

TOWN OF ORLEANS - BOARD OF HEALTH

09 APR 16 PM 4:30

MINUTES OF MEETING

April 2, 2009

Chairman Sims McGrath called a meeting of the Board of Health to order at 2:05 p.m. on Thursday, April 2, 2009 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Sims McGrath, Robin Davis, Ph.D., Susan Christie; and Robert Canning, Health Agent. Also present, Mark Carron, Liaison from the Board of Selectmen and Finance Committee Liaison Dale Fuller.

Excused: Augusta McKusick, Jan Schneider, M.D.

Agenda Item V – Public/Press

There was no one present from the Public or Press.

Approve Minutes

The minutes of the Board of Health meeting held on March 19, 2009 had previously been distributed to the Board members for review.

On a motion by Ms. Christie and seconded by Dr. Davis, the Board of Health voted to approve the minutes of the meeting of the Board of Health held on March 19, 2009. The vote was 3-0-0.

The minutes of the Board of Health meeting held on April 21, 2005 had previously been distributed to the Board members for review.

On a motion by Dr. Davis and seconded by Ms. Christie, the Board of Health voted to accept the minutes of the meeting of the Board of Health held on April 21, 2005. The vote was 3-0-0.

Health Agent's Report

Mr. Canning reported on the following:

Food Service Establishment

Mr. Jim Reynolds is planning to purchase Dan's Deli and he will require a Food Service Establishment Permit and a Retail Food License in the near future. Mr. Reynolds will be taking over the existing operation and has a Certified Food Protection manager.

On a motion by Ms. Christie and seconded by Dr. Davis, the Board of Health voted to approve a Food Service Establishment Permit and Retail Food License for Mr. Jim Reynolds, the future owner of Dan's Deli. The vote was 3-0-0.

Temporary Food Permits

The Orleans Improvement Association represented by Anne Mahoney has requested a variance for the menu to serve strawberry shortcake and beverages at the Strawberry Festival on Saturday, June 13, 2008 from 10:00 a.m. to 4:00 p.m. at the Historical Society Building on River Road. This is a Non-Profit organization and no Certified Food Protection Manager is required.

Preparation of the strawberries and whipped cream will take place in the Historical Society kitchen. Biscuits will be purchased from a licensed food vendor. Hand washing and toilet facilities will be available on-site for volunteers. Gloves, ladles and tongs will be used to prevent bare-hand contact. Paper goods and single use articles are to be used. Food will be served to order, not displayed. Cold

storage will be refrigeration and coolers with ice. Bleach sanitizer will be used for coolers and table tops.

On a motion by Ms. Christie and seconded by Dr. Davis, the Board of Health voted to approve a Temporary Food Permit with a variance for the menu for the Orleans Improvement Association's Strawberry Festival on June 13, 2009 from 10:00 a.m. to 4:00 p.m. The vote was 3-0-0.

Recreational Camp for Children

Mass. Premier Soccer Camps, represented by James Hamblin, requests a license to conduct a soccer camp. This license will be subject to submission of the necessary final application and an inspection by the Health Department. The camp will be held at the Nauset Regional Middle School from July 13, 2009 to July 17, 2009 and again from August 10, 2009 to August 14, 2009.

On a motion by Dr. Davis and seconded by Ms. Christie, the Board of Health voted in the matter of the Mass. Premier Soccer Camp to approve two permits for two camps to be held at the Nauset Regional Middle School from July 13, 2009 to July 17, 2009 and again from August 10, 2009 to August 14, 2009.

This vote is conditioned upon receiving the necessary final application information in a timely manner before the start of the camp periods. The vote was 3-0-0.

Septic Installer's License

David J. Burnie Management, Inc., owned and operated by David Burnie of East Harwich, has requested a Septic Installer's License for his business to install septic systems and also as a septic hauler in Orleans. Mr. Canning expressed that Mr. Burnie is very knowledgeable in his business.

On a motion by Ms. Christie and seconded by Dr. Davis, the Board of Health voted in the matter of David J. Burnie Management, Inc. to grant a Septic Installer's License to Mr. David Burnie, owner of the business. The vote was 3-0-0.

Septage Collection and Transportation

A Pro Rooter, managed by James McGrath of Holbrook, MA, has applied for a license to be a Septage Collection and Transportation provider.

On a motion by Dr. Davis and seconded by Ms. Christie, the Board of Health voted in the matter of A Pro Rooter, managed by James McGrath, to grant a license to be a Septage Collection and Transportation provider. The vote was 3-0-0.

Rabies Clinic

The annual rabies clinic was successful; there were a total of 39 vaccinations given. Mr. Canning expressed his appreciation to Dr. Karen Bohon and the Animal Hospital of Orleans for holding this clinic for the town.

Variance Request – 23 Monument Road

Mr. Patrick Punch, owner of the property at 23 Monument Road, was present to explain his efforts to rectify the discrepancy in the number of bedrooms in his house which had three bedrooms when he purchased it; two bedrooms on the main floor and one bedroom in the basement.

Mr. Canning reviewed the history of the property noting that the dwelling was built in 1985 as a two-bedroom house. In August, 1993 the Board of Health approved variances for the repair of a septic system for a two-bedroom house. The variances included a six foot variance to allow the leaching pit to be installed 94 feet from

the edge of a wetland; and a twelve foot variance to allow the reserve area to be located approximately 88 feet from the edge of a wetland. Subsequently a septic system was installed in March, 1994.

In 2004 when the property was being sold it was brought to the attention of the Health Department that there was an isolated habitable room in the lower level of the house. On November 2, 2004 the Health Department issued an order to the owner (at that time) to resolve this issue. Since that time, the property has been sold twice including to Mr. Punch on November 19, 2005. The Health Department has repeatedly pursued compliance with the initial order with each of the subsequent owners.

The variance requested at this meeting was to approve a variance for the existing septic system for the three-bedroom dwelling. The variances are the same as requested in 2003. The existing septic system was designed and installed under the 1978 provisions of Title 5 and consists of a 1000 gallon septic tank, distribution box, and a 10 foot by 3.5 foot leaching pit with a capacity of 354 gallons per day. The variances requested are to allow the leaching pit to remain 94 feet from the edge of a wetland.

The Board of Health finds the following:

- **The dwelling, 23 Monument Road, is indicated in paperwork to be a two-bedroom dwelling but a third bedroom exists in the basement. This bedroom predates the owner by at least two previous owners.**
- **The house is located, as well as most of the lot, within a 100 foot buffer from wetland which affects placement of a septic system.**
- **There is no indication of a reserve area and it would need to be incorporated by a future variance.**
- **This variance is reopening of an older variance which was decided in 2003 by the Board of Health.**
- **The leach pit is located 94 feet from a vegetated wetland where 100 feet is required; a 6 foot variance was requested in 2003, and is again requested.**
- **A reserve area is not indicated and if a need arises that a reserve area must be considered, the owner would again have to come before the Board of Health.**
- **The variance is to approve a third bedroom in the basement as a pre-existing bedroom.**
- **According to Ryder & Wilcox, the septic system is adequate for a three-bedroom house.**

On a motion made by Ms. Christie, and seconded by Dr. Davis, the Board of Health voted in the matter of 23 Monument Road to grant the requested variance.

This variance is conditioned upon the following:

- **A notification to the Registry of Deeds that 23 Monument Road is a three-bedroom house and cannot be more than three bedrooms in light of the fact that it is within the 100 foot buffer.**

Board members discussed whether a deed restriction is necessary. Ms. Christie withdrew her condition requiring a deed restriction which was seconded by Dr. Davis.

The vote was 3-0-0.

Variance Request – 40 Oriole Lane

Attorney William Riley, representing Dushyantihi A. Mahendran, owner of the property at 40 Oriole Lane, explained construction issues in Mr. Canning's letter of March 9, 2009 concerning opening a doorway and opening up the stairway to the lower level. According to his client, the doorways would not be a problem, but the stairway change involves more construction. The client would prefer not removing the entire stairway wall, but would enlarge the lounge door casing to a six foot opening to satisfy the requirement of the code.

Mr. Canning discussed his observations on the site visit. The plans show a six-foot opening to both the lounge and game room. However, the wall creates a separation, providing sufficient privacy to each room for it to qualify as a bedroom. It was noted that this plan (distributed to Board members) was for a renovation. The original construction plans showed an open stairway. Mr. Canning opened the full-size plans for the Board members to review. Ms. Christie noted that this is not just a "basement"; it is a fully-finished basement.

Board members discussed that the renovation of the house in 2006 was not completed in compliance with the approved plans. Ms. Christie emphasized that this is four-bedroom house with a septic system for four bedrooms (normally eight people). The house is advertised for rent as suitable for 18 people, but the septic system is not designed for 18 people. The Board of Health issued approval for a four-bedroom house but the conditions and requirements have not been observed. There have been many changes from the plans approved in 2006.

Mr. Canning also noted that the plan requires a six-foot opening into the library. Removing the doors will not meet that requirement. The wall will need to be reframed and finished.

Mr. McGrath read from the minutes of the July 6, 2006 Board of Health meeting. He opined that the openness of the stairway was instrumental in the approval of the plan as it was submitted in 2006.

Attorney Riley suggested completing the proposed renovation of the openings and having Mr. Canning reinspect the property. If it is not satisfactory, then the owner would have to proceed with opening up the stairway. Dr. Davis recommended that another site visit be conducted by the entire Board to which Ms. Christie and Mr. McGrath agreed.

Mr. Canning agreed that he would want all the Board members to revisit the site. He noted that clearly this house was to be four bedrooms only; then it was advertised as seven bedrooms. The advertising has been changed back to four bedrooms, but now describes sleeping accommodations in another three rooms. In 2006 the plan showed the lounge existing on both sides of the stairway and being open to the game room. Removing the existing wall and having six foot openings to both the lounge and game room would help to open up both rooms. Phased construction to meet the requirements of Title 5 and the Orleans Board of Health restrictions would most likely delay the final approval.

Dr. Davis recalled the arguments regarding the openness of the lower level at the 2006 hearing and she would not approve any renovations without reviewing the property again.

Board members discussed continuation of this hearing on May 21, 2009. Attorney Bruce Gilmore, representing the abutters, would like to attend the continuation hearing and is not available on May 21st. It was suggested that a site visit be conducted sooner and then hold the continuation hearing on June 4th. Board members agreed to have a continuation to two dates of May 21, 2009 and June 4, 2009. A site visit will be scheduled as soon as the work is completed.

On a motion made by Dr. Davis and seconded by Ms. Christie, the Board of Health voted in the matter of 40 Orié Lane to continue this hearing until May 21, 2009 at 2:15 p.m. and on June 4, 2009 at 2:15 p.m. A site visit will be scheduled as soon as the proposed work is completed. The vote was 3-0-0.

Variance Request – 13 Route 28 (South Orleans Road) – Cove Condominium

This hearing was continued to the next meeting.

Variance Request – 9 Morgan's Way

Mr. Thomas Joy, owner of 9 Morgan's Way, explained his request to extend the use of the existing cesspool for the seasonal cottage on his property. He explained that the cesspool had not been pumped for two years but is now in good working order, and he requested that the Board extend the order another year with the stipulation that the cesspool be pumped and cleaned each fall.

Mr. Canning noted that, upon Mr. Joy's inspection, the effluent level was at the invert of the cesspool. This information triggers a requirement of Title 5 to have at least one-half day's capacity in the cesspool. The septic system is under order to repair but Mr. Joy has made a good-faith effort to maintain the sewage disposal system in a sanitary condition.

Mr. Joy spoke to the fact that the invert is down 18 inches from the top. He anticipates that pumping each year would protect the public health.

Mr. Canning suggested that the leach pit be inspected mid-season and pumped and inspected again at the end of the season.

Mr. Joy explained that it would be difficult to install a new septic system for a small one-bedroom cottage on his site.

- **In the matter of a request for an extension for 9 Morgan's Way, the Board of Health finds that this is a one-bedroom cottage with a cesspool. The owner was ordered to upgrade the cesspool system on August 10, 2006. On February 4, 2008 the Board of Health extended that order to repair until January 1, 2009.**
- **The system was inspected on October 22, 2008 by Oceanside, and it was determined that the effluent was up to the invert but not above the invert. At that time there was no overflow or backup. The leach pit was then pumped and cleaned on that date.**

On a motion made by Ms. Christie and seconded by Dr. Davis, the Board of Health voted in the matter of 9 Morgan's Way, to approve an extension of the use of this one bedroom cottage with a cesspool.

This extension is based on the following conditions:

- **That the cesspool be inspected mid-season (end of July or beginning of August) to be sure that it is not coming close to the invert.**
- **It must be pumped and cleaned at the end of the season and inspected for structural stability.**
- **An Inspection Report shall be submitted to the Health Department.**

The vote was 3-0-0.

Discussion Request – 211 Main Street – East Orleans Deli

Ms. DJ Sethares, owner of the East Orleans Deli located at 211 Main Street, discussed her proposal to change the name to "The Last Stop".

Mr. Canning reported that the Deli's licenses are current as of January 1, 2009. He read from the State Code regarding Notification of Changes and reviewed the licenses currently being held by the East Orleans Deli. Ms. Sethares would like to amend the licenses to avoid paying for new licenses under the new name.

Board members discussed whether there should be a fee for amending the licenses. Mr. Canning reported that an inspection was conducted as a result of their renovation and everything was in excellent order.

On a motion made by Dr. Davis, seconded by Ms. Christie, the Board of Health voted in the matter of 211 Main Street, the East Orleans Deli, to accept the application for amending the licenses to reflect the name change without any additional fee. The vote was 3-0-0.

Approval Request – 56 Clayton Circle

Mr. Bruce Lederhouse, owner of the property at 56 Clayton Circle, explained his proposal to enclose a screened porch with windows to make it a three-season room. There would be no heat and the current porch exists on a concrete slab. There is a question of whether it would qualify as habitable space.

Mr. Canning explained that it would not be considered a bedroom. However, the dwelling is served by a converted cesspool and leaching pit. It is considered to be failed as a converted cesspool because of the increase in square footage of habitable space.

Board members discussed that any room that opens into a garage cannot be used as a bedroom. This room is not heated and will not be habitable in the winter. Also, because the current porch has a slab foundation and a permanent roof, the proposed renovation of the porch does not increase the habitable square footage of the dwelling.

On a motion made by Dr. Davis and seconded by Ms. Christie, the Board of Health voted in the matter of 56 Clayton Circle that this porch enclosure does not represent an increase of habitable square footage. The vote was 3-0-0.

Mark Budnick, Highway/Disposal Manager

Mr. Budnick discussed the new FY 2009 Operations Plan for the Transfer Station. He may add or remove portions of the plan as it is utilized during the year. Board members congratulated Mr. Budnick for the very thorough and complete Operations Plan.

Ms. Christie discussed the fact that fees are not addressed in the plan. Mr. Budnick acknowledged that the Operations Plan could reference the facility fees charged by the Transfer Station.

Mr. Budnick reviewed the bi-monthly report from Sterns & Wheeler noting that the Transfer Station fully complies with the governing regulations.

Board members inquired about the flame at the transfer station. Mr. Budnick reported that there has not been enough methane to maintain the flame. Certain areas under the cap produce more methane than other areas and it is necessary to calibrate periodically and readjust the mechanism. Staff conduct an inspection of the wells monthly. The cap is settling which results in necessary adjustments to the flare mechanism. However, the flare system has been running fine over the past year. Barnstable County Health Department will now be conducting the sampling which will save the town considerable expense.

The Gift House is being run very successfully by the volunteers. Their one problem has been the lack of heat in the Gift House, making it very difficult to stay open during the winter months. Ms. Christie remarked that the \$6000 left in the Gift House account might be applied for heat in the Gift House. Mr. Budnick responded that it would probably not be a problem but would need DEP approval. It was suggested that they consider electric heat to eliminate any fuel source, but Mr. Budnick reported that the installation would have to meet building codes for insulation and sheetrock.

Mr. Budnick reported on projects he is working on for the Transfer Station. They have received additional funding for another recycling compactor and will be purchasing a used one from Eastham at a very reasonable price. They plan to use it for metal cans. With funds left from that purchase they plan to purchase another compactor to be used for newspapers because the current newspaper chute is dangerous when staff must clear it.

Mr. Budnick reported that he is pursuing new contracts for next year for hauling municipal solid waste, recyclables, and demolition waste. He noted that some of the other towns might try to get a combined price for the contract.

There is a paint collection scheduled for next Saturday.

The town has yard waste composters to sell to homeowners and there is a video on the website to promote home composting.

Mr. Burdick reported that the SEMASS contract expires in 2015 and a new contract at that time will charge around \$100/ton in future years. Orleans has chosen not to sign a non-binding agreement with SEMASS for a lower contract price in 2015. Several communities have asked the Cape Cod Commission to investigate an alternative solid waste disposal proposal. He noted that disposal options are getting scarce.

Mr. Budnick reviewed the FY09 budget reductions he has proposed to offset the deficit. He proposed reduction of tonnage fees based on what is turned back at the end of the year. Staff is now hauling one trailer load per week to SEMASS to save expense. Overtime, weekend coverage, and engineering costs were also reduced. The Transfer Station will be closed on Memorial Day because of low usage.

The FY10 operating budget was difficult to prepare as Mr. Budnick was required to find \$25,000 worth of reductions. He looked at noncritical items such as screening of yard waste, paint collection, reduction of overtime, etc. However, he expects the Transfer Station budget will be approved by the Board of Selectmen.

Ms. Christie inquired whether the Transfer Station is getting money back from recyclables to which Mr. Budnick responded that there is some revenue from metals and plastics, but nothing from recycled paper. He does have a good agreement for electronic recyclables.

Mr. Canning acknowledged that the Operations Plan was well done.

Mr. Budnick announced that Orleans' recycling rate in 2008 has gone up to 38% compared to municipal solid waste and construction and demolition waste.

Old and New Business/Review Correspondence

The Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting Minutes of February 11, 2009 had previously been distributed to the Board members for review and discussion.


A letter from Schofield Brothers to MDEP regarding the Orleans Yacht Club had previously been distributed to the Board members for review and discussion.

A letter from MDEP to Orleans Water Department regarding Approval to Construct Source (new town well) had previously been distributed to the Board members for review and discussion. Mr. Canning reported that this notification will require the Board to work on the new Floor Drain regulations.

Agenda Item XI. Adjournment

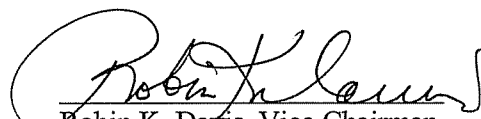
On a motion by Ms. Christie and seconded by Dr. Davis, the Board of Health voted to adjourn this meeting of the Board of Health at 3:59 p.m. The vote was 3-0-0.

Respectfully submitted,


Lynda M. Burwell, Board Secretary

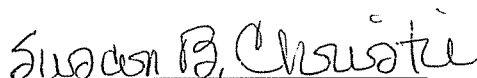
ORLEANS BOARD OF HEALTH


Sims McGrath, Chairman


Robin K. Davis, Vice Chairman

Excused
Jan Schneider

Excused
Augusta F. McKusick


Susan B. Christie

Date Approved/Accepted