

## TOWN OF ORLEANS – BOARD OF HEALTH

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### MINUTES OF MEETING

October 21, 2010

The Board of Health convened its meeting at 2:02 p.m. on Thursday, October 21, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman, Job Taylor, III, Vice Chair Augusta McKusick, Jan Schneider, M.D., Robin Davis, Ph.D., and Elizabeth Suraci. Also present: Robert Canning, Health Agent; Susan Christie, Liaison from the Board of Selectmen; and Ed Barr, Liaison from the Finance Committee.

Ms. McKusick acknowledged that the Health Department and the Board of Health were grieving the loss of Lou Brighanti, Manager of the Water Department, who died earlier this week. She noted that, although he did not often attend the Board of Health meetings, when he did he was always well prepared and very enthusiastic; and he will be missed by many people in Orleans.

#### Agenda Item 1 – Public or Press

There was no one present for Public or Press.

#### Agenda Item 2 – Variance Request – 89 Nauset Heights Road

Mr. Jason Ellis of JC Ellis Design represented Evelyn Holden, owner of the property at 89 Nauset Heights Road. Mr. Ellis explained the need for a variance to be able to install a new Sewage Disposal System Upgrade to replace the existing system which consists of cesspools. He noted that the cesspools are in perched water, and that they will be replaced with a new 1500 gallon septic tank, pump chamber, and leach field that will accommodate septage flow for a three-bedroom dwelling. Mr. Ellis explained that the house is currently for sale and will most likely be razed and rebuilt by a new owner to take advantage of the extraordinary view.

Mr. Ellis described his reasons for the proposed placement of the leach area in the rear of the house: 1) because of the dense cedar trees in the front of the property and 2) because of the existence of two leaching catch basins in the street which intercept the perched groundwater and require a 100 foot setback from them. Therefore, he is requesting a variance for the distance of the leach field to the house's crawl space, rather than a variance for the distance to the catch basins. This variance would also allow more options for placement of a new house. The specific variance requested is as follows:

1. Variance from 310 CMR 15.211, Title 5 to allow a Soil Absorption System to be located ten (10') feet from the foundation wall where twenty (20') feet are required. A ten foot variance is requested.

Mr. Canning reiterated that this variance request is to the Title 5 requirement for twenty (20') feet between a foundation wall and leaching facility. Regarding the leaching basins in the front, Title 5 requires a fifty (50') foot setback from a leaching facility if they collect seasonal water and carry it away. He noted that allowing fifty feet from the leaching basins would bring a leaching facility within fifteen feet of the dwelling foundation, presenting somewhat the same situation as siting the leach field in the rear of the property. He questioned whether these leaching basins are connected in a series that direct the water away to another location.

Mr. Ellis opined that they are connected via a drainage ditch across the street and to a wetland on another property.

Board members discussed whether the Highway Department might have plans of the drainage system, and Mr. Canning noted that it depends when they were installed and by whom. It was discussed whether a dye test might determine the route the water takes and Mr. Canning cautioned that the test must be conducted under existing conditions. They also discussed installing a flow barrier between the leach field and the dwelling foundation.

tion as well as venting the leach field. Mr. Ellis explained that the leach field would be elevated about two feet and would have minimal cover, thereby allowing good aeration.

Board members questioned further whether the catch basins, if not leaching catch basins carrying water away to another location, would require the fifty foot setback. Mr. Canning explained that it would require a twenty-five (25') foot setback. Mr. Ellis explained further that the existence of clay in that area most likely requires that the effluent in the catch basin is directed away from the area. It was noted that there are no other buildings on the property.

There were no abutters present.

**On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the case of 89 Nauset Heights Road. Findings are that this is a small lot of 12,000 square feet with existing cesspools. Due to the location of catch basins and the condition of soil and groundwater, variances are required to install a new septic system. Based on these findings I move that the Board of Health approve the variances for construction of a new septic system at 89 Nauset Heights Road as shown on the Septic System Upgrade Plan prepared by J.C. Ellis Design Company and dated the 20<sup>th</sup> of September 2010. Variances approved would be the following:**

- 1. A variance to a twenty (20') foot setback from an existing foundation wall. Ten (10') feet will be provided where twenty feet is required. A ten foot variance is approved.**
- 2. A variance to a requirement for a Reserve Area. There will be no Reserve Area provided as shown on the proposed plan.**

**Conditions are that if there is rebuilding, the setbacks to the foundation will applied to resolve the variance that we are granting today.**

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

### **Agenda Item 3 – Variance Request – 246 Tonset Road**

Attorney Taylor introduced the issue regarding the heights in the upstairs bedrooms. Mr. Canning reviewed that at their last meeting the Board of Health had granted a four (4") inch variance for the ceiling height for the two upstairs bedrooms at 246 Tonset Road. While reviewing the figures for the room, he noticed that the four inch variance granted was not sufficient, and he determined that a six (6") inch variance is required. Mr. Canning distributed a schematic of the area in question. (*Exhibit 3-1*) The room to the right of the stairs has a maximum ceiling height of six feet, six inches (6'6") for 27 percent of the total room area. Seven (7') feet is required for 25 percent of the room area. He suggested a six (6") inch variance be granted. The second room, at the left of the stairs, has a maximum ceiling height of six feet, 9 inches (6'9"), but has a ceiling height of six feet, six inches (6'6") in 25 percent of the room. He suggested a six (6") inch variance be granted for this room also. He noted that the Board members had viewed photos and discussed this issue at the last meeting.

Attorney Taylor suggested modification of the previous variance granted on October 7, 2010.

**On a motion by Attorney Taylor, and seconded by Dr. Schneider, the Board of Health voted in the matter of 246 Tonset Road to modify the previous variance to Chapter II of the Housing Code granted on October 7, 2010 from four (4") inches to six (6") inches to the ceiling height of both upstairs bedrooms. The vote was 5-0-0.**

### **Agenda Item 4 – Approval Request – 142 Monument Road**

Ms. Staphanie Sequin of Ryder & Wilcox, Inc. represented Sarah Pihl, owner of the property at 142 Monument Road, and explained her request to modify a 1978 Code septic system. Currently there exists a four bedroom house and an additional building with another bedroom on a 45,864 square foot lot, for a total of five bedrooms on the property. The existing septic system consists of a 1000 gallon tank and a leaching pit approved in 2007

for the sale of the property. The leaching pit was approved for the existing five bedrooms at that time. Ms. Sequin explained that the property owner is renovating the house to create a master bathroom in one of the existing bedrooms. There is no increase in the footprint of the building. Because this is an antique home, there is no basement under the house so it would be very difficult to connect the new bathroom plumbing to the existing waste plumbing. Therefore, Ms. Sequin proposed connecting the new bathroom plumbing directly to the septic tank.

Mr. Canning added that the Health Department has previously approved several similar situations where the new plumbing is connected to the interior waste pipes, therefore not requiring approval by the Board of Health. Because the connection is taking place outside the building it is considered an alteration to the existing 1978 Code system which must be approved by the Board of Health.

Board members discussed that the proponent was not requesting a big change and that the new bathroom is being created by using part of one of the existing bedrooms.

**On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of 142 Monument Road. The issue at stake is plumbing changes in making a new bathroom using part of one of the four bedrooms in the house and the five bedrooms on the property. There is no change in the footprint and no change in the flow. However, because of the configuration of the house, which is an antique, internal plumbing cannot be connected and therefore a new external sewer line is needed. That requires approval of the Board and I move that we give such approval. The vote was 5-0-0.**

#### **Agenda Item 5 – Approval Request – 84 Old Duck Hole Road**

Ms. Stephanie Sequin of Ryder & Wilcox represented Alan and Beverly Grieco, proposed purchasers of the vacant lot at 84 Old Duck Hole Road. The lot size is approximately 24,306 square feet. Because there is no approved Disposal Works Construction Permit for this property, it is subject to the new Nutrient Management Regulations; therefore the lot size restricts construction of a home with two bedrooms. The buyer would like to construct a three-bedroom house on this lot. It is their understanding that this might be possible with a variance from the Nutrient Management Regulations as long as they utilize a nitrogen-reducing I/A technology septic system.

Attorney Taylor opined that the scenario proposed by Ms. Sequin is appropriate. Ms. Suraci declared that, although she is not an abutter, she does live in the neighborhood. She also noted that the plans indicate a “bonus room”, which in another home nearby was recently converted to a bedroom. Ms. Sequin recommended that if the Board of Health approves this plan that they required a deed restriction be registered at the Registry of Deeds.

As requested by Dr. Schneider, Mr. Canning explained that the Nutrient Management Regulations were written to allow a third bedroom to be built on a lot less than 30,000 square feet by requiring installation of a nitrogen-reducing I/A technology septic system that reduces the nitrogen load to 19 ppm or less.

Board members also discussed whether there are any restrictions to placing conditions on this request, and whether the unfinished space above the garage might meet the criteria of a bedroom. Mr. Canning explained that as long as the space above the garage remains unfinished it would not meet the criteria of a bedroom. Attorney Taylor reiterated that this discussion is hypothetical and any request for approval or variance would need to be approved by the Board of Health as a formal variance request. Ms. McKusick questioned the percent of lot coverage allowed by the Zoning Regulations to which Ms. Sequin acknowledged that this plan met those requirements. Dr. Davis discussed that many existing I/A technology septic systems in Orleans are not in compliance with the requirements specified for removing nitrogen, nor are they being monitored and tested by their owners.

Ms. Christie questioned how the pool water would be disposed. Ms. Sequin explained that pool water should never be discharged into a septic system. Usually a drywell or pit is available for backwash. Mr. Canning explained that any Building Permit for a pool would be reviewed by the Health Department who would ensure that

there is some provision for filter backwash or drained pool water. However, most pool owners leave some water in the pool so the pipes won't freeze in the winter.

### **Agenda Item 6 – Approve Minutes**

The minutes of the Board of Health meeting held on October 7, 2010 had previously been distributed to Board members for review and approval. Attorney Taylor declared that he would abstain from voting because he had not been present at that meeting.

**On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted that the minutes of the Board of Health meeting of October 7, 2010 be approved as presented. The vote was 4-0-1 with Attorney Taylor abstaining.**

### **Agenda Item 7 – Health Agent's Report**

Mr. Canning reported on the following:

#### **Flu Clinics**

The dates have been set for the public flu clinics in Orleans. Flu clinics will be held on Monday, November 1, 2010 and Friday, November 12, 2010. Both clinics will be held between 1:00 p.m. and 4:00 p.m. at the Orleans Senior Center at 150 Rock Harbor Road.

Pre-registration is required. Registration is available online by going to the Town of Orleans web site at: <http://www.town.orleans.ma.us>. If individuals do not have internet access they can register by calling the Orleans Health Department at (508) 240-3700 Ext. 450 or the Orleans Senior Center at (508) 255-6333 Monday thru Friday between the hours of 9:00 a.m. to 4:00 p.m.

Eligibility for flu vaccine at these clinics is limited to the following:

- Orleans residents only;
- All adults aged 60 years and older;
- Residents of long-term care and assisted living facilities;
- Individuals aged 18 years and older with chronic medical conditions;
- All women who will be pregnant during the influenza season;
- All health care workers who provide direct patient care and emergency first responders;
- Out of home caregivers and household contacts of children six months and younger.

Individuals who have a Medicare B Card are requested to bring it with them to the clinic.

Pneumonia (Pneumococcal Conjugate) vaccine will also be available at these clinics.

This information has also been advertised in several newspapers and media outlets. Mr. Canning also announced that there are 790 doses of vaccine so he is anxious to provide vaccine to everyone who might benefit from it this year.

### **BOH/BOS Joint Meeting**

On November 3<sup>rd</sup> a representative from the Town of Bourne is coming to the Board of Selectmen's meeting to discuss their proposal as a solid waste disposal option. The Board of Selectmen has invited the Board of Health to attend this meeting to hear the Bourne proposal and to follow up on our discussion July 14, 2010. Mr. Canning will post this meeting since it appears there will be a quorum of the Board of Health members available on that date.

Issues also to be discussed are as follows:

- The option of offsetting future costs
  - Setting a dedicated account

- Any interest earned remains in the account
  - To set up this account will require approval of an Article at Town Meeting.
- Review fee schedules for various other Cape Cod towns
- The prospect of limiting the size of vehicles that come into the solid waste facility (cubic tons of material)
- The pros and cons of Pay-As-You-Throw
  - Orleans is a seasonal community
  - The initial start up
  - Man-power and enforcement

### **18 Industry Way**

In September the Board of Health granted the owner 30 days to complete the necessary repairs in the unit. The thirty days have passed. The only discussions that have occurred since the Board of Health hearing was when the tenant called the Health Department looking for some information regarding the hearing. At this time the tenant stated that he had not heard from the owner and no work had been performed. On October 20, 2010 the Health Department wrote to the tenant requesting that he call to schedule a re-inspection.

### **33 Eli Rogers Road**

On October 12, 2010 the Health Department sent an order modification to the owner requiring the necessary repairs in the new time frame issued by the Board of Health. On October 13, 2010 the owner picked up a copy of the order in the Health Department office. During his visit to the Health Department Mr. Albert indicated that his new property caretaker has been asked to address all of the items contained in the order (new caretaker will come in to discuss the matter with the Health Department).

On October 13, 2010 Mr. Albert called the Health Department and expressed concern regarding the modifications that the tenant has made to the staircase. He is concerned about an injury occurring because the bottom stair has been removed. Because Chapter II, the Housing Code, requires a tenant to respect structural elements of a property, the Health Department issued an order to the tenant to return the stairway and screen door to their original conditions.

### **20 Hopkins Lane**

Town Counsel continues to pursue this matter.

Ms. McKusick referred back to the Health Agent's report on the joint meeting with the Board of Selectmen scheduled for November 3, 2010. She would like to eliminate the discussion of Pay-As-You-Throw at the Transfer Station. She noted that previous discussions discouraged the Board of Health from implementing this option because Orleans is a seasonal community and the majority of the cost would be borne by small, year-round households. She also discussed that the additional cost to implement a new system could be prohibitive.

Dr. Davis opined that if people concentrated on recycling all that they can, they would not be paying a great deal to dispose of trash at the Transfer Station. She wanted to discuss how to encourage residents to recycle and reduce their cost of trash disposal.

Mr. Canning reported that he had discussed this program with John Kelly and Mark Budnick. He reiterated that the seasonal nature of the community presents problems for the Transfer Station in terms of start-up costs and increased manpower. Dr. Davis noted that she was impressed with the recycling effort in Italy. Dr. Schneider expressed concern about the possibility of confrontations between customers and Transfer Station staff.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to take this off our list of issues to discuss with the Board of Selectmen, and we report to them when we meet with them, or Sue can report to them, that the Board of Health is pretty much inclined to not consider Pay-As-You-Throw.**

Dr. Davis questioned educating the public to the cost savings and possible income stream for the Transfer Station. She suggested establishing a town committee to explore this issue further. Mr. Canning agreed that educating the public could increase awareness that the town could save money and perhaps reduce fees if more people conscientiously recycled their trash. Ms. McKusick suggested that she and Dr. Davis show residents how they recycle their trash.

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

Mr. Canning expanded further on the issue of offsetting future costs of a Transfer Station sticker, and that the money would go into a dedicated account and any interest earned would remain in that account. However, establishing an account for that purpose would need approval at Town Meeting.

A schedule of Transfer Station fees had been prepared by Mark Budnick. Mr. Canning noted that the Orleans Transfer Station sticker fee is quite low compared to that of other towns. He explained that it would be necessary to hold a Public Hearing to present any proposed increase.

Mr. Canning reviewed that the Board of Health had previously discussed the size of vehicles allowed to use the Transfer Station, and that limiting the size of vehicles would allow some control of the flow of trash that must be trucked off site. He cautioned that when the SEMASS contract expires, the Board of Health will need to be prepared to amend to its regulations to reflect changes.

### **Agenda Item 8 – Review Correspondence / Old and New Business Correspondence**

- 8 – 1 & A Board of Health Fees Summary 2010 and 2010 Permit Fee Survey had previously been distributed to Board members for review and discussion. Mr. Canning noted that the Survey included information from eleven towns including Orleans. On the Summary page he included Orleans' Current Fee, the High and Low of all towns, and the Average of all towns. Overall, Orleans falls in the middle. He noted that if Board members want to change any of the fees it would be necessary to hold a Public Hearing by November 4<sup>th</sup> because the new licenses must be mailed soon. He noted that there is more information that he did not include in this packet, but could share it with Board members if they wish before making any decisions about fee changes.

Attorney Taylor opined that it would not be possible to review and propose changes, conduct a Public Hearing, and send the new license fee information out and have it returned before the end of the year. He proposed that the Board of Health prepare changes for 2012. He also suggested that Board members review the current material regarding fees, and be prepared to discuss the pros and cons of any fee changes at the joint meeting with the Board of Selectmen on November 3<sup>rd</sup>.

Ms. McKusick suggested that the Finance Committee also review the fee schedules. She also discussed the concept of increasing the Transfer Sticker fee and the fact that the increase in the fee might continue after the new disposal cost is established. It would be important to have an ending date for this escrow account. Attorney Taylor agreed that there must be an end date in 2015.

Mr. Barr noted that the Finance Committee had discussed the Transfer Station fee increase in 2015 and they agree with the Board of Health that the increase should take effect over the remaining years, but that it should be reviewed annually until it is discontinued in 2015.

Board members discussed when the fee proposal must be determined so it can be included in the warrant for the May 2011 Town Meeting. It was discussed that there are two main concerns: incremental increases should be helpful to a lot of people, and that the escrow fund might continue past 2015. Board members also discussed that there will be considerable negotiation as different proposals are considered.

Attorney Taylor explained how a town in which he previously lived handled this situation. After completing analyses, they had three proposals that complied with the specified requirements. They placed a cap on the amount of increase they would accept and used that number to determine how

much was needed for the escrow account.


- 8 – 3 A letter from A&K Engineering Inc. reporting on the groundwater sampling conducted at the Orleans Stop & Shop during September had previously been distributed to Board members for review and discussion.
- 8 – 4 The Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting Minutes of September 7, 2010 had previously been distributed to Board members for review and discussion.
- 8 – 5 A report from the Mass. Department of Public Health regarding the Cancer Incidence in Massachusetts, 2003 – 2007, City and Town Supplement had previously been distributed to Board members for review and discussion.

There was no further business to discuss during this meeting.

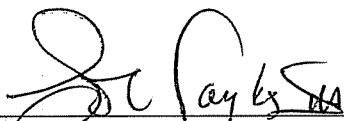
### **Agenda Item 10 – Adjournment**

**On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted to adjourn this meeting of the Board of Health at 3:12 p.m. The vote was 5-0-0.**

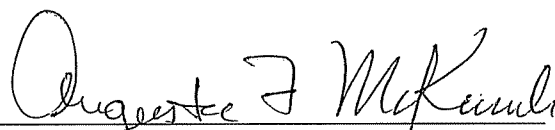
Respectfully submitted,

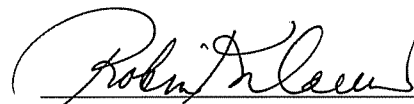
  
Lydia M. Burwell, Board Secretary

### **ORLEANS BOARD OF HEALTH**

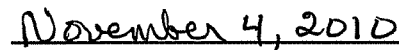
  
Attorney Job Taylor, III; Chairman

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Jan Schneider, M.D.

  
Augusta F. McKusick, Vice Chairman

  
Robin K. Davis, Ph.D.

  
Elizabeth Suraci

  
Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE October 21, 2010  
MEETING OF THE ORLEANS BOARD OF HEALTH**

**Agenda Item 2 – 89 Nauset Heights Road**

2 – 1 – Letter and Variance Application Form submitted by J.C. Ellis Design Company, Inc.

**Agenda Item 3 – 246 Tonset Road**

3 – 1 – Letter submitted by J.C. Ellis Design Company, Inc.

3 – 2 – Excerpt of OBOH Meeting Minutes of October 7, 2010

Exhibit 3 – 1 – Mr. Canning distributed a schematic of the bedrooms' ceiling heights

**Agenda Item 4 – 142 Monument Road**

4 – 1 – Hearing Request submitted by Ryder & Wilcox, Inc. including site and floor plans

4 – 2 – Excerpt from OBOH Meeting Minutes of December 20, 2007

**Agenda Item 5 – 84 Duck Hole Road**

5 – 1 – Hearing Request submitted by Ryder & Wilcox, Inc.

5 – 2 – New House Plan by Thomas A Moore Design Co. dated 9/28/2010

5 – 3 – Proposed On-Site Sewage Treatment and Disposal System by Ryder & Wilcox, Inc. dated 10/5/2010

5 – 4 – Excerpt from OBOH Nutrient Management Regulations

5 – 5 – Nutrient Management Regulations Informational Sheet

**Agenda Item 6 – Approve Minutes**

6 – 1 – OBOH Meeting Minutes of October 7, 2010

**Agenda Item 7 – Health Agent's Report**

7 – 1 – There was no Item 7 – 1 for this packet.

7 – 2 – OHD letter to Robert & Lorraina McAdams dated October 14, 2010 re: 33 Eli Rogers Road

7 – 3 – OHD letter to George Albert dated October 12, 2010 re: 33 Eli Rogers Road

7 – 4 – OHD Announcement of Orleans Flu Clinic information

**Agenda Item 8 – Review Correspondence / Old – New Business**

8 – 1 – OBOH Fees Summary 2010

8 – 2 – 2010 Permit Fee Survey

8 – 3 – A&K Engineering Inc. letter to OBOH dated October 3, 2010 re: Stop & Shop groundwater sampling

8 – 4 – Orleans, Brewster, Eastham Groundwater Protection District Meeting Minutes of September 7, 2010

8 – 5 – Mass. DPH Report dated October 8, 2010 re: Cancer Incidence in Mass. 2003 – 2007, City and Town Supplement