

TOWN OF HARWICH



BOARD OF HEALTH
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TOWN OF HARWICH BOARD OF HEALTH
TUESDAY, JULY 11, 2017-6:30 P.M.
HARWICH TOWN HALL – SMALL HEARING ROOM
MINUTES

BOARD OF HEALTH MEMBERS PRESENT: Chairman Dr. Robert Insley, Vice Chairman Pamela Howell, R.N., Frank Boyle, Cynthia Bayerl & Matthew Cushing, M.D.

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

OTHERS PRESENT: Chris Vance, Sarah McColgan, Paresh Patel, Harry Patel, Meredith Viprino, Debra Bohlin, Becky Groom, Nicole Gregory, Sara Grover, Liam Gregory, Richard Branagan, Edward Harman, Joshua Kelley, Joel Buffington, Hope Schwartz-Leeper, Zak Fagiano, Audrey Greenway, Bob Bell, Steve Backus, Terri Ferris, Attorney Ben Zehnder, Barry Viprino, Bill Galvin & Jim Knieriem

I CALL TO ORDER

At 6:35 p.m., Chairman Insley called the meeting to order.

II INTRODUCTION OF NEW BOARD OF HEALTH MEMBER-MATTHEW CUSHING, M.D.

Chairman Insley welcomed Matthew Cushing, M.D., to the Board of Health.

III MINUTES OF PREVIOUS MEETING (Regular Meeting Minutes) – July 11, 2017

Motion made by Mr. Boyle to accept the regular meeting minutes of the June 13, 2017 Board of Health meeting. Ms. Howell seconded the motion. 3-0-2 (Bayerl & Cushing).

IV 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. Health Director Champagne stated that the legal ad had been posted in the Cape Cod Chronicle and all of the tobacco permit holders were e-mailed the legal ad as well as the draft regulation. The department has received 2 letters in favor of the regulation change and no letters of opposition.

Paresh Patel from East Harwich Market was present and asked if there is a timeframe for the implementation of the amended regulation. He suggested either September or October for an implementation date because of the visiting summer population.

Ms. Bayerl apologized for not being at the last meeting and stated that she supports the increase of age to 21. She proposed to re-evaluate the regulation in a year or two to look at additional language regarding flavored tobacco and blunt packaging. Chairman Insley closed the hearing.

Motion made by Mr. Boyle to adopt the regulation of the Harwich Board of Health Restriction the Sale of Tobacco Products as presented at the meeting with an implementation date of September 1, 2017, subject to publication in the local newspaper. Ms. Howell seconded the motion. 4-0-1 (Cushing).

V 7:00- OLD/UNFINISHED BUSINESS

A. Hearing-Environmental Impact Report, Saquatucket Harbor, 715 & 731 Route 28, to demonstrate compliance with Harwich Board of Health Regulation 1.211; Environmental Assessment; prepared by Moran Engineering Associates, LLC.

Chairman Insley opened the hearing. Dan Croteau & Rick Judd from Moran Engineering Associates, LLC were present. Conservation Commission has approved this project with a condition of having additional plantings on the East side of the Harbormaster garage. The Planning Board is hearing the project tonight. Mr. Croteau reviewed what he had submitted to the Board with their application and gave an overview of what the purpose of the project is. The proposed septic system consists of 2 septic tanks, I/A treatment unit, pump chamber and pressure dosed leaching field. There are no Title 5 or Harwich Board of Health variances being requested for the installation of the proposed

system. Every component will be an improvement over the existing conditions. There will be a maintenance contract in place for the life of the system. The grease trap will have a filter with alarms. Chairman Insley closed the hearing.

Health Director Champagne stated that we are dealing with a 50 plus year old system and this upgrade will be a major improvement in technology. She recommended that the Board favorably consider the submittal from Moran Engineering and rule that the project is in compliance with Board of Health Regulation 1.211.

Motion made by Mr. Boyle to accept the recommendation of the Health Director. Ms. Bayerl seconded the motion. 5-0-0 Unanimous.

B. Public Hearing-Resilient Family Farms/Barry Dino Viprino, 35 Chatham Road, to show cause why an outstanding order to cease & desist the following operations issued April 9, 2017 should be upheld, modified or withdrawn; 1. Operation of an unlicensed piggery; 2. Unlicensed wholesale of food; 3. Manure management not in compliance with agricultural best management practices (Continued from 6/13/17)

Chairman Insley opened the hearing. Health Director Champagne stated that she had received communication from Attorney Zehnder that they would like to be heard at the end of the meeting due to a scheduling conflict.

Attorney Zehnder arrived at 7:33 p.m. He stated that his client is in compliance with the wholesale food license issue, and they are ready to discuss the manure management plan and the operation of the piggery.

Mr. Viprino stated that the USDA had completed their inspection in November of 2016 and agreed that he meets the general agricultural practices and that while best agricultural practices can be suggested, they are not legally required. He said that he is more than happy to comply with all best practices, but he is being prevented from doing so at this time. Mr. Viprino informed the Board that the building department has not issued a building permit for the manure pile cover because they are pending a decision from Town Counsel. Attorney Zehnder suggested that Mr. Viprino submit a revised manure management plan showing a cover over the manure pile and listing best manure management practices and return to the Board in a month.

Health Director Champagne stated that she understands there are many layers to this and some are conflicting. She asked if Mr. Viprino would be willing to meet in the middle until he is compliant with other boards, by reducing the size of the manure pile. As far as nuisances are concerned, public health never goes away.

Audrey Greenway was present and said that the former owner of the property had 2, sometimes 3 horses. They had a long standing manure management plan stating that they covered and store the manure and remove it from the property on a monthly basis. She asked why Mr. Viprino is not required to do the same.

Bob Bell feels that the Board may need additional expertise regarding the manure pile. He is concerned about runoff from the manure pile and asked if maybe it could be moved to a different place on the property. The town and abutters have a right to know exactly how the pile is being managed. Mr. Viprino stated that the pile sits on an impervious surface.

Eastham resident Chris Vance asked if there are any other approved manure management plans from other farms the Board could reference.

Steve Backus asked Mr. Viprino that if the town were off of his back, and he was operating on his own, would the manure pile be smaller. Mr. Viprino responded that it would be.

Attorney Zehnder invited the Board to visit the property and that his client is willing to work on the manure pile and is not opposed to any public health regulations.

Attorney Zehnder stated that the Board of Health does not have piggery regulations. If the Board is going to regulate that a piggery is a noisome trade, then all of the piggeries in town have to be considered as such. Health Director Champagne stated that she will take this information to Town Counsel for further review.

Health Director Champagne reviewed that the issue regarding the wholesale license has been resolved and she will be submitting information to Town Counsel regarding the piggery. The applicant has agreed that they will revise their manure management plan including the placement of a cover as well as a proposal for the size and operation of the pile that the Board will approve. The hope is to reduce the potential source for complaints and practice better public health management. Mr. Viprino should submit the information at least 7 days prior to the August Board meeting. We will continue to meet with Mr. Viprino onsite, in the office and on the phone.

Dr. Cushing asked if there would be any way to get the Building Commissioner to agree to allow them to place a cover over the pile until all legal aspects of the case are resolved. Dr. Insley responded that it would be up to the applicant to approach the commissioner. Dr. Insley closed the hearing.

Motion made by Ms. Howell to accept the suggestions discussed as an action plan for Resilient Family Farms, and continue the hearing until the August 8, 2017 meeting. Ms. Bayerl seconded the motion. 5-0-0 Unanimous.

VI NEW BUSINESS

A. Hearing-Moheban, 11 Atlantic Avenue, to consider a variance request to install a new Title 5 septic system prepared by Engineering Works, Inc.

Variance from 310 CMR 15.211(1) Minimum Setbacks

1. Per 310 CMR 15.405(1)(a): To allow a proposed soil absorption system to be 3' from the property line (front) where 10' is required. Variance request of 7'.
2. Per 310 CMR 15.405(1)(a): To allow a proposed soil absorption system to be 5' from the property line (side) where 10' is required. Variance request of 5'.
3. Per 310 CMR 15.405(1)(a): To allow a proposed soil absorption system to be 5' from the crawl space where 20' is required. Variance request of 15'.
4. Per 310 CMR 15.405(1)(b): To allow a proposed soil absorption system to be 4' below cover where 3' is required. Variance request of 1'.
5. Per 310 CMR 15.405(1)(f): To allow a proposed soil absorption system to be 36' from a coastal bank where 50' is required. Variance request of 14'.

Chairman Insley opened the hearing. Peter McEntee from Engineering Works Inc., was present and explained the variances being requested. He has received approval from the Conservation Commission. They are not proposing any increase in bedrooms or alteration to the floor plan. Dr. Insley closed the hearing.

Health Director Champagne recommended approval of the request with the following conditions:

1. The dwelling shall be restricted to a total of 5 bedrooms.
2. The septic design flow will be for 550 GPD as per plan dated May 30, 2017, prepared by Engineering Works Inc. 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.

Motion made by Ms. Bayerl to accept the recommendation of the Health Director. Ms. Howell seconded the motion. 5-0-0 Unanimous.

B. Hearing-Morrill, 7 Uncle Wills Lane, to consider a variance request to install a new Title 5 septic system prepared by All Cape Septic, LLC.

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

Chairman Insley opened the hearing. Mike Aucoin from All Cape Septic, LLC was present and explained the variances being requested. The variances were approved at the May 10, 2016 Board meeting, and the owners chose not to move forward with the project at that time. Mr. Aucoin stated that the existing septic tank appears to be structurally sound and operating normally. The applicants are proposing a second floor addition and renovation to the existing dwelling. Chairman Insley closed the hearing.

Health Director Champagne stated that the staff has verified that they are only expanding the floor plan of the dwelling, not the footprint. She recommended to reinstate the variances that were approved at the May 10, 2016 meeting and allow the proposed change in footprint for the dwelling with the following conditions:

1. The dwelling shall be restricted to a total of 2 bedrooms.
2. The septic design flow will be for 220GPD as per the plan submitted dated June 22, 2017 prepared by All Cape Septic LLC. 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.
5. Variance requests are for setbacks only and not environmental.

Motion made by Mr. Cushing to accept the recommendation of the Health Director. Ms. Howell seconded the motion. 5-0-0 Unanimous.

VII REPORT OF THE HEALTH DIRECTOR (June 2017)

- Review VNA contract FY18

Motion made by Ms. Bayerl to advise and request that the Board of Selectmen authorize the VNA contract for FY18. Mr. Boyle seconded the motion. 5-0-0.

- Staff Resignation

- Ratification of Health Director action-Emergency closure & reopening of Claddagh food service facility

Motion made by Mr. Boyle to vote to ratify the Health Director’s action-emergency closure & re-opening of the Claddagh food service facility. Ms. Bayerl seconded the motion. 5-0-0.

- \$3839 flu clinic reimbursement
- Summer program status
- **Projects-**
 - Staff Vacancy- with great sadness, we have said goodbye to Health Inspector Mark Polselli. Mark’s personal inspection business located in Eastham is his first priority and the market is booming thus requiring his departure. His employment spanned from 2004-2009 and 2005-2017. He will leave a large hole in our department with his depth of knowledge of food service, construction industry and septic systems and he has served far beyond an entry level position. With a foot in private industry as well as government, he continually offered fresh perspective in our decision making and enforcement.
 - Community Development Reorganization- the administration continues to fine tune task assignments amongst the administrative support staff. The latest iteration resulted in a reassignment of the second administrative assistant shared between Health and ConsCom to solely ConsCom duties. As ConsCom department continues to grow, Health Dept has absorbed the clerical duties within our 2 admin employees. Initially ¼- 1/3 of a position in 2006 it has now resulted in the removal of 1 full time position in our dept. When pointing out this loss to our superiors, the Health Director was informed that the BOS had not been supportive of filling the last vacancy in April, so the fact that the position was still here should be appreciated.
 - Emergency Management- The Health Director and Senior Health Inspector participated in a table top exercise conducted by the Brewster Emergency Management Committee. The drill was public health crisis based (food borne outbreak at a large venue covering multiple events). It was a good learning experience with Public Health as the lead agency and learning to gather resources interdepartmentally.
 - Court subpoena- Health Director and Health Inspector were subpoenaed to bring records and appear at Barnstable District Court as part of a civil suit between tenant and landlord at 682 Route 28. We conducted an inspection late winter concerning water leaks and mold which became a central part of the dispute.
 - Resilient Family Farm- continued with meetings and correspondence with Town Counsel for guidance on case management. Multiple updates in BOH packet for assistance with July 11th hearing.
 - Tobacco Control- Legal ad placed as required; packet of notice and final draft regulation sent to all permit holders; update to news media; Pending a successful hearing, BOH members will need to decide a suitable implementation date; adopt the regulation and publish the final signed document.

Food Service Programs

- Ratification of Health Director action- Emergency closure and reopening of the Claddagh Inn Food Service Facility- per 105 CMR 495.000, the agent of the Board of Health is empowered to issue an emergency closure without a hearing of the BOH provided the members are notified within 24 hrs of the action and the owner is notified in writing. Inspection of 6-22-2017 warranted immediate action of closure involving destruction of foodstuffs in serious breach of temperature controls and return to acceptable sanitation standards. (written communications in packet)
- Senior Health Inspector has met with the Coordinator of the Cape Verdean Festival to be held July 15th. Meggan has worked with the vendors to assure proper permitting (on 7-11 agenda) and will be onsite the 15th for inspections and release of permits
- Kombucha- additional requested items have not been received thus the hearing for a special permit was removed from the agenda 7-11-17
- Summer vendors- inspections performed for all of our mobile food carts operating at town facilities
- **RET's/ Sewage permit review – outstanding issues**
 - Haromar Health- RET- finished basement w/out permits; Zone II issues- walkthrough clarified as open recreation area- not a bedroom- referred to building dept for post construction permits- *resolved*
 - 130 Bank St-housing complaint- complaint of leaks and mold in unit- onsite inspection confirmed reports. Dir working with owner to resolve

VIII CORRESPONDENCE

None discussed.

IX PERMITS

ESTABLISHMENT	ADDRESS	PERMIT TYPE
FOOD SERVICE		
Cape Farm Supply	374 Main Street	Retail <50 sq. ft. (non PHF only)
Cape Farm Supply	1601 Factory Road	Limited Food Service

Cape Life Gifts	337 Route 28	Limited Food Service
First Congregational Church of Harwich	697 Main Street	Institution
Harwich Beach LLC d/b/a Inn on the Beach (NEW)	16 Bank Street	Mobile Food Service
Harwich Chamber of Commerce	1 Schoolhouse Road	Limited Food Service
Heathers Hairport Salon & Spa		Limited Food Service
Inn of Treasured Memories	473 Main Street	Food Service: 1-30 seats
Eric & Kevins Kitchen (NEW)		Mobile Food Service
RECREATIONAL CAMP		
Cape Cod Lighthouse Charter School	195 Route 137	
POOLS		
Coachman Motor Inn	774 Route 28	
Platinum Pebble Boutique Inn	186 Belmont Road	
The Tern Inn	91 Chase Street	
Wishing Well	212 Route 28	
SEPTIC INSTALLER		
Alan Hall	Harwich	
BATHING BEACH		
Allen Harbor Beach Association	0 Dunes Road	Nantucket Sound
SEPTAGE HAULER		
Speakman Excavating LLC (NEW)	15 Speak Way	

Motion made by Ms. Bayerl to approve the permits as per the list dated July 11, 2017. Mr. Cushing seconded the motion. 5-0-0 Unanimous.

X OTHER

- Announce re-organization for August agenda

Dr. Insley stated that at the end of the August Board meeting, the Board will do their annual re-organization. He stated that he no longer wishes to continue as Chairman and would like the members to consider what their commitment level might be for the next couple of years.

XI ADJOURN The meeting adjourned at 8:25 p.m.

Motion by Ms. Howell to adjourn. Ms. Bayerl seconded the motion. 5-0-0 Unanimous.

Submittals of the meeting are part of the permanent record.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, August 8, 2017 at 6:30 p.m. in the small hearing room.