Zone II requirements. The projected design flow is for 579 gpd.

2. The proposed flow and use for commercial areas predict a nitrate loading of less than 5 ppm. This condition is met with the inclusion and operation of advanced wastewater treatment system.
3. Landscaping plans include low to no phosphorous/nitrogen products and no pesticide use.
4. Use, storage and disposal of potentially hazardous and toxic materials will not be in excess of residential usage.
5. Board of Health regulations for the Water Resource District restrict further commercial activities and land use.

Mr. Boyle moved to accept the recommendation of the Health Director. Ms. Howell seconded the motion. 4-0-0 Unanimous.

**D. Discussion-Shelley, 62 Main Street Ext, to consider a request for a 3 lot definitive subdivision prepared by Cyprus Design, Inc.**

Chairman Insley opened the discussion. Robert and Patricia Shelley were present. Health Director Champagne said that this project is for a 3 lot subdivision which does not require an environmental impact statement. There is sufficient area for septic system development on each of the lots per Board of Health requirements. Chairman Insley closed the discussion.

Health Director Champagne recommends that the Board of Health accept the request for a 3 lot definitive subdivision as per site plan, existing conditions plan and lot plan by Cyprus Design, Inc. dated 3/10/2016 with the following conditions:

1. The Harwich Board of Health will not consider any variances from Title 5 or Harwich Board of Health Regulations.
2. The subdivision will be served by town water.
3. In order to prepare for any connection to a sewer system, a sewer line will exit the building on the street side.

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

**E. Hearing-2016 Bathing Beach Program 105 CMR 445.000, Application for extension of sampling-Variance for a Massachusetts tier 3 Beach-Town of Harwich-Zylpha Road # P10-M15**

Chairman Insley opened the hearing. Health Director Champagne stated that the requirement of the Mass Dept of Public Health is to allow a bating beach to be sampled monthly rather than weekly after 4 years of sufficient sampling results. Provided that there are no failures, the beach is allowed to request a variance. Zylpha Road is a beach that has met all of the requirements. Chairman Insley closed the hearing.

Health Director Champagne recommended approval of the application for extension of sampling for Zylpha Road to allow for monthly water sampling.

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

**VI REPORT OF THE HEALTH DIRECTOR (April 2016)**

- Projects-
  - Employee Training & Wellness- Two course offerings for Dept Heads organized in April, “Critical Incidents- Developing Your Crisis Management Techniques” and ‘Creating a Respectful Workplace”. We extended invitations to surrounding communities and had a great response with close to 30 attending each session. Spring Wellness & Fitness Programs for employees have been organized with multiple choices of activities and \$\$ incentives

- *Tobacco' 21'*-the BOH opinion was registered with a statewide survey forwarded to the state legislature. The bill has passed the Senate and is being debated with the Representatives. Monthly Health Agents Coalition mtg guest- Bob Collette of Cape Cod Regional Tobacco Coalition has requested a meeting with us to discuss updating our local regulations, particularly as it relates to cigars and single sales.
- *2016 Permit Renewal Packets – Beaches and Swimming Pools*- these were organized and sent out early April. Thanks to Carol Genatossio and Meggan Tierney for their efforts. Announcements/updates on the 2016 sampling program- notes in packet from the County Laboratory. We will again have sampling interns 2 days per week starting June 1st. One beach is up for Tier 3 renewal and a hearing is posted for 5-10-2016
- *Condominium Associations and Safety Compliance at Swimming Pools*- pools at condo situations provide a unique challenge for compliance with the pool coverage requirements. Since units are individually owned, and there is not likely to be any management or staff on site, verifying compliance that BOH regs are met has been a challenge. We attempt to remain flexible to the individual facilities uniqueness and have worked with various trustees groups accordingly. We maintain that not only are we concerned for owners use and safety, but many of the facilities allow for summer rentals. ( report enclosed re Wychmere Village)
- *Food Service Program-*
  - *Spring has arrived!* Our staff inspectors Mark Polselli and Meggan Tierney have been very busy reviewing the applications for seasonal renewals and scheduling pre-opening inspections at our food service facilities.
  - *Wequassett Inn* – final walk-thru on the renovation took place on completely renovated the main kitchen. The entire kitchen was gutted and replaced with new floors, walls, ceilings and equipment.
  - *Council on Aging Food Service Programs*- Health Director was invited to a COA Board of Directors meeting to discuss preplanning techniques for emergency preparedness for the Community Center Lunch Program. Following a winter freeze the kitchen was inoperable and plans were put in place for off site acquisition of meals.
- *RET's/ Sewage permit review – outstanding issues*
  - *10 Cranberry Hollow- septic permit & building remodel denied*- 2005 permit to add finished space over a garage was restricted to no plumbing allowed w/out septic review and upgrade. (Zone II, already at max use). Express permit granted by building dept 4-2016 for enclosure walls for a bathroom. BOH learned of the activity upon application to connect to the sewer. Site visit indicated seasonal habitable space. Permit denied as per 2005 conditions
  - *3 Hulse Point- RET- administrative failure- floor plan did not match permits on file- possible #BR.* Site visit clarified finished storage over garage.- resolved
  - *268 Church St-RET- administrative failure- finished basement w/out permits; possible #BR violation in Zone II- site visit clarified floor plan – referred to Bldg dept for permit compliance issues.- resolved*
  - *5 Sea breeze Ave-RET- Administrative failure- floor plan issues-4 BR where 3 allowed. Site visit indicates a return to compliance plan will be needed.*
  - *9 Tody Bole-RET- administrative failure- floor plan does not match permits on file- pot'l Zone II issues- fully finished basement. Site visit indicates not a pot'l BR- referred to bldg dept for permit compliance – resolved*
  - *2 Dogwood- RET- administrative failure- Zone II – fully finished basement including a BR w/out permits. Return to compliance plan needed*
  - *1 Seagull Ln – RET- administrative failure- fully finished basement including a pot'l BR w/out permits. Return to compliance plan completed- room removed- resolved*
  - *Resolved- 944 Queen Anne Rd- RET- administrative failure- 4<sup>th</sup> BR converted into permanent laundry/utility area. Floor plan & deed restriction recorded*

- Resolved- 21 Liberty Trail- -RET- basement pot'l BR room removed
- Resolved- 9 Hath-a-way- RET- # BR on variance restricted property- BR #4 remodeled into sitting area <70 ft2 by adding a front to back closet with built-ins.
- Violation of Orders of Condition- potential issue unfurling with Hernandez, 2 Pilgrim Rd. the owners were before the BOH to modify the floor plan restriction to allow a media room in the basement. At that time, it was learned that a large bedroom on the 1<sup>st</sup> floor had been divided into 2 thus going over the 4 BR septic variances restrictions. BOH required opening of this wall as part of the basement approval. The Builder has applied for an occupancy permit to close out the basement project, but upon questioning it was learned that the BR situation remained incomplete. I talked to Mr. Evans and questioned whether he had a set of approved plans, was he aware of the wall removal, etc. to which he answered yes, but the clients were reluctant to do this and 'they thought they were being singled out'. I responded that there would be no sign-off from this dept until a walk-thru by the Director had been completed.

## **VII CORRESPONDENCE**

No correspondence was discussed.

## **VIII PERMITS (SEE ATTACHED LIST)**

Mr. Boyle moved to approve the permits as per the list dated May 10 2016. Ms. Bayerl seconded the motion. 4-0-0 Unanimous.

## **IX OTHER**

Due to a scheduling conflict, the June 14, 2016 Board of Health meeting will need to be rescheduled. Health Director Champagne will communicate with Board members to find an alternate date

## **X ADJOURN- The meeting adjourned at 7:57 p.m.**

Ms. Howell moved to adjourn. Mr. Boyle seconded the motion. 4-0-0 Unanimous.

**Submittals of the meeting are part of the permanent record.**

**Respectfully Submitted,**

**Jennifer Clarke**

**Next meeting is Tuesday, June 16, 2016 at 6:30 p.m. in the small hearing room.**