

TOWN OF ORLEANS - BOARD OF HEALTH 09 JAN 22 PM 4:00

MINUTES OF MEETING

January 8, 2009

Chairman Sims McGrath called a meeting of the Board of Health to order at 2:00 p.m. on Thursday, January 8, 2009 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Sims McGrath, Robin Davis, Ph.D., Susan Christie, Augusta McKusick, Jan Schneider, M.D.; and Robert Canning, Health Agent. Mr. Mark Carron, Selectman Liaison, was also present.

Public/Press

There was no one present for Public/Press.

Approval of Minutes

The minutes of the Board of Health meeting held on December 18, 2008 had previously been distributed to the Board members for review.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to approve the minutes of the meeting of the Board of Health held on December 18, 2008. The vote was 5-0-0.

Health Agent's Report

Mr. Canning reported that a flu clinic has been scheduled jointly with the Towns of Orleans, Brewster, and Eastham. The clinic is scheduled for January 23, 2009, from 2:00 p.m. to 4:00 p.m. at the Orleans Senior Center. Flu and Pneumonia (Pneumococcal Conjugate) vaccines are available to all residents of these towns age 18 years and older.

Old/New Business

11 – 1 The minutes of the **Orleans, Brewster, Eastham Groundwater Protection District Board of Managers** meeting of November 12, 2008 had previously been distributed to the Board members for review and discussion. Mr. Canning noted that the charges to dispose of effluent have been reduced for the months of January and February. It was discussed that not all pumpers pass this savings on to the customer.

11 – 2 A letter from Green Seal Environmental for **Daniels Recycling Company, Inc.** regarding "Certain Modifications" to the building had previously been distributed to the Board members for review and discussion.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted that the Site Assignment for Daniels Recycling Company, Inc. be amended regarding by which door they access the tipping area and be conditional upon the allowances placed on them by the DEP.

The motion was amended and seconded to recognize that DRCI may occasionally use the southwestern door for tipping. The vote was 5-0-0.

11 – 3 A letter from Green Seal Environmental for **Daniels Recycling Company, Inc.** regarding asbestos detection had previously been distributed to the Board members for review and discussion. It was noted that DRCI handled the asbestos exposure in a conscientious manner. Board members discussed the issue of C&D materials at the Orleans Transfer Station that have been taken to DRCI. Mr. Canning suggested

that inspection of C&D material brought to the Transfer Station should be discussed with Mr. Budnick at a future meeting.

Because there was time before the start of hearings, the Board members used the time to read a letter distributed to them at the beginning of the meeting.

Hearings

185 Rock Harbor Road

Mr. David Lajoie of FELCO Engineering, Inc. represented Richard and Susan Mercer, owners of the property at 185 Rock Harbor Road. He explained that the project had previously been approved by the Board of Health in September 2007. Because the property has been on the market and has not sold, the work has not been completed; therefore, the proponent is requesting a one-year extension of the variance approval. Mr. Lajoie explained that they had conducted some additional soil testing and that he had discussed with the Water Department the location of the new water line to be installed.

The proponent requested the following variances to allow for a septic upgrade for an existing dwelling:

1. 6' from leach area to property line (Street) – 310 CMR 15.211
2. 15' from leach area to cellar wall (Locus)
3. 8' from leach area to water supply line
4. No reserve area provided – Orleans Board of Health Regulations

Mr. Canning reported that the leaching area was moved away from the lot line because of the presence of an underground propane tank nearby. He also noted that the conditions of the previous variance approval have been completed.

Board members questioned the safety actions taken when excavating near a propane tank. Mr. Lajoie explained that he would not be required to do any excavating within five feet of the tank. They also discussed that notification to abutters for another variance hearing was necessary although it is a variance request for an expired variance. Mr. Lajoie noted that this is a seasonal property.

On a motion by Dr. Schneider and seconded by Ms. McKusick, the Board of Health voted in the matter of 185 Rock Harbor Road, this being a variance request that had been previously approved on September 6, 2007, move to once again to approve the variances because the soil absorption system is five feet from the cellar wall where 20 feet is required, thus a 15 foot variance is requested; the soil absorption system is four feet from the property line where ten feet is required, therefore a six foot variance is requested; the soil absorption system is two feet from a water line where ten feet is required, an eight foot variance is requested. It is noted that there is currently discussion whether the water service can be relocated which would make this particular variance moot.

Conditions are that:

- **Prior to the approval, soil testing be done in this area.**
- **The issue of the water line relocation has already been referred to.**
- **There be a restriction recorded at the Registry of Deeds limiting the dwelling to three bedrooms.**

The vote was 5-0-0.

110 Beach Road

Mr. David Lajoie of FELCO, Inc. introduced Mr. Nickerson, owner of the property at 110 Beach Road. Because the previous variance approval will expire in February, the proponent is requesting an extension of one year on the variance to the Orleans Board of Health Regulations to allow the septic waste line to be

located on a lot adjacent to the lot it serves. Mr. Lajoie explained that there have been no changes to the plans for this property.

Mr. Canning reported that Board of Health approved this variance on January 24, 2008 with conditions. An easement must be granted from Lot 1 to allow the installation, inspection, and repair of the septic waste line from Lot 2 and it must allow for the repair and maintenance of the septic system serving Lot 1. The septic system designer must certify to the Health Department that the installation of the waste line serving Lot 2 does not have a negative impact on the soil absorption system serving Lot 1. The variances are the same as reviewed in January 2008.

Mr. McGrath noted his service on the Board of Health and Planning Board and offered to remove himself from the discussion of this property.

On a motion by Ms. Christie and seconded by Dr. Schneider, the Board of Health voted in the matter of 110 Beach Road, Lot 2, Map 37, Parcel 8. This is a case previously before the Board, the variances agreed upon by the Board will expire February 20, 2009 and consequently they would like to extend the variances with no change from the original variance request. The main part of the variance is that the septic waste line is not served on Lot 2. It crosses into Lot 1 which varies from the Orleans Board of Health Regulations Section 4. The owner is on Lot 1 and it has been requested that an easement be placed for Lot 2 to cross over into Lot 1 to complete the septic system. This is to satisfy instructions by the Conservation Commission because of a vegetated wetland which is on Lot 2. The motion was amended to read: "The Board of Health is granting again the variances". The septic system designer must certify that the installation will not have a negative impact on the other soil absorption system. The vote was 5-0-0.

190 Route 6A – Somerset Condominiums

Mr. Keith Fernandes of J. M. O'Reilly Associates represented Mercantile Property Management, agent for Somerset Condominiums. Mr. McGrath suggested discussing the septic system for Building 4 separately from the septic system for Buildings 10 and 11. Mr. Fernandes explained the background from previous hearings. The proponent requested a variance for Building 4 to allow the continued use of the existing 1500 gallon septic tank rather than replacing it with a 2000 gallon septic tank as required by the State Sanitary Code, Title 5, and the Orleans Board of Health Regulations. To meet the requirements, they will install a second septic tank in series with 1500 gallon capacity, and by doing this, will exceed the requirements.

Mr. Canning clarified that Title 5 requires two tanks in series for condominium use. The design flow is 880 gallons per day, therefore requiring 2640 gallons per day storage capacity; they have proposed using two 1500 gallons per day tanks, thereby exceeding the required capacity.

It was noted that in the aggregate the capacities are satisfied and there is excess capacity in the aggregate.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 190 Route 6A, Somerset Condominiums sewage disposal system serving Building 4. Findings are that the State requires for properties serving more than a single family home, a first tank with 48 hours capacity and a second tank with 24 hours capacity. The combined capacity is satisfied by the installation of the two tanks in series that the proponent is offering on the plans dated 11/17/08. The Board grants the variance that the existing septic system meets and exceeds the retaining time and will be a satisfactory application in this instance. The vote was 5-0-0.

An abutter from 18 West Road, representing the Board of Trustees, questioned the impact of this construction on abutters. Mr. Canning explained that this septic system would be several hundred feet away from their property and meets the state set-back requirements.

Mr. Fernandes presented the issues for improving the septic systems for Buildings 10 and 11. The variance request is to reuse the existing 1500 gallon per day septic tanks although they do not meet the requirement for 48 hours retention. A four inch PVC sleeve pipe will carry the flow from the first tank for Building 11 across existing water lines to a second 2500 gallon per day septic tank which will also receive the effluent from the existing 1500 gallon per day septic tank for Building 10. The installation of the 2500 gallon per day septic tank in conjunction with the existing septic tanks provides greater than 200 percent retention time as required by Title 5.

Mr. Canning noted that the primary tanks for both buildings do not have 48 hours retention as required by Title 5. However, the second tank in series has greater than 24 hour's retention; therefore the aggregate will exceed the state's requirement. He noted that the discharge from Building 11 septic tank crosses three water lines and should be approved by the Water Department. He also noted the requirement for soil testing in the area of the soil absorption system.

Board members discussed the size of the tank as 2500 gallons and the location of the proposed soil absorption system for these two buildings. It was noted that the layout of the leaching pit may allow for future use by other buildings' septic systems.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of 190 Route 6A, Summerset Condominiums Buildings 10 and 11, that a variance be granted for reuse of the existing 1500 gallon tanks and there will be an installation of a 2500 gallon tank. This variance is conditioned on approval by the Water Department and that soil testing will be performed. Findings are that there will be adequate holding capacity in the aggregate with the addition of the 2500 gallon tank. The vote was 5-0-0.

3 Longstreet Lane

Ms. Stephanie Sequin of Ryder & Wilcox introduced Leo Morrissey, owner of the property at 3 Longstreet Lane. Ms. Sequin explained that the three-bedroom property is on the market to be sold and is located within 100 feet of salt marsh and is located within the 100 year flood elevation. The current Title 5 septic system was inspected and found to be marginal and that the leach field is only two feet above the groundwater level. The proponent proposed to maintain the existing 1500 gallon per day septic tank and install a new pump chamber to pump the effluent up to a new raised leaching system on the property. Ms. Sequin noted that there are several raised systems in the neighborhood and requested a variance to allow a sieve analysis of the soils instead of a percolation test. They have confirmed that the soils tested by sieve analysis are Class 1 soil material. They will be able to comply with all setbacks and separation to groundwater.

Mr. Canning reported that the state code allows for sieve analysis for repair of a septic system. He reviewed the six criteria necessary for use of a sieve analysis and noted that the soils are not compacted. He also noted that this installation meets the requirements of Title 5. He noted that test holes 1 and 2 show the presence of peat in the soil. Mr. Canning explained that the records contain only a 1963 subdivision plan that did not show any wetlands. He also questioned the windows installed on the second floor enclosed porch and it was noted that the room has a plywood floor with carpet installed and the owner uses that area as a sun room. This raised the question of whether the sunroom meets the definition of a bedroom although the glass area is 54 per cent of the floor area.

Board members discussed the location of the property and the existence of peat and possible wetland.

Mr. Canning explained again that the subdivision plans from 1963 do not indicate wetlands on this property, and that based on the amount of glazing on the porch, it does not meet the criteria of a bedroom.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 3 Longstreet Lane, owner – Leo Morrissey, Map 15, Parcel 11, that the plans for upgrade of the subsurface sewage system will allow a sieve analysis test to be done on the soils and in defer-

ence to the fact that percolation cannot be performed that meets the State criteria including the finding of the soils are not compacted, a variance is granted. In evaluating this information, a set of floor plans was provided indicating a porch on the second floor adjacent to the kitchen, and as represented on the plan, the porch has apparently in excess of 54% glazing and therefore would not be considered a bedroom. This shall be determined to be a three-bedroom home. The vote was 5-0-0.

42 Old Colony Way – Old Colony Village Association

Mr. Canning provided an overview regarding the swimming pool at Old Colony Village Condominium at 42 Old Colony Way.

Mr. Ralph DiMonte was present for the discussion on the operation of the swimming pool. He noted that he has provided the information requested by the Board of Health. He noted that there is a revised letter from the owner of Island Pool Company with additional information.

Board members requested further information regarding the Virginia Graeme Baker act. It was noted that currently there is no main drain in the subject pool. Mr. DiMonte explained how the pool has been sealed and what would be involved in replacing a main drain in the pool.

On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of Old Colony Village, the condominium at 42 Old Colony Way. Findings are that a pool is installed for the use of the residents in this facility and has been installed since 1970. Subsequent to that time there were problems with the main drain because of leakage and the drain was plugged. Subsequent to that, the owners have been pressured to reinstall the main drain or make the current one functional. The purpose of the main drain is to provide adequate circulation of the water and any chemical supplies. Coli form testing for the last five years has indicated that between May 2003 and September 2008 there has been only one serious infraction and the exchange rate with the circulation has been demonstrated to be quite adequate with the existing skimmers. Therefore, the Board of Health grants a variance that the pool at Old Colony Village does not have to have a main drain and to force the owners to do this would be a manifest injustice of the great expense to do this and the same degree of protection could be provided. One condition applies to this variance: When chemicals are applied to the pool, other than chlorine through the skimmer system, that the pool be closed for twenty-four hours and vacuum pumped twenty-four hours after the application before the pool is opened. The vote was 5-0-0.

33 Bay Ridge Lane (Continuation)

Mr. Canning distributed a letter received on January 8, 2009 from Coastal Engineering Company, Inc. outlining monitoring of the liquid level in the leach pit at 33 Bay Ridge Lane, the building component status, and the proposal to provide the Board of Health with regular project status reports prior to each meeting.

Mr. Canning noted that the Board had requested a schedule of inspection and maintenance of the subject septic system. The proponent expects to inspect the system bi-weekly unless there are insignificant changes at which time they will reduce the frequency of inspections to monthly. In response to the Board's request for a timeline for replacement of the septic system, the proponent responded that they would have that plan by the end of January. The proponent will also provide an update prior to each Board meeting.

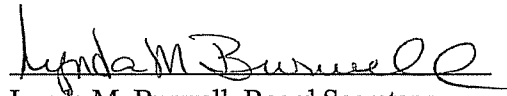
Board members discussed the necessity of scheduling a continuation of this hearing to a meeting in February.

On a motion by Dr. Schneider and seconded by Ms. Christie, the Board of Health voted in the matter of 33 Bay Ridge Lane that the Show Cause Hearing, which has been continued until today's date be continued once again until a meeting on February 19, 2009 at 3:00 p.m. The vote was 5-0-0.

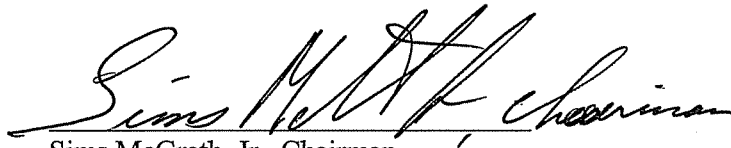
Adjournment


On a motion made by Dr. Schneider and seconded by Ms. McKusick that there being no further business to come before the Board, it was voted to adjourn this meeting of the Orleans Board of Health at 3:29 p.m. The vote was 5-0-0.

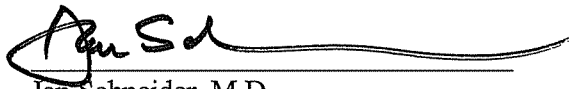
Respectfully submitted,


Lynda M. Burwell, Board Secretary

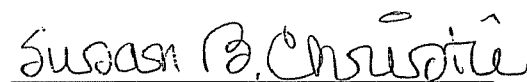
ORLEANS BOARD OF HEALTH

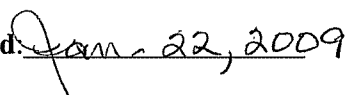

Sims McGrath, Jr., Chairman


Robin K. Davis, Vice Chairman


Jan Schneider, M.D.

Augusta F. McKusick


Susan B. Christie

Date Approved:  Jan 22, 2009