

TOWN OF ORLEANS – BOARD OF HEALTH
MINUTES OF MEETING

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ORLEANS TOWN CLERK

July 7, 2011

The Board of Health convened its meeting at 2:00 p.m. on Thursday, July 7, 2011 in the Skaket Meeting Room of the Orleans Town Hall.

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

Agenda Item 1 – Public or Press

Mr. Paul Daniels of Daniels Recycling Company, Inc. spoke regarding the leaking septic tank at 33 Snow Shore Road. Because the property is being sold and the closing is pending Mr. Daniels requested relief from the Board of Health to replace the leaking septic tank.

Mr. Canning explained that this is a repair to a leaking septic tank. The original plan was to seal the septic tank, but that has been unsuccessful. J. M. O'Reilly will oversee the installation of a new 1500 gallon septic tank and will submit plans to the Health Department for the work once completed. The septic system was installed in 1995 prior to the change in Title 5. It is Health Department policy that any change to a 1978 system requires approval from the Board of Health.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 33-35 Snow Shore Road. Findings are that this is an emergency situation with a leaking septic tank designed and built prior to 1978. It is a 1000 gallon tank to be replaced by a 1500 gallon tank. I move we approve this. The vote was 5-0-0.

Agenda Item 2 – Variance Request – 8 Priscilla Road

Mr. Canning distributed a letter from Mr. Jason Ellis of J.C. Ellis Design Co., Inc. representing Charles and Mary Longsworth, owners of the property at 8 Priscilla Road requesting a continuance of the variance hearing until August 4, 2011. (*Exhibit 2-1*)

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of 8 Priscilla Road to grant the request for an extension until our August 4, 2011 meeting at 2:00 p.m. The vote was 5-0-0.

Agenda Item 3 – Variance Request – 26 Defiance Lane

Mr. Keith Fernandes of J. M. O'Reilly & Associates, Inc. represented Wayne and Arlene Richardson (also present) owners of the property at 26 Defiance Lane. Mr. Fernandes explained that the original septic system was installed in 1979 and must be replaced because of failure. Because of the location of the house, Top of Coastal Bank, and other vegetation, Mr. Fernandes recommends locating the new soil absorption system as shown on Plan of Richardson Residence dated June 24, 2011. Mr. Fernandes also recommends reuse of the existing tank which has been found structurally sound on inspection. He outlined the requested variances listed on the plan.

Mr. Canning reviewed that the leaching system has been shifted slightly from the plan submitted. This is to avoid removal of a number of trees and it would be closer to the property line for a longer distance.

Board members discussed that the basement might be finished to a bedroom. Mr. Fernandes responded that the basement is unfinished and has just window well light. They also discussed the capacity of the existing septic tank to be reused which is 1000 gallons.

There were no abutters present

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of 26 Defiance Lane. That we approve three variances:

- 1. A seven (7') foot variance with the Soil Absorption System not being twenty (20') feet from the Cellar Wall but rather being thirteen (13') feet.**
- 2. A four (4') foot variance to the Soil Absorption System not being ten (10') feet from the Property Line but rather being six (6') feet.**
- 3. The Existing Septic Tank is not ten (10') feet as required from the Cellar Wall so we will grant a three (3') foot variance.**

This approval is conditioned as long as the original plans reflect the Existing Septic Tank of 1000 gallons.

The vote was 5-0-0.

Agenda Item 4 – Variance Request – 47 Nauset Road

Attorney Ben Zehnder represented Lucy Beach Realty, LLC, owner of the property located at 47 Nauset Road. Mr. Jim Eschert, son of Joan Eschert, trustee of the property, was also present.

Mr. Canning distributed a letter from Attorney Michael Ford, Town Counsel dated July 6, 2011 (*Exhibit 4-1*); Health Agent letter dated June 28, 2011 to Attorney Zehnder, (*Exhibit 4-2*); and Corrected Variance Application Form (*Exhibit 4-3*). Attorney Zehnder distributed a package of correspondence and backup material, (*Exhibit 4-4*) for the purpose of completing the record.

Board members read the material distributed by Mr. Canning before discussion ensued regarding this matter.

Attorney Zehnder showed a full size plan dated December 23, 1993 showing the land in question. The total area of 97,443 square feet equals approximately 2.24 acres. He noted that Cliff Road is shown on the plan, but it was his opinion that creation of the way was a reservation of rights for a Right of Way. Attorney Zehnder then discussed the Nutrient Management Regulations' definition of a "lot" and contended that the land is still available to the owner for all purposes. The lot in question has been in undivided ownership since 1878 and has definite boundaries, and is available for one or more buildings. Attorney Zehnder requested that the Board of Health determine that the property in question does meet the definition of a "lot", but if the Board concludes that it is two lots, allow that the total area is still available for use for water recharge and for septic effluent. He also requested that the Board of Health grant a variance for five bedrooms on the property, and explained the financial hardship for the owner if the future buyer refuses to purchase the property because he would be prevented from building a five-bedroom dwelling. He also noted that the property has consistently been assessed and taxed as one parcel of 2.24 acres.

Mr. Canning explained that the question arose when an engineer began designing a septic system for the property. There was considerable confusion as to whether the parcel is one or two lots; and whether Cliff Road divides the two lots. After meeting with Town Counsel, Mr. Canning determined that a right of way could still be a road dividing two lots.

Mr. Canning explained that variances could be allowed and outlined the standard of review. He explained nitrogen loading calculations for different size lot areas and how many bedrooms would be allowed per

lot area; and if the entire parcel is used for five bedrooms, the nitrogen load is less than that of a single lot with I/A technology. Combining the two parcels along with a deed restriction, could meet the standards under the Nutrient Management Regulations.

Mr. Canning noted that the variance process requires plans and other information about the lot and suggested that the Board make that a condition of any approval vote.

Board members agreed that if the parcel is one lot, no variance would be needed; however, a deed restriction for no more than five bedrooms on the entire parcel would be required. They also inquired about the current appearance of the sixty-foot Right of Way. Mr. Eschert responded that there is grass and other existing small brush.

There were no abutters present.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of 47 Nauset Road. Findings are:

- 1. That this is a lot of 2.23 acres. Historically it has been treated as a single parcel of land and taxed as such.**
- 2. There is, however, a "paper road or easement" through this property which separates it into an eastern and western portion; the east of which could never be built upon.**
- 3. The parcel or parcels are certainly consistent with property that can sustain nine bedrooms.**

I move that the town approve this as a single parcel of land transected with an easement and proceed with applying Nitrogen Management Regulations to that single parcel of land; however limiting the building of a home to five bedrooms. The eastern portion of the land shall never be built upon. This is all subject to approved SSD plans. The vote was 5-0-0.

Agenda Item 5 – Approval Request – 24 Doane Road

Ms. Judy Bersin of Ryder & Wilcox, Inc. represented Paul (present) and Carol Robinson, owners of the property at 24 Doane Road. Ms. Bersin explained the request to replace a two-bedroom dwelling with a three-bedroom house. Ryder & Wilcox has designed a new septic system using a Cultec system allowing a retaining wall to be eight inches lower in height. The capacity of a Cultec system is greater than the previously-approved plan, and the leaching area would be pressure-dosed.

Mr. Canning discussed that this modification to an existing approved plan is a substantial change from the previously-approved plan. He suggested that the new plan replace the plan in the Health Department. Title 5 requires that all retaining walls should be ten feet from the soil absorption system. This plan shows it as eighteen inches off the retaining wall, while not impeding flow to the ground.

Board members discussed that this is a better plan than the original. Mr. Canning noted that the Nutrient Management Regulations would have no major impact on this plan.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of 24 Doane Road. The issue at hand is an 18,000 square foot lot on which there currently is a two-bedroom house; and the request is that a three-bedroom house be built. In the past we have approved plans; and currently we are reviewing a major modification of those plans, although they do not include any change in flow. With the new plan dated May 31, 2011 there is a need for us to approve placement of a retaining wall just eighteen inches from the leaching area of the soil absorption system. This clearly is three and one-half feet (3.5') less than the five feet (5') which is automatically approved; therefore I move that we allow this change. The vote was 5-0-0.

Agenda Item 6 – Approval Request – Farmers’ Market Vendors

Ms. Gretel Norgeot introduced Katie Reed, president of FarmMaid Foods, Inc. who was present to discuss their request to regularly prepare and sell a banana-mint green smoothie and/or banana ice cream at the Farmers’ Market. These two items are not potentially-hazardous preparations. They are exploring different methods of powering a blender, and a bicycle-powered blender at the Farmers’ Market would be one solution to prepare the smoothies. They would also like to add small salads and desserts to their offerings which would be made and packaged at their facility at Hillcrest Pizza. Ms. Reed introduced Chris Murphy, a farmer working with them, who would like to make and sell humus as FarmMaid Foods, also prepared and packaged at the Hillcrest Pizza site.

Attorney Taylor reiterated that the Board of Health would be establishing a committee, including representatives of the Farmers’ Market, to review the appropriateness of the products offered for sale, and to establish policies regarding vendor items.

Mr. Canning clarified that all items listed in the packet would be approved for sale at the Market and Ms. Reed acknowledged that her intention was to have all items approved, but not all items for sale each week. Currently, preparation of food at the Market consists of demonstrations but the product is not given to patrons. He also cautioned about raw produce, and the need to ensure that there is no cross-contamination of products. As long as items are made, labeled, and stored at Hillcrest Pizza, this request would be similar to previous approvals. Mr. Canning inquired whether the humus and salad dressing are FarmMaid Products. Upon affirmation by Ms. Reed, Mr. Canning assured the Board that those products would also be considered for approval under the FarmMaid Foods request.

Board members inquired whether there will be a selection each week. Ms. Reed explained that their selection at the Farmers’ Market would be dependent on what is ripe for harvest at their farm. To eliminate the preparation of smoothies at the Market, Mrs. McKusick inquired if it would be possible to prepare the smoothies’ ingredients for people to make at home. Ms. Reed explained the need to have fresh smoothie ingredients at the time of preparation as well as a very powerful blender. She emphasized the fitness, exercise, organic farming, and nutrition aspects of the preparation on site.

Attorney Taylor cautioned again that after the Farmers’ Market closes this year the Board of Health will have a committee to establish ground rules. Anything approved today would be approved only for this season.

On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted in the matter of FarmMaid Foods, Inc. to grant the application as proposed, assuming that not all the items will be available on any given Saturday. A selection from the list of items will be available and there will generally be no more than three of those items at a given time at the Farmers’ Market; and they will be generally available when the owners of FarmMaid Foods determine that it’s the best time for the product to be used. The Board will allow preparation of the smoothies this year subject to a determination after the Market is closed for the season as to whether or not we should be granting permission for preparation of anything at the Market in the future. The vote was 5-0-0.

On a motion by Mrs. McKusick and seconded by Attorney Taylor, the Board of Health voted in the matter of FarmMaid Foods to grant a Variance to the State and Federal Food Code for Time as a Public Health Temperature because they will be using one blender for the smoothies until they run out. They cannot exceed four hours using that blender. The vote was 5-0-0.

Ms. Gretel Norgeot introduced Kathleen Kadlik of Fromage ‘a Trois who was present, to sell fresh cheese and pasta made at her kitchen in Falmouth. Ms. Norgeot explained that Ms. Kadlik has three different cheeses as well as egg pastas and fettuccini that would be brought to the Farmers’ Market as supplies allow.

Mr. Canning noted that he has no objection to this proposal.

Ms. Norgeot noted that Ms. Kadlik would like to provide samples of cheese, and green tea lemonade from a large carafe for dispensing into individual cups for service to patrons.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to grant the application made by Fromage 'a Trois, and delivered in part by Ms. Norgeot, and now the owner of Fromage 'a Trois. The vote was 5-0-0.

Agenda Item 7 – Approval Request – Cape Cod Lighthouse Charter School, CARP Camp

Mr. Paul Niles, Acting Director of the Cape Cod Lighthouse Charter School (CCLCS) was present to discuss the CARP Camp sponsored by the CCLCS. He explained that they have been running the camp program for several years and that they are anxious to comply with the regulations.

Mr. Canning explained that CCLCS is applying for a license as a trip camp where they will be meeting at CCLCS and going on day trips. As part of their application they still need expanded CORI reports on staff, lifeguard certification, a health plan; and during inspection the Health Agent will review the health records, first aid kits, medical log book, lunch storage, medical storage, and vehicles.

A representative of CCLCS also present explained that the health plan has been approved by a doctor, and their lifeguard has received certification; they are still waiting for the expanded CORI reports, and the Health Department inspection is scheduled for July 8, 2011.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health approved the CARP camp as presented today to be open between July 11 through August 12 (21) of this year as long as all the paperwork is submitted on time. The vote was 5-0-0.

Agenda Item 9 – Approve Minutes

The minutes of the Board of Health meeting held on June 2, 2011 had previously been distributed to Board members for review and approval.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to approve the minutes of the meeting on June 2, 2011 as written. The vote was 5-0-0.

Agenda Item 11 – Health Agent's Report

Mr. Canning reported on the following:

Temporary Food Permits

Church of the Holy Spirit

Jack Gentile, representing the Church of the Holy Spirit, a non-profit organization has applied for a Temporary Food Permit and a Variance for the menu with potentially hazardous food items that will be prepared outdoors and sold indoors. Because the Church is a non-profit organization they will not be required to have a Certified Food Protection Manager. The event is the Summer Fair to be held July 9, 2011 from 9:00 a.m. to 3:00 p.m. at the Church on 204 Monument Road. Hamburgers, cheeseburgers, hot dogs, veggie burgers, lobster rolls, coleslaw, potato salad, potato chips, bottled water, soda, coffee, tea, iced tea, lemonade, and bottled condiments will be served.

The hamburgers, veggie burgers, and hot dogs will be cooked outdoors on grills and then transported hot into the kitchen to be held hot until ordered by the consumer. All other prepared foods will be prepared in the licensed kitchen and served to the consumer from that licensed kitchen. Spatulas, tongs and gloves will be available for food service. Paper plates and cups, etc. will be used for consumer items. Restrooms and hand washing facilities are available onsite.

On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted in the matter of the Church of the Holy Spirit to approve a Temporary Food Permit and Variance for grilling outside. The vote was 5-0-0.

Gypsy Wind Productions

Jean Meike, representing Gypsy Wind Productions, to be at the Cape Cod Artists and Craftsmen Show held at the Nauset Regional Middle School on July 26 and 27, 2011 from 10:00 a.m. to 5:00 p.m., has applied for a Temporary Food Permit and Variances for a Certified Food Protection Manager and a menu of open sampling. Jams and jellies are to be sold retail and sampled with store bought crackers.

Jam will be sampled with disposable spoons, and tongs are to be used for crackers. Samples will be covered as practicable. Garbage is to be disposed of by event coordinators. A hand-washing station will be set up in the booth.

On a motion by Dr. Davis and seconded by Attorney Taylor, the Board of Health voted in the matter of the Gypsy Wind Productions to approve a Temporary Food Permit and a Variance for a Certified Food Protection Manager and for sampling with store-bought crackers and jams and jellies. The vote was 5-0-0.

Island Cow Ice Cream

Robert Walters of Island Cow Ice Cream has applied for Variances for a Certified Food Protection Manager and for a menu to sell hard ice cream served to order. The event will be the Cape Cod Artists and Craftsmen Show to be held at the Nauset Regional Middle School on July 26 and 27, 2011 from 10:00 a.m. to 5:00 p.m. Ice cream will be served in cones or a cup from a cart.

Three-gallon containers of ice cream will be kept in a cart, and each flavor will have its own scoop kept in the product, with proper sanitary protection of hands. There will be a Plexiglas cover over the unit and a tent over the area. The unit has a mobile permit in Maine. Garbage will be disposed of by event coordinators. A hand-washing station will be set up in the booth.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the Island Cow Ice Cream to approve a Temporary Food Permit and Variance for the dates of July 26 and 27, 2011. The vote was 5-0-0.

Cape Cod Cookies To Go

Janice Peterson, of Cape Cod Cookies To Go has requested a Temporary Food Permit to sell cookies at the Cape Cod Artists and Craftsmen Show to be held at the Nauset Regional Middle School on July 26 and 27, 2011 from 10:00 a.m. to 5:00 p.m. The company has a wholesale permit to sell pre-packaged, home-made cookies from Harwich. All cookies are to be pre-packaged with required labeling.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of the Cape Cod Cookies To Go to approve a Temporary Food Permit for the dates of July 26 and 27, 2011. The vote was 5-0-0.

Odd Fellows Lodge

Thomas Fettig, representing the Odd Fellows Lodge has applied for a Temporary Food Permit and a Variance for the requirement to have a Certified Food Protection Manager and for the potentially hazardous food menu. Mr. Canning explained that one event has already occurred and must be ratified; and there are two events still to be approved. Family concerts on June 25 (already occurred), July 10, and August 14, 2011 will be held from 4:00 p.m. to 7:00 p.m. at the Odd Fellows Hall at 2 Namskaket Road.

Hamburgers, cheeseburgers, hot dogs, clam chowder, potato chips, bottled water, soda, diced onion, and bottled condiments will be served. Captain Elmer's Restaurant will provide the chowder. The chowder will be heated at the restaurant, transported hot and held hot onsite. The burgers and hot dogs will be cooked from frozen to well done and served directly to the consumer. There will be no long term holding. Food service will occur outdoors with a tent covering the food service area. Spatulas, tongs and gloves will be available for food service. Paper plates and cups, etc. will be used for consumer items. Restrooms and hand washing facilities will be available onsite.

On a motion by Mrs. Suraci and seconded by Attorney Taylor, the Board of Health voted in the matter of the Odd Fellows Lodge Family Concerts to be held June 25 (already occurred), July 10, and August 14, 2011 to approve two Variances to the menu and Certified Food Protection Manager and one that has already occurred; and a Temporary Food Permit for one event that has already occurred and two that are coming up. The vote was 5-0-0.

Agenda Item 8 – Hearing Request – 18B Industry Road 3:15 p.m.

Mr. Joe Costantino appeared before the Board of Health in response to a Show-Cause Hearing and to discuss his concerns regarding the duties of the Health Department.

Attorney Taylor responded that one of the duties is to ensure that lodging is healthy and meets the requirements of the State Housing Code. He admonished Mr. Costantino that his property still does not meet the standards set forth in the Code with regard to the screens on the windows. Electric tape used to seal a gap between the screen and window frame is an improper installation. After several visits since May by the Health Agent, and letters to the owner requiring replacement and/or repair of the screens, the screens still have not been properly installed.

Mr. Costantino responded that there have been times when they were unable to gain access to the tenement. He stated that the Health Agent's letter noted a 1/16" gap around the screens. He discussed the type of windows and explained that they require custom-made screens. He showed a silver tape he proposed to use to seal the gaps.

In response to Mr. Costantino's discourse about repair of the cracked windows, Mr. Canning reviewed the issue of repairing cracked double-pane windows and whether both inside and outside panes needed to be repaired. State Code requires that there be no cracked windows and that was enforced by the Health Department.

Mr. Canning read from the synopsis of housing violations dating back to January 20, 2010. The Health Department had issued orders for correction of those violations. On June 22, 2010 the Health Department conducted a follow-up inspection and was informed that there were no tenants in the unit (also informed in April). Therefore, a letter (not an order) was written to notify the owner of the following observed violations: several screens were missing on doors and windows, counters and cabinets in the kitchen have exposed wood and are not easily cleanable where they have been altered and a new stove had been installed, counter and cabinets were not secure, two drawers of base cabinets were inoperable, the toilet in the master bath was leaking, and there was a strong foul odor in Bedroom No. 3. On September 16, 2010 the Board of Health issued an order to repair all outstanding violations as well as those observed on June 22nd and September 8th. An order was issued to the tenant to allow the owner access to the unit for the purpose of making repairs (including the screens). Mr. Canning continued summarizing the chronological series of events that took place regarding the subject property. On December 27, 2010 the Health Department conducted another inspection and all items had been repaired with the exception of the screens. On January 5, 2011 the owner was notified that screens were not required by the State Housing Code between October and April, but that they must be in place by April 1, 2011. Several subsequent reminder letters were sent to the owner; and on April 27, 2011 the Health Department conducted an inspection finding that the installed screens did not fit tightly in the window frame. The owner was again notified of the violation and upon re-inspection on May 28, 2011 the screens were found to be held in place with black

electrical tape, some of which was already peeling away. Therefore an order for a Show-Cause Hearing was issued for July 7, 2011.

Board members were very frustrated that this matter has taken 18 months and four pages of a chronological summary!

Mr. Costantino changed the subject and discussed that he has accepted low income people as tenants, some of whom have been drug dealers and child abusers which he has reported to the Health Department and Police Department. He is frustrated that neither had been able to take any action on those reports. Attorney Taylor explained that the Health Department has no jurisdiction on those issues. Mr. Costantino wants the Board of Health to work with him informally rather than make a legal case out of his violations. He is frustrated that the Board of Health chases screens instead of drug dealers and abusive parents.

Dr. Schneider informed Mr. Costantino that the Board of Health has certain specific responsibilities as a volunteer board to see that tenants in rented buildings have housing that meets the Code. Mrs. McKusick reiterated that the Board of Health/Health Department has no jurisdiction over the issues of his concern; it is the jurisdiction of the Police Department only.

Attorney Taylor asked Mr. Costantino when the window screens will be repaired, to which Mr. Costantino responded that the screens will be fixed "by noon tomorrow". He noted that the current tenants are great and he is very happy with them. However, he was uncertain whether the unit would be available for inspection on Friday.

Mr. Canning inquired of the Board members whether they would accept the tape proposed by Mr. Costantino as a solution to seal the screens to the window frame. Attorney Taylor suggested that the Board members would accept whatever method creates a sealed window with a screen on it.

In response to Mr. Costantino's inquiry Mr. Canning again explained that the Health Department is bound by Chapter II of the State Sanitary Code which contains specific requirements of the Health Department's responsibility to uphold that Code. The issue of requiring an architect was the responsibility of the Building Commissioner when he was concerned about the structural integrity of the building. Mr. Canning continued to explain that the issue of child abuse was reported to the Health Department who, in turn, referred him to the Orleans Police Department. The Assistant Health Agent did not see any evidence of child abuse during her inspection. The Health Department cannot report child abuse unless it has been personally observed by an agent. Mr. Canning noted for the record that the Health Department has gone out of its way to make eight inspections to confirm that the many violations and issues have been repaired and are in compliance. However, the screens still remain unrepaired.

On a motion by Attorney Taylor and seconded by Dr. Davis, the Board of Health voted to accept a fix to the windows in the house at 18 Industry Way, Unit B, subject to the approval of the Health Agent. The vote was 5-0-0.

Agenda Item 11 – Health Agent's Report (Cont'd.)

Temporary Food Permits

The following events had already occurred and were to be ratified by the Board of Health. It was agreed that Mr. Canning could read them and the Board would make one vote to ratify.

Orleans Methodist Church

Kathi Lewis, representing the Orleans Methodist Church, applied for a Temporary Food Permit and a Variance for the menu and cooking outdoors for the July 4th BBQ during the parade from 9:00 a.m. to 12:00 p.m. Hot dogs, lobster rolls, chips, soda, water, coffee, donuts were be served. The lobster rolls were prepared and wrapped inside the licensed kitchen and were kept under refrigeration inside the kitchen and brought a few at a time to a cold holding cooler located outside in the serving area. Hot dogs were heated

in the licensed kitchen and held hot outdoors to be prepared to order. Donuts from Dunkin Donuts were served to guests by volunteers using gloves. Items were held at proper temperatures in the church kitchen until needed for service. Condiments were in squeeze bottles. A tent was set up above the serving area. Food was purchased from licensed sources. Tongs and gloves were used to prevent bare-hand contact. Everything was single use articles. Restrooms and hand washing facilities were available inside the church.

Orleans Firemen's Relief Association

The Orleans Firemen's Relief Association applied for a Temporary Food Permit and a Variance for the menu for its Pancake Breakfast held on Sunday, July 3, 2011 from 7:00 a.m. to 11:00 a.m. at the Orleans Fire Station. Being a non-profit organization, a Certified Food Protection Manager was not required. Pancakes, sausages, syrup, butter, orange juice, coffee, and milk were served. Food was purchased from Stop & Shop. The event was held indoors. The pancakes were cooked, and sausages re-heated on griddles. The orange juice and milk were held in the refrigerator until served. Gloves were used to prevent bare-hand contact. Paper plates, cups and plastic utensils. Hand washing and restroom facilities were available on site.

The Queen's Taste

Diane Baker applied for a Temporary Food Permit to serve cookies and scones during the Orleans Arts and Crafts Show at Nauset Regional Middle School on July 2 & 3, 2011 from 10:00 a.m. to 5:00 p.m. The cookies and scones were baked in a commercial establishment (The Danish Pastry House in Watertown, MA) and were held in closed boxes on a table and bagged upon request using gloves, tongs, or bakery tissues. The area was covered by a tent, and bleach water was used for sanitizing. A hand-washing station was available at the booth.

Septage Collection and Transportation

AB CANCO of 350 Main Street, West Yarmouth, owned by Jeff Cannon had applied for a Septage Collection and Transportation License. AB CANCO was licensed in Orleans from 1999 (prior to) – 2006, and recently restarted the business. He again wants to serve clients in Orleans.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to ratify the four permits as outlined in the Health Agent's Report dated July 7, 2011. The vote was 5-0-0.

Beach Closures

During the month of June the town had the following beach closures:

Beach**	Skaket Beach	Skaket Beach Association	Rock Harbor	Town Cove
Date of original sample/ results	6-15-11 /280	6-15-11 /384	6-22-11 /134	6-22-11 /158
Date of closure	6-16-11	6-16-11	6-23-11	6-23-11
Date of resample /results	6-16-11 /14	6-16-11 /6	6-23-11 /2	6-23-11 /400
Date of second resample /results				6-24-11 /42
Date of Reopening	6-17-11	6-17-11	6-24-11	6-25-11

*All results CFU/100 ml and are received 24 hours after sample is collected.

****Bathing Beach Limit 104 CFU/100 ml**

All of the above samples were taken during or immediately after a rain event and it is not unusual to have elevated levels after rain.

Recreational Camp for Children

Nick Dumbar, Camp Director for the Mass Premier Soccer Camps, which is to be held at the Nauset Regional Middle School from August 8 to August 12, 2011 has applied for a Recreational Camp Permit.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to approve the Mass Premier Soccer Camps subject to final review of application and inspection. The vote was 5-0-0.

Other Business

Mr. Canning reported that he has been working with the VNA for flu clinics. The clinic date is to be announced, hopefully to be held in mid-September. The VNA has purchased vaccines and will allocate 500 doses for Orleans and then the town will obtain 350 doses of vaccine from the state. He explained that the vaccine from the state must be given to uninsured or underinsured residents of Orleans. However, the VNA has been very helpful in working with the town so that no one will be turned away from a clinic for lack of insurance coverage.

Mrs. Christie discussed the fact that CVS already has flu vaccine available for distribution.

Attorney Taylor expressed appreciation to Erika Woods for her work on 18B Industry Way and the Farmers' Market. Mr. Canning spoke about the Food Safety program conducted by Ms. Woods for all Orleans food establishments. Dr. Schneider expressed appreciation to both Mr. Canning and Ms. Woods for their work in handling the very frustrating situations that come to the Health Department.

Agenda Item 10 – Review Correspondence / Old and New Business

10 – 1 – A letter from Attorney Christopher Ward of LaTanzi, Spaulding & Landreth, P.C. notifying the Orleans Health Department on June 21, 2011 that the firm no longer represents George V. Albert, Sr., owner of 33 Eli Rogers Road had previously been distributed to Board members for review and discussion. Mr. Canning reported that Mr. Albert is now actively managing the property.

10 – 2 – A letter from Cape Cod Septic Inspection received on June 6, 2011 requesting an extension on inspection of the septic components located at 210 Main Street had previously been distributed to Board members for review and discussion. Mr. Canning explained that the Post Office (located in that complex) is very busy during the summer and he suggested allowing an extension.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted to grant an extension to November 1, 2011 for the Title 5 Septic Inspection of the Windmill Plaza at 210 Main Street, Orleans, MA. The vote was 5-0-0.

10 – 3 – An Orleans Health Department letter to Daniels Recycling Company, Inc. (DRCI) dated June 7, 2011 and accompanying Inspection Report had previously been distributed to Board members for review and discussion. Mr. Canning reported that stored material tonnage has been reduced dramatically from the prior month although there are still some exceedances of material on the site.

10 – 4 – A Variance Request for Ardath's Mobile Food 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 in the matter of Ardath's Mobile Food to allow the grilling of hot dogs and hamburgers and pre-cooked

sausages outside of the licensed Mobile Food Unit at the Orleans Firebirds Baseball Games through the remainder of the season. The vote was 5-0-0.

10 – 5 – A Variance Request for 23 Herring Brook Way in an Orleans Health Department letter dated July 8, 2011 had previously been distributed to Board members for review and discussion. Mr. Canning requested that the Board of Health ratify the emergency action authorized by that letter.

On a motion by Attorney Taylor and seconded by Mrs. McKusick, the Board of Health voted in the matter of 23 Herring Brook Way to incorporate the variances listed in the proposed, amended letter from the Health Agent dated July 8, 2011. The vote was 5-0-0.

10 – 6 – A Variance Request for 4 Harbor View East had been submitted by Ryder & Wilcox in a June 21, 2011 letter previously distributed to Board members for review and discussion. Mr. Canning explained that during installation, the installer constructed the soil absorption system different from the plan. However, further calculation slightly improved the reduction in leach area. It was the consensus of the Board members to issue a Certificate of Compliance for completion of this installation.

10 – 7 – A letter from the Orleans Building Department dated June 10, 2011 to the Universal Lodge regarding the barbeques being held outside the building had previously been distributed to Board members for review and discussion. Mr. Canning explained that this is not an issue for the Board of Health, but only to keep them apprised of the matter.

10 – 8 – An article from CapeCodOnline.com regarding J-1 workers' complaint about rental housing in Orleans had previously been distributed to Board members for review and discussion. Mr. Canning explained that the Health Department could not take action on the complaint, but he did write to the owner regarding the reported conditions.

10 – 9 – A letter from GHD dated June 14, 2011 reporting on the Semi-Annual Groundwater Monitoring Results had previously been distributed to Board members for review and discussion.

10 – 10 – A letter from GHD dated June 14, 2011 reporting on the Semi-Annual Inspection of the Orleans Transfer Station had previously been distributed to Board members for review and discussion.

10 – 11 – A hearing notice from the Cape Cod Commission for the Orleans Comprehensive Wastewater Management Plan to be held on July 21, 2011 had previously been distributed to Board members for review and discussion.

10 – 12 – A hearing notice from the Cape Cod Commission for the Cape Cod Ocean Management Planning District of Critical Planning Concern to be held on July 21, 2011 had previously been distributed to Board members for review and discussion.

10 – 13 – The Board of Managers Meeting minutes of May 11, 2011 of the Orleans, Brewster, Eastham Groundwater Protection District had previously been distributed to Board members for review and discussion.

Other Business

Mrs. McKusick suggested that the Board of Health reappoint Robert Rich as its liaison to the Board of Water Commissioners. Mr. Canning will determine whether Mr. Rich's three-year term has expired.

Dr. Schneider again expressed appreciation to Mr. Canning for his handling of some very difficult and contentious issues brought to the Health Department.

Agenda Item 12 – Discussion of Innovative/Alternative Technologies

Mr. Canning will put this discussion on the agenda for another meeting. It was suggested that the discussion take place during a "work session" prior to a regular meeting.

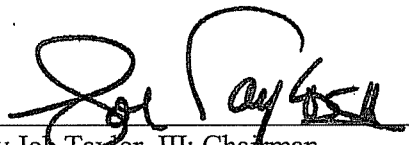
Agenda Item 16 – Adjournment

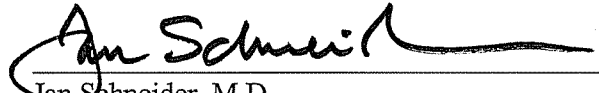
On a motion by Dr. Schneider and seconded by Mrs. McKusick, the Board of Health voted to adjourn this meeting at 4:10 p.m. The vote was 5-0-0.

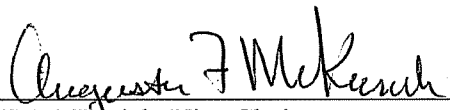
Respectfully submitted,


Lynda M. Burwell, Board Secretary

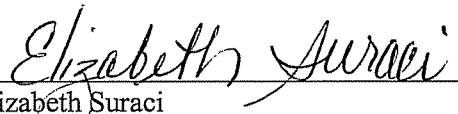
ORLEANS BOARD OF HEALTH


Attorney Job 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 July 7, 2011
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 2 – Variance Request – 8 Priscilla Road

- 2 – 1 – Notice to bring information from June 2, 2011 packet
- Exhibit 2 – 1 - Letter dated July 6, 2011 from J.C. Ellis Design Company, Inc.

Agenda Item 3 – Variance Request – 26 Defiance Lane

- 3 – 1 – Variance Application Form from J. M. O'Reilly & Associates, Inc.
- 3 – 2 – Sewage Disposal System Design dated 6/24/11 prepared by J. M. O'Reilly & Associates, Inc.

Agenda Item 4 – Variance Request – 47 Nauset Road

- 4 – 1 – Variance Application Form from Lucy Beach Realty, LLC prepared by Atty. Benjamin E. Zehnder LLC
- 4 – 2 – Letter dated July 1, 2011 from Atty. Zehnder
- 4 – 3 – OBOH Nutrient Management Regulations
- Exhibit 4 – 1 – Letter dated July 6, 2011 from Atty. Michael Ford, Orleans Town Counsel
- Exhibit 4 – 2 – Letter dated June 28, 2011 from Health Agent
- Exhibit 4 – 3 – Revised Variance Application Form from Lucy Beach Realty, LLC received June 28, 2011
- Exhibit 4 – 4 – Package of material hand delivered by Atty. Zehnder “to complete the record”

Agenda Item 5 – Approval Request – 24 Doane Road

- 5 – 1 – Hearing Request prepared by Ryder & Wilcox, Inc.
- 5 – 2 – Proposed Sewage Treatment and Disposal System dated 5/31/11 prepared by Ryder & Wilcox, Inc.
- 5 – 3 – Proposed Residence Plan dated 12/14/07 prepared by Ryder & Wilcox, Inc.

Agenda Item 6 – Approval Request – Orleans Farmers’ Market Vendors

- 6 – 1 – Material from Fromage ‘a Trois for discussion and approval
- 6 – 2 – Material from FarmMaid Foods for discussion and approval
- Exhibit 6 – 1 – Health Agent notes for FarmMaid Foods and Fromage ‘a Trois

Agenda Item 7 – Approval Request – Cape Cod Lighthouse Charter School, CARP Camp

- 7 – 1 – Two news articles and CARP Camp brochure

Agenda Item 8 – Show-Cause Hearing – 18 Industry Road, Unit B

- 8 – 1 – Hearing Notices dated June 17, 2011 to tenant and owner
- 8 – 2 – Chronological synopsis of Housing Complaint
- 8 – 3 – OHD Letter dated June 24, 2010 to Joseph Constantino
- 8 – 4 – OHD Letter dated June 15, 2010 to Joe Constantino
- 8 – 5 – OHD Letter dated November 22, 2010 to Trudy Nordhausen
- 8 – 6 – OHD Letter dated January 5, 2011 to Trudy Nordhausen
- 8 – 7 – Status Report dated 11-22-10 Housing Violations
- Exhibit 8 – 1 – 9 photographs dated April 27, 2011 of windows/screens
- Exhibit 8 – 2 – 19 photographs dated May 26, 2011 of windows/screens

Agenda Item 9 – Approve Minutes

- 9 – 1 – OBOH Minutes of June 2, 2011

Agenda Item 10 – Review Correspondence and Old/New Business

- 10 – 1 – Atty. Christopher J. Ward letter dated June 21, 2011 re: 33 Eli Rogers Road
- 10 – 2 – Cape Cod Septic Inspection letter received June 6, 2011 re: 210 Main Street
- 10 – 3 – OHD letter dated June 7, 2011 to Daniels Recycling Company, Inc. re: 5/31/11 Inspection Report
- 10 – 4 – Variance Request dated 6/9/11 for Ardath’s Mobile Food
- 10 – 5 – OHD proposed letter dated July 8, 2011 to J. C. Ellis Design Company, Inc. re: 23 Herring Brook Way
- 10 – 6 – Ryder & Wilcox letter dated June 21, 2011 re: 4 Harbor View East
- 10 – 7 – Orleans Building Department letter dated June 10, 2011 to the Universal Lodge
- 10 – 8 – News article re: J-1 workers in Orleans complaint about rental housing
- 10 – 9 – GHD letter dated June 14, 2011 re: Landfill Semi-Annual Groundwater Monitoring Results
- 10 – 10 – GHD letter dated June 14, 2011 re: Transfer Station Semi-Annual Inspection
- 10 – 11 – CCC Hearing Notice re: Orleans Comprehensive Wastewater Management Plan
- 10 – 12 – CCC Hearing Notice re: Cape Cod Ocean Management Planning District of Critical Planning Concern
- 10 – 13 – Orleans, Brewster, Eastham Groundwater Protection District Minutes of 5/11/11

Agenda Item 11 – Health Agent’s Report

- 11 – 1 – Temporary Food Establishment Application for Permit by Cape Cod Cookies To Go
- 11 – 2 – Temporary Food Establishment Application for Permit by Island Cow Ice Cream