

# TOWN OF ORLEANS – BOARD OF HEALTH

## MINUTES OF MEETING

January 6, 2011

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TOWN OF ORLEANS  
TOWN CLERKS OFFICE

The Board of Health convened its meeting at 2:05 p.m. on Thursday, January 6, 2011 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.

### **Agenda Item 1 – Public or Press**

There was no one present for Public or Press.

### **Agenda Item 2 – Variance Request – 13 Nickerson Road**

Mr. Darren Meyer of Darren M. Meyer, R.S. represented the Federal National Mortgage Association owner of the foreclosed property at 13 Nickerson Road. Mr. Meyer explained the variance he requested that the Board approve. The required setback distance between a dwelling foundation and a leaching component is twenty (20') feet. Mr. Meyer requested a variance to allow a ten (10') foot setback. He noted that based on logistics and expense it was determined that the best location for a new system would be in the front yard requiring the variance. This location also necessitates relocating the water line in order to comply with setback requirements from the septic tank.

Mr. Canning discussed that this is a repair to a septic system for a three bedroom property currently under order by the Health Department. There are cesspools as well as a septic tank. He noted that a system could be installed in the back yard and would meet code without variances. The Water Department will need to approve relocation of the water line. Mr. Canning referred to the floor plan on page 2 of the Septic System /Site Plan and noted that the owner has applied for a Building Permit to reconfigure the lower floor eliminating the den in order to comply with the Orleans Board of Health Regulations' criteria for bedrooms.

Board members discussed that the cesspool components would be removed. Mr. Meyer confirmed that the level of the leaching area would be below the level of the slab foundation. Mr. Canning explained that concern about gas migration, the Board could require venting of the system.

There were no abutters present.

**On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of 13 Nickerson Road. The request to the Board of Health is for a variance of ten (10') feet for the distance between the septic system and the slab foundation of the building. The reason for the location of the system as proposed is because test holes identify this area in the front of the house as being most appropriate. Plans that were submitted to the Board indicate there are two rooms in the basement level, both of which could be considered as bedrooms under the current definition but the intention is to convert these into a single room so the number of bedrooms would, in fact, be three. The plans do indicate that the water line will be relocated due to the location of this new system. Therefore, I would move that we grant the variance of ten (10') feet for the location of the system leaving a ten (10') foot distance between that and the slab. The vote was 5-0-0.**

### **Agenda Item 3 – Variance Request – 11 Seaview Road**

Ms. Stephanie Sequin of Ryder & Wilcox represented Judith Stephenson, owner of the property at 11 Seaview Road. This 18,500 square foot property has a dwelling consisting of two separate buildings proposed to be connected by a small addition. Currently there are two bedrooms in the main building and another bedroom/studio behind the garage. The owner plans to replace the converted cesspool system with a Title 5 septic system. She explained the topography of the property and where the proposed septic system would be installed in order to preserve the extensive landscaping and irrigation. Ms. Sequin requested the following variances:

1. To allow the proposed soil absorption system to be five (5') from Seaview Road and one (1') foot from Harbor Road.
2. To allow the distribution box one (1') foot from the property line along Harbor Road.
3. To allow the septic tank to be located four (4') feet from the property line along Harbor Road.
4. To allow the septic tank to be located seven (7') from the existing bulkhead.

Ms. Sequin also confirmed the location of a water main and lack of nearby septic systems. She acknowledged that there is room for a soil absorption system to the south of the house but using that location would necessitate installation of a pump or a variance for depth of cover.

Ms. Sequin addressed a variance to allow the pipe from the dwelling to the soil absorption system out onto Harbor Road to avoid destroying walls, plantings and an irrigated lawn. She pointed out that Harbor Road is a paper road which exists as an open field and Mrs. Stephenson also owns the vacant parcel across Harbor Road.

Attorney Taylor inquired about sale of the vacant property on the other side of Harbor Road and suggested a condition that the owner be on record to revise the piping if the road were formalized and paved in the future.

Ms. Sequin described the sunroom off the main dwelling to confirm that it does not meet the criteria of a bedroom as defined in the Orleans Board of Health Regulations.

Mr. Canning discussed a condition or recording on the deed that the pipe is located in the Harbor Road layout and if the road is improved, any owner of the property should be aware that the piping may need to be relocated.

Board members discussed the deed restriction. It was noted that it is very easy to consider both lots as one. If the soil absorption system is located in the back of the property there would be no need for variances. Ms. Sequin explained that location of the new leach field in the rear of the property would necessitate more clearing and excavation than the requested location near Seaview Road. They also discussed the pros and cons of combining the two lots on either side of the paper road.

Mr. Canning reviewed that the Board should consider the same degree of environmental protection and hardship if the variances are denied. Ms. Sequin explained that hardship would include loss of landscaping and the requirement for a pump chamber.

Board members discussed further the location of the pipe to the soil absorption system. Ms. Sequin reiterated that the owner would be willing to record a deed restriction, agree that transfer of the property requires a septic inspection to inform a new owner. Ms. Sequin explained that after studying the surveying text books, unless stated otherwise, ownership of land adjacent to private roads goes to the center line of the road. Therefore, that portion of the paper road is owned by Ms. Stephenson. They discussed difference between a public utility (water line) and a private septic line.

There were no abutters present.

**On a motion by Dr. Davis and seconded by Ms. McKusick, the Board of Health voted in the matter of 11 Seaview Road, Map 21, Parcel 25.**

**I move that we grant variances for Local Upgrade Approval to 310 CMR 15.211 – Minimum Setback Distances.**

1. The soil absorption system shall be one (1') foot from the property line along Harbor Road and five (5') feet from the property line along Seaview Road where ten feet are required. (Nine (9') feet and five (5') feet variances respectively.
2. The distribution box shall be one (1') foot from the property line along Harbor Road where ten feet are required. (A nine (9') foot variance.
3. The septic tank shall be four (4') feet from the property line along Harbor Road where ten feet are required. (A six (6') foot variance.
4. The septic tank shall be seven (7') from the bulkhead where ten feet are required. (A three (3') foot variance.

**Findings are:**

1. The proposed septic system will be an improvement over existing cesspools.
2. This is a three-bedroom dwelling.
3. We found that the sunroom is not a bedroom because it has more than fifty (50%) percent glazing.
4. Harbor Road is a private road owned to the center line by adjacent properties.

**Conditions are:**

1. The existence of a pipe related to the proposed septic system shall be noted in a deed.
2. That the owner of 11 Seaview Road should be responsible for any required alterations.

**A variance shall be granted to the Orleans Board of Health Subsurface Sewage Disposal Regulations IV. General Requirements Location (C1).**

1. The effluent pipe between the septic tank and distribution box shall not be located on the same lot as the facility it serves.

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

**Agenda Item 4 – Approval Request – 4 Priscilla Road**

Ms. Stephanie Sequin of Ryder & Wilcox represented Craig and Meredith Farmer, owners of the property at 4 Priscilla Road. She explained that the existing three-bedroom house was built in 1950 with a 1978 Code system installed in 1990. The owner plans to remove the existing building and rebuild using a different footprint. The new dwelling would have three bedrooms, therefore there would be no increase in septic flow, and they propose to utilize a new connection from the building to the 1978 Code system. The new dwelling would meet all septic code setback requirements. Ms. Sequin distributed a revised Site Plan – Proposed Dwelling prepared by Ryder & Wilcox dated Revised 1/5/2011 (*Exhibit 4 – 1*) showing a reserve area. She also distributed a floor plan prepared by Ryder & Wilcox of the three-bedroom dwelling to be built (*Exhibit 4 – 2*).

Board members discussed the levels of the proposed dwelling. Mr. Canning affirmed that this is before the Board of Health because of a new connection to the existing 1978 Code system. They discussed that the septic system had not been inspected recently. The new house is fairly comparable to the existing dwelling. They questioned the notation of vehicle tracks on the plan and questioned if the system components are H20 to support the use of vehicle traffic.

**On a motion by Ms. Suraci and seconded by Ms. McKusick, the Board of Health voted in the matter of 4 Priscilla Road, property owned by Meredith H. C. Farmer, that they are requesting approval to replace actually a waste pipe from a new building to be constructed, three bedrooms, into an existing septic system that was constructed in 1990. It has not been inspected, that we know of, since 1990. The approval is contingent on a satisfactory inspection of the septic system and that the connection be made from the new construction to the existing septic system. The vote was 5-0-0.**

## **Agenda Item 5 – Approve Minutes**

The minutes of the Board of Health meeting held on December 16, 2010 had previously been distributed to Board members for review and approval.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to approve the minutes of December 6, 2010 as presented. The vote was 5-0-0.**

Dr. Schneider inquired about Item 9 – 3 that the owner would be required to come to this meeting. Mr. Canning explained that he had written to the owner and, to date, had no reply. However, there had been medical issues expressed in a previous letter.

## **Agenda Item 6 – Health Agent's Report**

Mr. Canning reported on the following:

### **Solid Waste Issues**

At the January 5, 2011 joint meeting of the Board of Selectmen and Board of Health they discussed and un-animously voted to increase the amount of the Transfer Station fee for 2011 as recommended by Mark Burdick, Highway/Transfer Station Manager. The Board of Health must hold a Public Hearing to air the proposed new fees for use of the Orleans Transfer Station. He suggested that the Board may want to discuss clarification of some qualifying conditions for use of the Transfer Station at the same Public Hearing. Board members suggested that Mr. Budnick come to the next meeting to discuss those issues and ask him to recommend changes to the line items.

### **Housing**

#### **33 Eli Rogers Road**

Mr. Canning presented a brief summary of activity since the previous Board of Health meeting. He recommends conducting a hearing with the tenant to inform him of his responsibilities. It was suggested that the groundskeeper also attend the hearing. Dr. Schneider emphasized that the investment in time regarding this property has become a blatant misuse of town resources (the Health Agent). Board members scheduled a special meeting on Thursday, January 13, 2011 at 1:30 p.m. to specifically discuss with the tenant and owner (or his representative) the issue of repairs to the subject property. It was noted that if the tenant has granted access to the owner's groundskeeper for repairs, the hearing would be canceled. They discussed the possibility of a fine, and what options the Town has to enforce orders that have been willfully disregarded. It was suggested that the Board of Health should be able to declare a building uninhabitable until it has been inspected and repaired as required.

Mr. Canning clarified that there has been very little communication from the tenant, but according to the owner, the tenants are not allowing the repair man to enter after the tenant had agreed to allow the repairs after the holiday.

#### **18 Industry Way, Unit B**

On December 27, 2010 the Health Department conducted a re-inspection of the subject property and found that all items in the repair order have been completed except installation of screens which are not required until April 1, 2011. Mr. Canning will inspect when all screens have been installed.

### **Locust Road Storm Water Improvements**

Mark Budnick, Highway/Transfer Station Manager, has requested approval by the Board of Health for a grant to improve the storm water drainage system on Locust Road. The storm water runoff in the area to be improved currently discharges into Cedar Pond. The proposal is to install storm water basins sufficient to handle a storm water rainfall of one inch. The project will maintain a discharge pipe into Cedar Pond to handle runoff from a

rainfall of more than one inch. This discharge into the pond will be after the first flush is treated when most of the bacteria, oils, and nutrients are going into the leaching basins. Mr. Canning distributed a draft copy of a letter of approval (*Exhibit 6 – 1*) for review by Board members.

**On a motion by Ms. McKusick and seconded by Dr. Davis, the Board of Health voted to approve Mr. Budnick's application for a grant to improve the storm water drainage system on Locust Road. The vote was 5-0-0.**

Board members signed the letter of approval.

### **Agenda Item 7 – Review Correspondence / Old and New Business Correspondence**

7 – 1 – Application and information for the Municipal Participation in Collaborative Form for BOH Tobacco, Alcohol and Related Public Health Policy Programs RFR# 200218 had previously been distributed to Board members for review and discussion.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to authorize the Health Agent to sign the application and participate in this program.**

Ms. McKusick inquired as to the number of hours that would be expended on this program. Mr. Canning responded that there would be no additional hours because his participation would be included in quarterly meetings which he already attends. Ms. Suraci inquired whether the causes of lung cancer have been broken down by smokers and non-smokers to which Mr. Canning responded he had not been aware of a breakdown.

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

7 – 2 – A letter from Ryder & Wilcox dated December 9, 2010 regarding 95 West Road (bedroom determination) had previously been distributed to Board members for review and discussion. Mr. Canning noted that one room (office) does not meet the criteria as a bedroom because it does not meet the minimum ceiling height to be classified as a bedroom. He suggested that the Board of Health agree with that determination and require a deed restriction restricting the dwelling to four bedrooms.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 95 West Road to have the Health Agent send a letter to the owner reflecting that this is a four-bedroom house, there is a room upstairs that has a six-foot, ten-inch (6'10") ceiling height that does not meet the minimum criteria as a habitable room and cannot be utilized as a bedroom. The vote was 5-0-0.**

7 – 3 – A letter from James Smith dated December 23, 2010 requesting an extension of 90 to 120 days to repair the septic system at 11 Frost Fish Lane had previously been distributed to Board members for review and discussion. The Board of Health had reviewed a plan for a subdivision and determined that they would have to relocate the well and upgrade the septic plan of the subject property. The father recently died and the property is now in probate therefore delaying the septic system repairs and relocation of a well.

**On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 11 Frost Fish Lane to allow the owner until July 1, 2011 and apply again if he needs longer because of probate issues.**

7 – 4 - A letter from Rik and Caren Morse dated December 14, 2010 requesting an extension to repair the septic system at Zia Pizzeria & Café, 210 Main Street had previously been distributed to Board members for review and discussion. Mr. Canning discussed that they will now be able to make the adjustments internally but will need another 30 days to February 1, 2011. It was suggested that they be allowed until March 1, 2011 to complete the necessary repairs.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of Zia Pizzeria & Café, 210 Main Street to allow the owner until March 1, 2011 to complete the necessary repairs to their septic system. The vote was 5-0-0.**

7 – 5 – A letter from Alliance Energy LLC representing the Route 6A ExxonMobil Station dated December 14, 2010 requesting an extension to repair the septic system at 109 Route 6A had previously been distributed to Board members for review and discussion. Mr. Canning reviewed that their septic system was overflowing on June 22, 2010 and the owner's engineer will be reviewing with the Health Department their plans to upgrade the septic system.

**On a motion by Dr. Davis and seconded by Ms. Suraci, the Board of Health voted in the matter of the Route 6A ExxonMobil Station that the repair to the septic system must be completed by May 15, 2011. The vote was 5-0-0.**

7 – 6 – A Hearing Notice from the Cape Cod Commission and Environmental Review for the Orleans Comprehensive Wastewater Management Plan to be heard on January 18, 2011 had previously been distributed to Board members for review and discussion.

7 – 7 – A letter dated December 17, 2010 from Mass. Department of Environmental Protection temporarily restoring to the Massachusetts Department of Environmental Protection permitting authority over small solid waste transfer stations had previously been distributed to Board members for review and discussion.

There was no further business to discuss during this meeting.

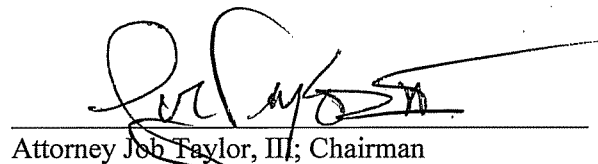
### **Agenda Item 9 – Adjournment**

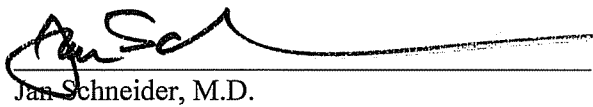
**On a motion by Ms. McKusick and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting of the Board of Health at 3:30 p.m. The vote was 5-0-0.**

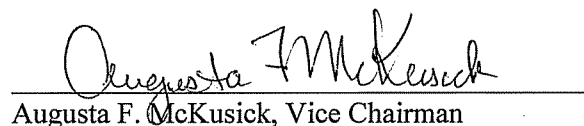
Respectfully submitted,

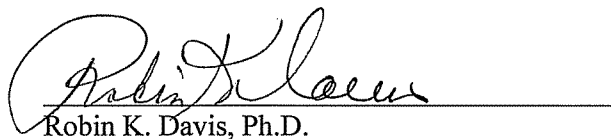
  
Lynda M. Burwell, Board Secretary

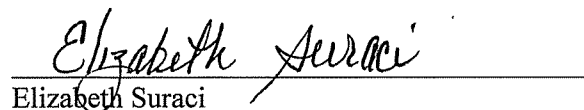
### **ORLEANS BOARD OF HEALTH**

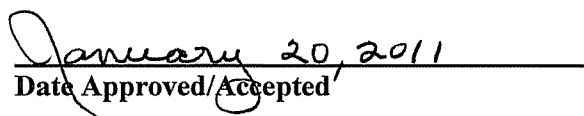
  
Attorney John Taylor, III, Chairman

  
Jan Schneider, M.D.

  
Augusta F. McKusick, Vice Chairman

  
Robin K. Davis, Ph.D.

  
Elizabeth Suraci

  
Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE January 6, 2011  
MEETING OF THE ORLEANS BOARD OF HEALTH**

**Agenda Item 2 – 13 Nickerson Road**

2 – 1 – Letter

**Agenda Item 3 – 11 Seaview Road**

3 – 1 – Request

**Agenda Item 4 – 4 Priscilla Road**

4 – 1 – Letter

**Agenda Item 5 – Approve Minutes**

5 – 1 – OBOH Meeting Minutes of December 16, 2010

**Agenda Item 6 – Health Agent's Report**

6 – 1 – Letter from the OHD to George Albert dated December 1, 2010.

6 – 2 – Letter from the OHD to George Albert dated December 6, 2010.

6 – 3 – Letter from the OHD to Robert & Lorraine McAdams dated December 3, 2010.

6 – 4 – Letter from the OHD to George Albert dated December 2, 2010.

6 – 5 – OHD Summary of Communications re: 33 Eli Rogers Road

**Agenda Item 7 – Correspondence / Old New Business**

7 – 1 – Reminder