

## TOWN OF ORLEANS - BOARD OF HEALTH

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### MINUTES OF MEETING

January 22, 2009

Chairman Sims McGrath called a meeting of the Board of Health to order at 2:07 p.m. on Thursday, January 22, 2009 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Sims McGrath, Robin Davis, Ph.D., Susan Christie, Jan Schneider, M.D.; and Robert Canning, Health Agent.

Excused: Augusta McKusick; Mark Carron, Selectman Liaison

#### Public/Press

There was no one present for Public/Press.

#### Approval of Minutes

The minutes of the Board of Health meeting held on January 8, 2009 had previously been distributed to the Board members for review.

**On a motion by Dr. Schneider and seconded by Ms. Christie, the Board of Health voted to approve the minutes of the meeting of the Board of Health held on January 8, 2009. The vote was 4-0-0.**

Board members discussed the abbreviated version of the meeting minutes.

#### Health Agent's Report

Mr. Canning reported on the following:

#### Permits

##### Retail Food and Tobacco Sales Permits

Hess Corporation, of Woodbridge, New Jersey is purchasing the Christy's Market at 401 South Orleans Road on January 27, 2009, and requests a Retail Food Permit and a Tobacco Sales Permit for Hess Express.

**On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted to approve a Retail Food Permit and Tobacco Sales Permit for Hess Express operated by Hess Corporation as the new owner of Christy's Market at 401 South Orleans Road effective January 27, 2009. The vote was 4-0-0.**

#### Flu Clinic

The towns of Orleans, Brewster and Eastham are offering a joint flu clinic on Friday, January 23, 2009 between 2:00 p.m. and 4:00 p.m. at the Orleans Senior Center, 150 Rock Harbor Road. All adults age 18 years and older are eligible for flu vaccine at this clinic. If a person has Medicare coverage, they should bring their Medicare B card to the clinic. Pneumococcal Conjugate vaccine will also be available at this clinic.

#### Old/New Business

8 – 1 A letter from the MDPH Bureau of Environmental Health regarding an inspection conducted at the **Orleans Police Department Lockup Facility** had previously been distributed to the Board members for review and discussion. Mr. Canning noted that there is some confusion in the letter. It was also noted that the inspector observed a possible suicide hazard in the holding cells.

8 – 2 A letter from the Cape Cod Commission regarding **Daniels C&D Facility, Major Modification of Development of Regional Impact** had previously been distributed to the Board members for review and discussion. Mr. Canning raised the issue of the structural aspect of the building and the mechanical equipment inside the building, noting that the Board of Health had asked both Brown & Caldwell and the Cape Cod Commission to address the issues of noise, dust, and odors.

Board members agreed that it is preferable to have the primary concerns addressed by the Cape Cod Commission and their review with Brown and Caldwell. Mr. Canning suggested that he draft a letter to the Cape Cod Commission outlining the issues to be addressed as well as review the current Site Assignment for other matters that would need to be addressed by the Commission.

## **Hearings**

### **6 Skaket Circle**

Mr. David Lajoie of FELCO Engineering, Inc. had submitted a letter requesting a continuance of this hearing to Thursday, February 5, 2009 at 2:15 p.m.

**On a motion by Dr. Schneider and seconded by Ms. Christie, the Board of Health voted in the matter of 6 Skaket Circle to continue this hearing until 2:15 p.m. on Thursday, February 5, 2009. The vote was 4-0-0.**

### **39 Cove Road – Orleans Yacht Club**

Ms. Laura Schofield of Schofield Brothers represented the Orleans Yacht Club. She distributed a revised plan that has been approved by the Conservation Commission and noted that the revetment has been classified as a coastal bank. She reviewed the situation and the restrictions presented by the site, noting a very shallow depth to groundwater. Designing a new septic system for the yacht club has been very challenging; however, she proposes to use the White Knight I/A technology discussed previously which requires adding a 1500 gallon septic tank containing the White Knight components. Permitting this technology is more complicated than building it.

Ms. Schofield noted that the White Knight technology cannot be used for a failed leaching pit or cesspool. The Yacht Club has leaching trenches. The septic tank must be water-tight, which it will be (as well as the new 1500 gallon tank) as part of the installation of the White Knight. A minimum two foot separation between high groundwater elevation and bottom of leaching area is required. They have measured a separation of 2.85 feet. Ms. Schofield discussed the fact that the Yacht Club does not meet the criteria of a country club, therefore cannot be subject to the specifications for a country club. The design flow for the Yacht Club was calculated on 200 percent of the water usage based on 666 gallons per day. The proponent requested local upgrade approval from the Board of Health for the existing leaching area and a local variance for installation of the new septic tank because of its setback from the coastal bank. Once approved by the Board of Health, this proposal must be reviewed and approved by MDEP.

Ms. Schofield restated the local upgrade approvals requested from the Board of Health:

- The size of the leaching area capacity of 67 percent of the existing design flow.
- The groundwater separation of 2.85 feet below the leaching area during extreme high tides.
- Soil testing noted a peat horizon eight feet below grade with medium to coarse sand above it.
- The setback distances for the Coastal Resource Area.

Also, a local variance is needed for the new tank housing the White Knight treatment which will be located within 50 feet of a coastal bank.

Mr. Canning commented that the Board of Health must indicate approval of the Yacht Club's 660 gallons per day versus the country club flow of 1500 gallons per day. Existing septic tank, soil absorption system and proposed tank are located in a filled wetland, and it is still considered a wetland. This location will require

variances to the requirement of 100 feet from a wetland for the soil absorption system, and 50 feet for the septic tank. Depth to groundwater and construction and fill require variances, not local upgrade approval.

Board members questioned the addition of aerobic bacteria to the system and Ms. Schofield assured that the material is not pathogenic or dangerous. They also requested assurance that the effluent treated by White Knight is safe for Town Cove. Ms. Schofield explained that the White Knight technology will attempt to eliminate some of the inorganic matter in the soil absorption system to improve the condition of the effluent. It was noted that the only disturbance on the property would be the installation of the new tank. Ms. Schofield noted that a monitor will be installed in the distribution box and they will continue to use the existing components.

Ms. Christie disclosed that she is a member of the Yacht Club. She noted that this system has been approved by the DEP; and if, within six months, it appears that the system is not working properly the technology will be removed. She also recommended inclusion in the conditions the requirement to connect to the sewer system when it is available as required by DEP.

**On a motion by Dr. Davis and seconded by Ms. Christie, the Board of Health voted in the matter of the Orleans Yacht Club located at 39 Cove Road.**

**Findings:**

- **The proposal is to install a White Knight Inoculator/Generator Alternative Treatment System to be added to the existing failed septic system at 39 Cove Road. The proposal is to maintain the existing septic tank, pump chamber, distribution box and leaching trenches and to install a new 1,500 gallon septic tank which will house the White Knight technology.**
- **39 Cove Road is located in an area that may be sewered as part of the Orleans Comprehensive Wastewater Plan.**
- **The minimum area requirements for the existing soil absorption system have been met. The soil absorption system size has been reduced by 33 percent of what would be required by 310 CMR 15.242 where a 50% reduction may be allowed with the use of the White Knight Technology.**
- **The proponent has evaluated the Maximum High Groundwater Elevation based on the Cape Cod Commission Technical Bulletin 92-001 and determined that a minimum 2.85-foot separation exists between the bottom of the soil absorption system and the maximum high groundwater table. The proponent has shown that through additional groundwater monitoring that there is a three-foot separation between the bottom of the soil absorption system and the maximum high groundwater table at all times other than extreme tidal fluctuations.**
- **The proponent has shown satisfactorily that even with the reduction to depth to groundwater, setback to wetland, soil absorption system size, and reduced Bio-mat that will occur with the aerobic bacteria that there will be adequate treatment of the effluent prior to it reaching Town Cove.**
- **The applicant has indicated that the existing septic system, which was installed in 1984, was constructed on a filled wetland. The fill material at the site perched at less than two minutes per inch and had supported the existing septic system for all these years.**
- **Due to the topography of the land, the location of wetlands and depth to groundwater there isn't a better location on the site to locate a soil absorption system than the one currently being used.**
- **The proponent has demonstrated that failure to grant this variance would be manifestly unjust.**

**Based on these findings the Board voted to grant the following variances or Local Upgrade Approvals:**

**Title 5**

**Section 15.212 Depth to Groundwater**

- The minimum vertical separation distance of the bottom of the soil absorption system and the high ground water elevation is 2.85 feet where five feet is required. A variance of 2.15 feet.

#### **Section 15.211 Minimum Setback Distance**

- The distance between the existing soil absorption system and the edge of a wetland is 11 feet to a coastal bank where a 50 foot separation is required. A variance request of 39 feet.

#### **Section 15.240 Soil Absorption System (1)**

- The existing soil absorption system is located in fill where Title 5 requires a minimum of four feet of naturally occurring pervious soil below the entire area of the soil absorption area. A variance of four feet is required.

### **Orleans Board of Health Subsurface Sewage Disposal System Regulations**

#### **Section IV Location (C) Proximity to Wetlands**

- The existing soil absorption system is located within a filled salt marsh where a 100 foot separation is required. A 100 foot variance is required.
- The proposed septic tank is located within a filled salt marsh where a 50 foot setback is required. A 50 foot variance is required.

#### **Conditions for this motion when approved:**

- When a sanitary sewer connection does become feasible, the facility shall be connected to the sewer within 60 days of such feasibility.
- The owner shall record at the Registry of Deeds a notice disclosing the existence of the alternate system on the property.
- The Board must receive assurance, in writing, that there are no pathogens in the White Knight's microbial inoculator.
- The Orleans Yacht Club may not expand its current use.
- Water usage must be monitored by the owners of the facility. The results of the monitoring must be submitted to the Health Department quarterly.

**Dr. Davis amended her motion to change the reference to a *failed system* to refer to a *failing system*. The amended motion was seconded by Ms. Christie.**

**The vote was 4-0-0.**

### **8 Misty Lane**

Ms. Stephanie Sequin of Ryder & Wilcox introduced Larry and Mildred Wilcox, owners of the property at 8 Misty Lane. The proponent is requesting approval from the Board of Health to connect a waste pipe from a new addition at their house to the present septic system which is a 1978 Code system, and to allow for an increase in the footprint of the dwelling without showing a reserve area on the site plan.

In 1995 Ryder & Wilcox prepared a plan for upgrade of the system that consisted of a 1000 gallon septic tank and a leaching field. The plan called for installation of a new leaching field but because of proximity to wetlands and the building, a variance allowed the proposed leaching field to be two feet from a property line. The new leaching field was installed in 1998 with design capacity of 452 gallons per day. The proponents are proposing an addition to allow a master bedroom on first floor. There are three bedrooms on second floor and a sunroom on first floor which meets criteria of bedroom, therefore this is currently a four-bedroom dwelling. Access to the new master bedroom will be through the dining room and the sunroom will become a dining room. The sewer pipe from the new addition will be connected to the existing 1000 gallon septic tank. There is no reserve area shown on the site plan, however, the area of the new addition would not be used as a reserve area in the future.

Mr. Canning had no comments.

It was noted that the leaching area is too close to the property line but the abutter is a member of the same family. Ms. Sequin explained that by adding a waste pipe from the new addition the proponents would be

altering a 1978 Code septic system which requires approval by the Board of Health.

**On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of 8 Misty Lane that an addition being built to a four-bedroom home which will continue to be a four-bedroom home. There is an existing system, which meets 1978 Code, for which a series of variances were granted in the past. The current building will require that a new pipe be installed from the addition and the variance requested that this new pipe then be attached to the old system. The previous variances recognized that there was no reserve area and that the septic system was closer to the property line than regulations require, it being two feet from the property line. Thus the current variance to be adopted is that a new effluent pipe be permitted to be attached to the system which meets 1978 Code requirements. The other previous variances shall continue which included the no reserve area and the proximity to the property line. The motion was amended and seconded to read *approval* allowing the new septic pipe to be attached to the old septic tank. It was also noted that construction of the addition does not impact the ability to locate a reserve area on the property. The vote was 4-0-0.**

### **Old/New Business (Cont'd.)**

8 – 3 A letter from George Heufelder, Director of the Barnstable County Department of Health and the Environment regarding **use of the Soil Air System at the Orleans District Courthouse** had previously been distributed to the Board members for review and discussion. Mr. Canning noted that on January 21<sup>st</sup> they would be turning off the Soil Air System and monitoring it daily to see how the system responds with the blower off.

8 – 4 A letter from Stearns & Wheler regarding the **Quarterly Gas Monitoring at the Orleans Landfill** had previously been distributed to the Board members for review and discussion. The report indicates a high level of LEL (Lower Explosion Limit) in one of the gas monitoring wells which must be reported to DEP. Further inspection showed no problem in the vicinity of the monitored well.

It was questioned how the flare is working and Mr. Canning noted he's heard nothing about it. Also the well in question is located near the road.

Floor Drain Regulations – Mr. Canning discussed that Mr. Briganti of the Water Department previously spoke to the Board of Health about the need to develop floor drain regulations for commercial establishments as part of the DEP approval of the new town well they expect to bring on line. Mr. Canning has drafted regulations for review by the Board. He asked the Board to consider how inclusive this regulation should be for the approval of the well. It appears that there are no floor drains in District 2 because it is primarily residential; however, there are floor drains throughout the town. Current Health Department policy is that upon repair of a septic system or change in use, the presence of floor drains is addressed. He suggested that the Board could establish a town-wide regulation to eliminate all floor drains, but he will initially draft a regulation addressing only District 2.

Board members discussed where matter from floor drains is collected. Mr. Canning explained that it may go into a septic system, catch basin, or leaching facility. Regulations do not allow discharge in the ground of non-sanitary sewage. Chemical waste would have to go into a sewer system, into a holding tank, or be collected on site and disposed of off site.

It was suggested that Mr. Canning address District 2 immediately and then later address the rest of the town. He would establish a list of commercial properties and then determine if they have floor drains. If floor drains are present, the owner would then be required to properly abandon the floor drains. The Health Department would determine the presence of floor drains at the time of inspection on sale or repair of septic system. However, the town must have a regulation on floor drains in place before the new town well comes on line.

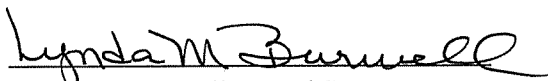
Stables – Mr. Canning informed the Board members that the Health Department has received several inquir-

ies about regulations or licensing of stables and barns in Orleans. He asked for the Board's opinion as to how extensive the regulations should be. Should the regulations be restricted to farm animals, or include regulations for domestic animals as well? The focus should be on public health and environmental health as well as protection of the animals. He noted that most people want to have a horse but there are potential problems from runoff, odors, vermin in the food, etc. He will prepare a draft regulation for the Board to consider.

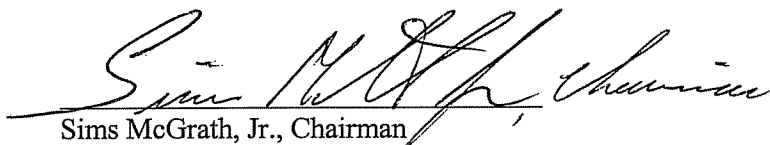
### **Adjournment**


**On a motion made by Dr. Schneider and seconded by Dr. Davis 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 3:27 p.m. The vote was 4-0-0.**

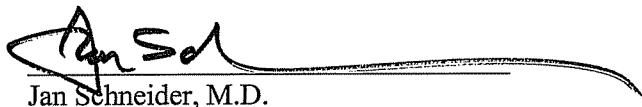
Respectfully submitted,

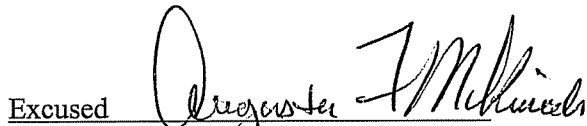
  
Lynda M. Burwell, Board Secretary

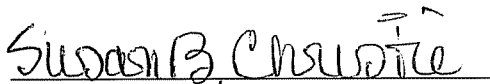
### **ORLEANS BOARD OF HEALTH**

  
Sims McGrath, Jr., Chairman

  
Robin K. Davis, Vice Chairman

  
Jan Schneider, M.D.

  
Excused  
Augusta F. McKusick

  
Susan B. Christie

**Date Approved:** Feb 5, 2009