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TOWN OF ORLEANS – BOARD OF HEALTH

MINUTES OF MEETING

November 4, 2010

The Board of Health convened its meeting at 2:02 p.m. on Thursday, November 4, 2010 in the Skaket Meeting Room of the Orleans Town Hall.

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

Excused: Jan Schneider, M.D.

Agenda Item 1 – Public or Press

There was no one present for Public or Press.

Agenda Item 2 – Variance Request – 23 Herring Brook Way

Mr. Jason Ellis of JC Ellis Design represented Timothy and Carol Counihan, owners of the property at 23 Herring Brook Way. Mr. Ellis explained that this property had previously been granted variances for repair of the septic system on August 6, 2009. Those variances expired in August 2010. He noted that the property has recently been sold and the new owner is now obligated to repair the septic system. Mr. Ellis reviewed that the entire lot is located within the Coastal Bank and flood zone on Kescayogansett Pond. Because of the location, poor soils, and high groundwater, it will be a difficult site for a septic system installation. He requested that the Board of Health approve the same variances requested and approved on August 6, 2009. In 2009 the Conservation Commission granted a three-year approval for this plan. Mr. Ellis noted that he had revised the Septic System Upgrade Plan to include a flow barrier on the inside of the concrete retaining wall.

Mr. Ellis discussed the pros and cons of using an interlocking block retaining wall as suggested by an abutter. He noted that the block wall might be compromised by rising water where a poured concrete wall would not allow infiltration of water into the soil absorption system.

Attorney Taylor discussed the timeframe between when the property was transferred to the Counihan's and the expiration of the previous variances.

Mr. Canning reiterated that this variance request is the same as that granted by the Board of Health last year. However, he noted that there is a drain in the front of the property that intercepts high groundwater and questioned whether it drains into the pond or whether it leaches away. Mr. Ellis noted that his research at the Highway Department did not document that catch basin. It was his opinion that it is a leaching drain. Mr. Canning noted that if the catch basin drained into a wetland, the leaching facility would have to be located fifty (50') feet from it, or a variance granted from that requirement. Mr. Canning also noted that the water line is located just three (3') feet from the leaching facility. Mr. Ellis acknowledged that it would be necessary to sleeve the water line.

Mr. Canning reiterated that this is repair of a septic system that is located within the Coastal Bank and on a lot with limited space. The proponent has located the new septic system as far away from the wetlands as possible which places it next to the road, dwelling, and a neighbor's property.

Board members discussed location of the water line on the site plan. Mr. Ellis explained that the water line shown running directly over the soil absorption system will be discontinued and rerouted around to the side of the house.

Mr. John Schnaible of Coastal Engineering Company was present to represent Paul Dart, an abutter at 20 Herring Brook Way. Mr. Schnaible explained that Mr. Dart had several concerns to be addressed, one being the use of an interlocking block retaining wall in place of concrete. He also discussed the need for a two foot, five inch (2'5") footing to support the concrete wall. That footing would allow for ponding of effluent in the leach field and might defeat the purpose of the pressurized system. Attorney Taylor noted that the use of a solid concrete wall or an interlocking block retaining wall is a decision for the homeowner and does not affect the property of the abutter. Mr. Schnaible explained that the block wall offers a more environmentally friendly solution.

Mr. Schnaible inquired whether an I/A technology system might be required in this location because of the proximity to the salt marsh and water.

Mr. Canning discussed the issue of the retaining wall and footings and noted that in the past the Board of Health has required four (4') feet of material below the bottom of the leaching area and the top of the footing as shown in this plan.

Board members requested clarification of the abutter's concern. Mr. Schnaible responded that the abutter requested that he review the plan for any discrepancies. He noted that there was a liner missing and that the footings should be three and one-half (3 ½') feet below grade.

Mr. Paul Dart, the abutter, explained that his greatest concern is protection of Lonnie's Pond. In addition he is concerned about the visual impact on the value of his property as well as damage to his property when the water line is relocated. Attorney Taylor assured him that if his property is damaged during the construction, the contractor is legally bound to restore his property to its previous condition. Mr. Dart continued to explain that there are alternatives that the new homeowner might not have considered. Attorney Taylor explained that it is not within the purview of the Board of Health to contend with the cosmetic issues of a raised system and that Mr. Dart should discuss his concerns with his new neighbor. Mr. Dart requested that any decision be delayed until he can explore further how much of his property will be disturbed since he has flag markers on a considerable portion of his lawn.

Mr. Ellis explained that this new variance hearing resulted when Minot Reynolds applied for a Disposal Works Construction Permit and it was determined that the previous variances had expired. Apparently Dig Safe had marked Mr. Dart's property because the water main is located on that side of the road. Mr. Tim Elder of Reynolds Excavation explained that they are required by law to mark the location of utilities prior to any excavation. He noted that although Mr. Dart has installed irrigation on Town property, any disturbance would be loamed and seeded at the conclusion of work. He also requested that Mr. Dart mark his irrigation components so they could be avoided and not damaged. In response to Attorney Taylor, Mr. Elder assured him that any soil excavated to expose the water main would be placed directly into a truck and not on Mr. Dart's lawn. In addition, if he inadvertently does damage the irrigation system he will repair it.

Mr. Dart noted again that this whole process has been very frustrating because he was unable to obtain information regarding the flag markers placed on his property. He also expressed frustration regarding notification of the variance hearing.

Ms. McKusick reminded Mr. Dart that the new septic system being installed at his neighbor's property is a great improvement over the existing cesspool system; this will benefit the environment of Lonnie's Pond, Mr. Dart's greatest concern as he previously noted. She also noted that Mr. Dart has been assured that any damage to his property will be repaired. Regarding the esthetics of the retaining wall, Ms. McKusick asked Mr. Ellis if the block retaining wall would be more expensive to install, and would his client be amenable to improving the appearance of the wall. Mr. Ellis explained that he is concerned about its location in a flood zone and that re-bars holding the blocks in place could pierce the vinyl barrier. He is also concerned that the sock drain located in the stone footing might act as a conduit for any effluent that reaches it. He noted that a concrete retaining wall is specified by Code.

Mr. Elder spoke to the issue of appearance that the previous owners had planned to disguise the appearance of the concrete wall. Mr. Ellis explained that the new owner has hired a professional firm to do an environmental mitigation of the entire property and install some kind of veneer on the concrete wall.

Ms. Suraci noted that Mr. Dart's reaction to the construction markers on his property was understandable. Dr. Davis discussed the location of the water main and water lines and questioned whether it was necessary for Mr. Dart's side of the road to be excavated. Mr. Ellis confirmed that the construction is necessary.

Mr. Canning advised the Board members that an additional variance of one (1') foot would be needed for the inlet and outlet of the septic tank and pump chamber because of maximum distance to groundwater. He also explained that the Health Department was aware of the variances required for installation of a new septic system at 23 Herring Brook Way, however he could not answer Mr. Dart's question whether it would be necessary to alter the water line on his side of the road. Mr. Canning noted that J.C. Ellis Design Company complied with regulation by notifying abutters with certified letters ten days prior to the hearing date. Mr. Ellis affirmed that Mr. Dart had signed for his letter on October 21, 2010.

On a motion by Ms. McKusick and seconded by Dr. Davis, the Board of Health voted in the matter of 23 Herring Brook Way in Orleans. After viewing the plans and the hearing we have had today, findings are:

- 1. That the proposal is to repair the failed septic system serving the three-bedroom home.**
- 2. There is no proposed expansion to the dwelling.**
- 3. The entire property is located within a Coastal Bank.**
- 4. The soil absorption system is being designed to be four (4') feet above groundwater.**

Based on the above, I move that the Board of Health grant the following variances and I move additional approval of the following variances for 23 Herring Brook Way:

- 1. The proposed soil absorption system is located five (5') feet from the cellar wall where twenty (20') feet separation is required. I move that we grant a fifteen (15') foot variance.**
- 2. The proposed soil absorption system is located six (6') feet from the lot line (the road) where ten (10') feet is required. A four (4') foot variance is requested.**
- 3. The proposed soil absorption system is located five (5') feet from the lot line (Parcel 34) where a ten (10') feet is required. That would be a five (5') foot variance.**
- 4. The proposed soil absorption system is located three (3') feet from a water line where ten (10') feet is required. I would ask for a seven (7') foot variance.**
- 5. The proposed soil absorption system is located sixteen (16') feet from a drain that intercepts high groundwater. Fifty (50') feet separation is required. I request a thirty-four (34') foot variance.**
- 6. The proposed septic tank is located eighteen (18') feet from a drain that intercepts high groundwater. Twenty-five (25') feet separation is required. I request a seven (7') foot variance.**
- 7. The proposed pump chamber is located eighteen (18') feet from a drain that intercepts high groundwater. Twenty-five (25') feet separation is required. I request a seven (7') foot variance.**
- 8. I would ask for a one (1') foot variance for the septic tank inlet and outlet which are less than twelve (12") inches above the high groundwater, and the pump chamber, again a one (1') foot variance because of the inlet and outlet being within twelve (12") inches of high groundwater.**
- 9. There is no Reserve Area provided.**

10. The proposed soil absorption system is located within a Coastal Bank as defined by the Orleans Board of Health Regulations. One hundred (100') foot setback is required.
11. The proposed septic tank is located within a Coastal Bank as defined by the Orleans Board of Health Regulations. Fifty (50') foot setback is required.
12. The proposed pump chamber is located within a Coastal Bank as defined by the Orleans Board of Health Regulations. Fifty (50') foot setback is required.
13. The proposed soil absorption system is located sixteen (16') feet from a drain that discharges into a water course where fifty (50') feet is required. A thirty-four (34') foot variance is required.

Conditions are:

1. That the property will be limited to three (3) bedrooms and there can be no increase in the habitable space in the dwelling.
2. The engineer shall submit an as-built plan upon completion of installation and I am assuming that the plans will contain the information about sleeving the water line and having the barrier.
3. I would encourage neighborhood cooperation.

Attorney Taylor made a motion to amend the motion to say that if we pass it, it becomes effective five weeks from today which would be December 9th. The reason I'm asking to amend it to have it become effective five weeks from today, that's thirty-five days for neighbors to possibly have a chance for the neighbors to speak. With that request for the five weeks if things were the best of all worlds and Mr. Paul Dart wants to advise Bob Canning that he's all set and he doesn't need any more time and he does it within a week that's fine, but the motion just proposed by the Vice Chairman will not take effect until December 9, 2010 which is thirty-five days unless Mr. Dart tells Mr. Canning who is representing the Board that he's fine with it going forward earlier.

The motion was seconded by Dr. Davis as amended and the vote was 4-0-0.

Agenda Item 3 – Approval Request – 126 Lake Drive

Mr. David Haig of Haig's Homes represented Bogdanoff (Quanset Pond Property, LLC), owner of the property at 126 Lake Drive.

Attorney Taylor noted that Mr. Haig's letter of October 27, 2010 outlined plans to enclose an 8 x 6 foot area of an existing deck as an addition to the master bedroom but the plan provided to Board members shows an area 12 x 8 feet. Mr. Haig apologized for the discrepancy and noted that there are two areas in question. Attorney Taylor also noted that Mr. Haig proposes to change the existing footprint of the dwelling, to which Mr. Haig explained that the photos in the package he had just distributed (*Exhibit 3-1*) would help to explain that issue.

Mr. Haig explained that a photo shows a foundation level covered patio area that supports the dining room above it. It is that patio area that the owner would like to enclose and open to the bedroom on that level, therefore maintaining the same footprint of the dwelling. He also noted that he had explained to the owner that in time it will be necessary to upgrade the existing cesspools.

Mr. Haig explained that the owner would also like to enclose an existing balcony and include it as useable area in a bedroom on the second floor.

Mr. Canning addressed the Orleans Board of Health Regulations regarding a failed septic system consisting of a cesspool that must be upgraded as a result of an increase in square footage. He discussed that the existing system consists of two cesspools, one flowing into the other; and the location of the system in relation to the proposed construction. Mr. Haig offered that the two cesspools are located in the asphalt

driveway away from the patio. Mr. Canning noted that there is no proposed increase in the number of bedrooms or increase in septic flow.

Board members discussed the topography of the lot and possible location of an upgraded septic system. They also discussed that this approval request should be treated as a variance request. Mr. Canning reviewed the standards of review used by the Health Department and Board of Health when considering a request and explained that Mr. Haig should prepare a variance request.

Agenda Item 4 –Approve Minutes

The minutes of the Board of Health meeting held on October 21, 2010 had previously been distributed to Board members for review and approval.

On a motion by Ms. McKusick and seconded by Attorney Taylor, the Board of Health voted that the minutes of the Board of Health meeting of October 21, 2010 be approved as presented.

Agenda Item 5 – Health Agent's Report

Mr. Canning reported on the following:

Flu Clinics

A flu clinic was held on Monday, November 1, 2010 serving approximately 285 people. Another flu clinic will be held on November 12, 2010 at the Council on Aging from 1:00 p.m. to 4:00 p.m. This flu clinic is now open for all Orleans residents age eighteen years and older.

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 residents aged 18 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.

18 Industry Way

In September the Board of Health granted the owner 30 days to complete the necessary repairs in the unit. On October 26, 2010 the Health Department conducted a follow-up inspection to determine if the order has been complied with. At the time of the inspection only two items on the list had been addressed. The top two drawers of the cabinets now open, and the master bathroom toilet no longer leaks. On November 2, 2010, after normal hours, the Health Department received a call from the owner, Marcel Cosantino, requesting a re-inspection. On November 3, 2010 the Health Department placed a call to Mr. Cosantino and also to the tenant to arrange for the re-inspection. To date these calls have not been returned. Mr. Canning reported that he has no information as to whether the remaining work items have been completed.

33 Eli Rogers Road

On October 12, 2010 the Health Department sent a modification of an order to the owner requiring the necessary repairs in the new time frame issued by the Board of Health. To date the Health Department has not heard from anyone regarding the progress of those repairs.

On October 14, 2010 the Health Department issued an order to the tenant to return the stairway back to its original condition, as well as to repair the screen door. The Health Department has not heard from the tenant regarding those repairs. He is hoping to get into the dwelling for inspection because the timeframe allowed in the order is close to expiration. The owner has approximately one week to complete his repairs.

20 Hopkins Lane

Mr. Canning continues to meet with Town Counsel who is attempting to contact the owner.

Agenda Item 6 – Review Correspondence / Old and New Business Correspondence

Dr. Davis reported on a meeting she attended with Ms. McKusick at SRS with Andrew Gottlieb and Patty Daily regarding the Orleans Nutrient Management Regulations. The meeting was to determine if Orleans' regulations are suitable for application for a State revolving zero interest grant to help fund future construction of a wastewater treatment system. Dr. Davis and Ms. McKusick were informed that the Orleans Nutrient Management Regulations can act as a baseline. However they were encouraged to determine the maximum flow generated from the commercial areas of Orleans since they are not included in the existing Regulations. Ms. McKusick added that the town will be eligible for a zero interest loan for a ten year period if they have flow-neutral regulations in place. This is to prevent excessive strain on the wastewater system if the sewers are constructed. To date, no other towns have applied for the zero interest grants. She also noted that MDEP has established regulations to guide towns. Ms. McKusick offered to present this information to the Board of Water and Sewer Commissioners.

- 6 – 1 A letter from Barnstable County Department of Health and Environment regarding an underground tank storage tank at 355 Tonset Road had previously been distributed to Board members for review and discussion. Mr. Canning explained that the Board of Health had previously granted this owner an extension of one year with the understanding that he would have it tested for product tightness. He did comply and this is the report for the file.
- 6 – 2 A letter from the Health Department to Daniels Recycling Company, Inc. reporting on the inspection conducted on October 22, 2010 had previously been distributed to Board members for review and discussion. Mr. Canning reviewed the items needing attention and explained the breakdown of categories shown on the Inspection Report.
- 6 – 3 A letter from the Cape Cod Commission dated October 19, 2010 regarding Mass. Water Infrastructure Finance Commission Cape Cod Hearing had previously been distributed to Board members for review and discussion.
- 6 – 4 A letter from GHD, Inc. dated October 19, 2010 reporting on the Bi-Monthly Transfer Station Inspections had previously been distributed to Board members for review and discussion. Mr. Canning noted that the transfer station is in compliance with all requirements.
- 8 – 5 A letter from GHD, Inc. dated October 20, 2010 reporting on the Summary of Quarterly Gas Sampling Results had previously been distributed to Board members for review and discussion. Mr. Canning noted that the transfer station is in compliance with all requirements.

Ms. Suraci inquired whether there would be a fee for residents between 18 and 65 years of age who present at the upcoming flu clinic. Mr. Canning replied that there would be no charge to any residents over 18 years old.


Mr. Ed Barr of the Finance Committee informed the Board members that he had reported on the discussion held at the last Board of Health meeting about transfer station fees. The Finance Committee did not take a formal vote on the matter, but came to a consensus that they would have no objection to the approach being taken by the Board of Health.

There was no further business to discuss during this meeting.

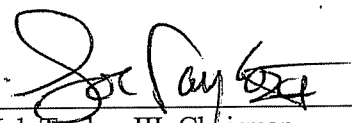
Agenda Item 10 – Adjournment

On a motion by Dr. Davis and seconded by Ms. Suraci, the Board of Health voted to adjourn this meeting of the Board of Health at 3:08 p.m. The vote was 4-0-0.

Respectfully submitted,

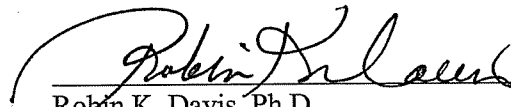

Lynda M. Burwell, Board Secretary

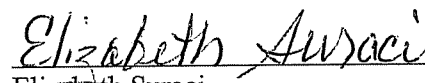
ORLEANS BOARD OF HEALTH


Attorney Job Taylor, III; Chairman

Excused
Jan Schneider, M.D.

Augusta F. McKusick, Vice Chairman


Robin K. Davis, Ph.D.


Elizabeth Suraci

November 18, 2010
Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE November 4, 2010
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 2 – 23 Herring Brook Way

- 2 – 1 – Letter Application submitted by J.C. Ellis Design Company, Inc.
- 2 – 2 – Excerpt from OBOH Meeting Minutes of August 6, 2009
- 2 – 3 – Letter from Coastal Engineering Company dated November 2, 2010 representing abutter Paul Dart

Agenda Item 3 – 126 Lake Drive

- 3 – 1 – Letter submitted by Haig's Homes dated October 27, 2010
- 3 – 2 – Excerpt of OBOH Subsurface Sewage Disposal Regulations
- Exhibit 3 – 1 – Presentation Folder from Haig's Homes containing house plans (old and new) and photos

Agenda Item 4 – Approve Minutes

- 4 – 1 – OBOH Meeting Minutes of October 21, 2010

Agenda Item 6 – Review Correspondence / Old – New Business

- 6 – 1 – Letter from Barnstable County Department of Health and Environment regarding an underground tank storage tank at 355 Tonset Road
- 6 – 2 – Letter from the Health Department to Daniels Recycling Company, Inc. reporting on the inspection conducted on October 22, 2010
- 6 – 3 – Letter from the Cape Cod Commission dated October 19, 2010 regarding Mass. Water Infrastructure Finance Commission Cape Cod Hearing
- 6 – 4 – Letter from GHD, Inc. dated October 19, 2010 reporting on the Bi-Monthly Transfer Station Inspections
- 6 – 5 – Letter from GHD, Inc. dated October 20, 2010 reporting on the Summary of Quarterly Gas Sampling Results

