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## TOWN OF ORLEANS - BOARD OF HEALTH

### MINUTES OF MEETING

February 19, 2009

Chairman Sims McGrath called a meeting of the Board of Health to order at 1:10 p.m. on Thursday, February 19, 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., Augusta McKusick; and Robert Canning, Health Agent. Selectman Liaison Mark Carron was also present.

#### **Work Session – Review Procedures for Variance Hearings**

Board members met to discuss the academics of conducting a variance hearing and preparing a motion and vote to document the action taken during a hearing. Mr. Canning had prepared an assignment included in their packets containing *Module 4 – Conducting a Title 5 Variance Hearing* as well as three test cases and several variance requests from other towns as well as one from Orleans for them to critique. They discussed each of the three test cases for which they had prepared a list of findings, the motion, and a list of conditions. Mr. Canning reviewed the section on The Motion included in *Module 4* and Board members applied this information while organizing motions. It was the consensus of the Board members that this exercise was very productive and should help them during future meetings.

A five minute break was allowed before the beginning of the regular meeting at two o'clock. Chairman McGrath reconvened the meeting of the Board of Health at 2:00 p.m. on Thursday, February 19, 2009.

#### **Public/Press**

There was no one present for Public/Press.

#### **Approval of Minutes**

The minutes of the Board of Health meeting held on September 7, 2006 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 accept the minutes of the meeting of the Board of Health held on September 7, 2006. The vote was 5-0-0.**

The minutes of the Board of Health meeting held on February 5, 2009 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 February 5, 2009. The vote was 5-0-0.**

#### **Health Agent's Report**

Mr. Canning reported on the following:

#### **Refuse Collection License**

M. A. Frasier, Inc. of South Wellfleet has applied for a Refuse Collection and Transportation License. He is currently licensed in Wellfleet and has had no complaints in that town.

**On a motion by Dr. Schneider and seconded by Ms. Christie, the Board of Health voted to approve a Refuse Collection and Transportation License for M. A. Frasier, Inc. of South Wellfleet. The vote was 5-0-0.**

A discussion ensued regarding the hours of operation of refuse collectors. Mr. Carron explained that there is a new noise by-law before the Board of Selectmen to limit the hours of operation of commercial trash haulers at residential and commercial locations to between 7:00 a.m. and 10:00 p.m. It was discussed that there was an exemption for refuse haulers in the previous by-law and they should be exempted in certain safety situations and also depending on the length of time trash remains in collection containers. Mr. Canning acknowledged some concern about health and safety issues resulting from delayed collection times. He noted that odors from dumpsters in the busy commercial area might be offensive to visitors which would reflect poorly on the town of Orleans. He also expressed concern that the later start time and increased traffic might delay refuse truckers from completing their collections in a timely manner. Mr. Carron explained that the Board of Selectmen had eliminated the exception for trash collectors because of a complaint from a resident and also to draw comment in this matter from the refuse companies. It was discussed that anyone in the area of commercially-zoned buildings should expect noise from commercial operations. Mr. Carron requested that Mr. Canning send something to the Town Administrator about the health and safety issues regarding refuse collections.

## **Hearings**

### **6 Skaket Circle**

Mr. Canning had previously distributed to the Board members a copy of *Module 2 – Title 5 Setbacks and Separations*.

Mr. David Lajoie of FELCO Engineering, Inc., representing James Rotondo, owner of the property at 6 Skaket Circle, reviewed the discussion at the last meeting. He noted that the rear location for a leach field is still preferable to the front yard because of better soil conditions in the rear and increased height of the soil absorption system to allow 5 feet to the adjusted groundwater elevation. He proposes to use a Waterloo Bio-Filter treatment unit for provisional use for the nitrogen-reduction component. He also addressed the Board's concerns about virus and bacteria removal. In accordance with the Barnstable County manual on septic systems, the 5 foot unsaturated zone under the leaching field provides protection from bacteria and other pathogens.

Mr. Canning discussed the impact of vertical flow on the bacterial treatment of sewage. He explained that vertical flow is the primary treatment of bacteria and viruses in sewage. He suggested that the Board grant the same variances to the Orleans Board of Health regulations as those requested by Mr. Lajoie. He also requested spot elevations in the wetlands be shown on the plan. Mr. Lajoie agreed that he will modify the plan to show spot elevations.

Board members requested clarification regarding the pressure dosing system, and that the soil absorption system is full size. Mr. Lajoie responded that the soil absorption system will be 5.1 feet above the adjusted groundwater level. He also explained the direction of the groundwater flow.

Mr. Canning affirmed that this proposal, which is greatly improved over the initial request, will have 5 feet to groundwater and a full size soil absorption system and that the system is pressure dosed. It was noted that the applicant has conducted five test holes and that this proposal provides the maximum protection. Mr. Canning noted that it will be encroaching on wetlands, but this proposal is better than being in a filled wetland.

**Dr. Davis listed the following findings:**

- **This proposal is to repair a failed septic system serving a four-bedroom dwelling on a half-acre lot. There is no proposal to increase the number of bedrooms in the dwelling.**
- **The existing leaching area is located approximately 7 feet from the edge of a bordering vegetated wetland and inches above groundwater.**
- **The repair includes the installation of a new 2,000 gallon multi-compartment septic tank/pump chamber, a Waterloo Bio-Filter and a 600 square foot pressure dosed leaching**

field.

- To maximize the vertical separation to groundwater, the proposal has been redesigned to provide a 5 foot separation between the bottom of the soil absorption system and the maximum groundwater elevation. The soil absorption system has been sized in compliance with Title 5.
- A reserve area in compliance with Title 5 and the Orleans Board of Health Subsurface Sewage Disposal Regulation cannot be located on the lot.
- This proposal is an improvement because it provides a full-size leaching area as opposed to the previous plan.

On a motion by Dr. Davis and seconded by Ms. McKusick, the Board of Health voted to conditionally approve the following variances for construction of a septic system serving 6 Skaket Circle, Map 24, Parcel 43, on a plan dated February 17, 2009 for James Rotondo.

- A variance of 13 feet to allow the proposed septic tank, pump chamber, and Waterloo Bio-Filter to be located 12 feet from the edge of a wetland where a 25 foot separation is required.
- A variance of 39 feet to allow the proposed soil absorption system to be located 11 feet from the edge of a wetland where a 50 foot separation is required.
- A variance of 89 feet to allow the proposed soil absorption system to be located 11 feet from the edge of a wetland where a 100 foot separation is required according to the Orleans Board of Health Subsurface Sewage Disposal System Regulations.
- Also, under the Orleans Board of Health Subsurface Sewage Disposal System Regulations, a variance of 38 feet to allow the proposed septic tank, pump chamber, and Waterloo Bio-Filter to be located 12 feet from the edge of a bordering vegetated wetland where a 50 foot setback is required.

These variances are conditioned on the following:

- The owner shall record at the Registry of Deeds a notice disclosing the existence of the Alternative system on the property.
- There can be no increase in sewage flow on the property.
- All conditions contained in the Department of Environmental Protection's Remedial Use Approval for the Waterloo Bio-Filter must be strictly adhered to.
- Throughout its life, the system shall be under an Operation & Maintenance agreement compliant with the requirements of the Waterloo Bio-Filter Certification for General Use. No Operation and Maintenance agreement shall be for less than one year.
- In addition to any testing required by the Department of Environmental Protection, the owner of the property served by the nitrogen removing technology is to test the effluent quarterly for BOD, TSS, and Total Nitrogen. Total Nitrogen concentration in the effluent shall not exceed 19 mg/L.
- A deed restriction for no increase in footprint shall be registered in the Registry of Deeds.

Discussion ensued that this is a seasonal home and requiring testing on a quarterly basis will not be representative because the house is not occupied for two quarters. It was suggested that testing be done only on specific dates such as July and October unless it becomes a year-round residence. It was noted that the property is for sale and the Board has no knowledge of the future owner's plans and that it would be prudent to continue quarterly testing and then allow the new owner to appeal for reduced testing if the house is not used year round.

**The vote was 5-0-0.**

## **12 Woodland Park Lane**

Mr. Glen Chamberland, owner of the property at 12 Woodland Park Lane, has requested that the Board of Health reclassify his dwelling from two bedrooms to three bedrooms since it is evident that there are three bedrooms in the house.

Mr. Canning discussed the request from Mr. Chamberland. He compared the floor plans to what is in the Health Department file which indicates a two-bedroom dwelling. The septic system was repaired in 1993 with approved capacity for a two-bedroom dwelling but has design flow of 484 gallons per day, enough capacity for a three-bedroom home. Mr. Canning outlined three options available to Mr. Chamberland because he would like to be allowed to the three bedrooms that currently exist.

Mr. Chamberland explained that the house was originally built in 1973 and the septic system was repaired in 1993. It was noted that the repaired system is large enough to accommodate the existing three bedrooms. The house was listed as a two-bedroom dwelling in accordance with town records, but really had three bedrooms when he bought it.

Mr. Canning discussed flow approved capacity and noted that the town adopted the current definition of a bedroom in 1990. He emphasized that nothing was done inappropriately; it just was not properly documented.

**In the matter of 12 Woodland Park Lane, findings are:**

- **The property is a 20,000 square foot property**
- **Had been built several decades ago**
- **Defined as two bedrooms dwelling**
- **Upon sale of property to the current owners, three bedrooms did exist.**
- **The septic system was repaired in the early 1990's and does have the capacity to serve a three-bedroom home.**

**On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to declare this a three-bedroom home to clear up the records. The vote was 5-0-0.**

## **Discussion with Mark Budnick, Highway/Disposal Manager**

Mr. Budnick was not present and he will be rescheduled for the next meeting.

## **Correspondence and Old or New Business**

10 – 1 A letter from George Heufelder of the Barnstable County Department of Health and the Environment regarding the **Soil Air System at the Second District Courthouse** had previously been distributed to the Board members for review and discussion.

10 – 2 A letter from Mr. Lewis Reis dated February 6, 2009 had previously been distributed to the Board members for review and discussion. Board members discussed that the Nutrient Management Regulations allow for appeals but not for exemptions as Mr. Reis has requested. They also discussed prior complaints by neighbors of the Tri-Town plant. It was noted that the letter from Mr. Reis references the General Business District. Mr. Canning suggested that he write a response to Mr. Reis' letter.

10 – 3 A revised **Orleans Board of Health Variance Application Form** had previously been distributed to the Board members for review and discussion. Mr. Canning explained that, with the Board of Health's approval, he would require the applicant or engineer to maintain any record of notification to abutters.

It was the consensus of the Board members that the new form is appropriate and Mr. Canning should proceed to notify engineers and agents.

10 – 4 An Environmental Notification Form (ENF) for the **Orie Lane Association Right of Way** had

previously been distributed to the Board members for review and discussion.

10 – 5 Mr. Canning requested the Board's input regarding the Nutrient Management Regulations Informational Sheet he had prepared. They will discuss this at the next meeting.

### **Hearings (Cont'd.)**

#### **33 Bay Ridge Lane – Continuation of Hearing 3:00 p.m.**

Mr. Canning had previously distributed to the Board members a copy of his letter to Messrs. Robert and Mark Filteau regarding the plan of action for repair of the septic system at 33 Bay Ridge Lane. This hearing is a continuation of the hearing held on January 8, 2009.

A letter from Coastal Engineering dated February 19, 2009 was distributed to the Board members at the meeting. Board members expressed concern about sewage overflow as well as plans for a new system. They acknowledged progress by the engineer on this issue, but are requesting assurance that current system is working adequately.

Board members agreed to continue the hearing and request reasonable progress reports.

**On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to continue this hearing to March 19, 2009 at 3:00 p.m. The vote was 5-0-0.**


### **Correspondence and Old or New Business (Cont'd.)**

10 – 6 Board members further discussed the issue of noise control and whether Mr. Canning should write his comments including septic haulers as well as refuse haulers. It was recommended that, for the record, he outline to the Selectmen the position of the Board of Health and the Health Department.


### **Adjournment**

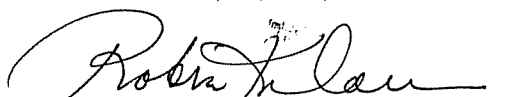
**On a motion made by Ms. McKusick and seconded by Dr. Schneider that there being no further business to come before the Board, it was voted to adjourn this meeting of the Orleans Board of Health at 3:18 p.m. The vote was 5-0-0.**

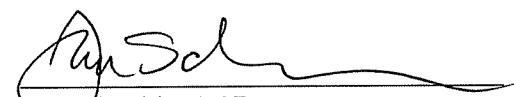
Respectfully submitted,

  
Lynda M. Burwell, Board Secretary

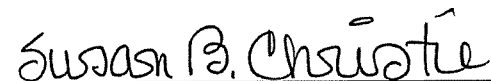
### **ORLEANS BOARD OF HEALTH**

  
Sims McGrath, Jr., Chairman

  
Robin K. Davis, Vice Chairman

  
Jan Schneider, M.D.

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Augusta F. McKusick

  
Susan B. Christie

**Date Approved:** March 5, 2009