

## TOWN OF ORLEANS – BOARD OF HEALTH

### MINUTES OF MEETING

September 1, 2011

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The Board of Health convened its meeting at 2:00 p.m. on Thursday, September 1, 2011 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Job Taylor, III, 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, and Dale Fuller, Liaison from the Finance Committee.

Excused: Vice Chair Augusta McKusick

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

There was no one present for Public or Press.

#### **Agenda Item 2 – Variance Request Continuation – 8 Priscilla Road**

Mr. Jason Ellis of J.C. Ellis Design Company represented Charles and Mary Longsworth, owners of the property at 8 Priscilla Road. He discussed the upgrade of a failed cesspool on a very tight lot with wetlands and very poor soil conditions. Sieve analysis results confirmed that the previously-designed septic system is appropriate for the lot. Mr. Ellis described a variance in addition to those listed on the Septic System Upgrade Plan suggested by Mr. Canning – a variance to 310 CMR 15.211 – a 45 foot variance to the setback between a leaching area and a drain that intercepts seasonal groundwater. Mr. Canning also suggested a 20 foot variance to the setback between a septic tank and a drain that intercepts seasonal groundwater.

Mr. Ellis described that the soil conditions present on the property consist of poor soil and evidence of perched water at approximately four feet below grade. Excavation to approximately 26 feet below grade very close to the building and replacing it with clean sand is required to obtain good soil. Installation of a flow barrier around the leach field will direct the perched water to below the soil absorption system and will eliminate the perched water condition. The wetlands on the property are hydraulically connected to the perched water. This new septic system will be a major improvement over the cesspool currently located in the perched water.

Mr. Canning pointed out that although this is a repair under Local Upgrade Approval, he discussed that some of the variances will need approval from Mass. Department of Environmental Protection.

Board members inquired what happens if the state denies the variances; to which Mr. Canning replied that the contractor might need to work in the road in order to get the heavy machinery low enough to dig out the 26 feet deep hole. The owner may be required to install a retaining wall above grade. Mr. Ellis responded that he would need to provide evidence that the perched water table is not connected to the groundwater table; and noted that there is precedent from two similar properties in Brewster that were approved by MDEP.

**On a motion by Dr. Davis and seconded by Dr. Schneider, in the matter of 8 Priscilla Road, I move that the Board of Health approve variances based on the following findings:**

1. It is a very small lot size.
2. Due to the location of existing buildings and wetlands this is a solution we can see that has been proposed for the environment.
3. Due to the location of groundwater and soil conditions the cesspool, right now, is literally in the perched water so this will definitely be an improvement with a curtain drain protecting against contamination of the groundwater.
4. A sieve analysis was performed and the soil is two-minute perched material.

Based on those findings, I move that we approve variances for the installation of the upgrade to the septic system at 8 Priscilla Road as shown on the plan that is dated May 1, 2011 prepared by J.C. Ellis Design.

The following variances are to 310 CMR 15.211:

1. A five foot (5') variance for the distance from the soil absorption system to the lot line. Ten feet (10') is required, five feet (5') are provided.
2. A ten foot (10') variance for the distance from the soil absorption system to the foundation wall. Twenty feet (20') is required, and ten feet (10') will be provided.
3. A twenty-one foot (21') variance from the soil absorption system to the bordering vegetated wetland. Fifty feet (50') are required and twenty-nine feet (29') are provided.
4. A nine foot (9') variance for the distance from the septic tank to the bordering vegetated wetland. Twenty-five feet (25') are required and sixteen feet (16') are provided.

The following variance is to 310 CMR 15.212:

5. A variance to allow the proposed leach trench to be installed below perched groundwater with installation of a curtain drain.
6. A variance to 310 CMR 15.240 (2) to allow a twenty-five percent (25%) reduction in the size of the soil absorption system.
7. A variance to 310 CMR 15.104 (4) allowing that there will be no percolation test performed in the C3 layer.
8. A variance to 310 CMR 15.248 that no Reserve Area is provided.

The next variances are to the Orleans Board of Health Regulations

9. A seventy-one foot (71') variance to the required distance from the soil absorption system to the bordering vegetated wetland. One hundred feet (100') are required and twenty-nine (29') will be provided.
10. A thirty-four foot (34') variance to the distance of the proposed septic tank to the bordering vegetated wetland. Fifty feet (50') are required and sixteen feet (16') will be provided.

The final variances are to 310 CMR 15.211

11. A forty-five foot (45') variance to this regulation, setback between a leaching area and a drain that intersects seasonal groundwater.
12. A twenty foot (20') variance from the septic tank distance to a drain that intersects seasonal groundwater.

These variances are approved on the condition that an as-built plan will be provided.

The vote was 4-0-0.

### **Agenda Item 3 – Variance Request – 34 Route 6A (Thayer's Florist, Inc.)**

Ms. Judy Bersin of Ryder & Wilcox, Inc. represented the Gordon E. Thayer TR (Thayer Realty Trust) in the matter of 34 Route 6A. Mary DeBartolo, prospective owner, was also present. Ms. Bersin explained the need to request an additional variance because of a catch basin draining into a storm water drainage system located 36 feet from the proposed soil absorption system, a 14 foot variance was requested. She also noted that MDEP has approved other variances previously requested.

Mr. Canning reiterated that variances were approved at the June 2, 2011 meeting. He noted that the drainage catch basin does occasionally drain into Town Cove, therefore, requiring a variance from the Orleans Board of Health Regulations to a setback distance from a leaching area to the drainage system that discharges into a wetland. He discussed the additional distance requiring a variance of 19 feet, not 14 feet.

**On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of 34 Route 6A. Findings are:**

1. This is the second time this Board has heard the request for a series of variances for 34 Route 6A in the process of building an ice cream parlor in an area previously used as a flower shop.

2. On June 2<sup>nd</sup> this Board approved three variances. Since then, however, one of them has become moot because the issue is the depth of the system and the grade is to be reduced by six inches (6") and therefore that one variance already approved is no longer necessary.
3. However there has been a new discovery since then, or clarification since then, that the absorption system is thirty-one feet (31') away from a drainage basin which discharges into a wetland. Since Local Regulations demand fifty feet (50'), a nineteen foot (19') variance is requested on that basis, and I move that we approve that.

There were no abutters present.

The vote was 4-0-0.

#### **Agenda Item 4 – Approval Request – 225 Brick Hill Road**

Ms. Judy Bersin of Ryder & Wilcox, Inc. represented the Mary Ellen C. Van De Water Living Trust c/o Livingston Van De Water, owner of the property at 225 Brick Hill Road. She explained that the six-acre property is for sale and will be subdivided into two lots. Lot No. 1 has an existing five-bedroom dwelling and they will be replacing a cesspool with a five-bedroom septic system with the soil absorption system located five feet above perched water evident during soil testing. Ms. Bersin proposed use of a Cultec C4 Field Drain surrounded by a concrete containment wall 21 inches from the leaching area. She requested approval from the Board to allow the wall to be less than five feet from the soil absorption system.

Mr. Canning explained that in the past the Board of Health has allowed the Health Department to approve anything more than a five foot setback between a leaching system and an impervious barrier. However anything less than five feet must be reviewed by the Board.

Board members discussed the distance needing approval and the fact that the property is being subdivided.

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 225 Brick Hill Road to approve the design for this project with the containment wall being within twenty-one inches (21") of the soil absorption system which is less than five feet (5') which needs Board approval. That will allow installation of a smaller, less costly soil septic system without compromising efficiency. The vote was 4-0-0.**

#### **Agenda Item 5 – Discussion – 191 Route 6A (Orleans Bowling Center, Inc.)**

Ms. Stephanie Sequin of Ryder & Wilcox, Inc. represented David Currier, owner of the Orleans Bowling Center, Inc. located at 191 Route 6A.

Mr. Canning discussed the proposal to eliminate three lanes and add a food establishment serving beer and wine. The issue before the Board is whether to allow the consumption of the beer or wine outside of the tavern area. He also questioned the number of seats in the tavern area and whether they would be using paper ware or glassware. The cesspool onsite is to be tied into an existing Title 5 system on the property. Mr. Canning discussed the gallons per day necessary for a bowling alley that has a tavern.

Ms. Sequin explained further that the Courier's would like to have food service preparation and service beyond premade reheated food. They would like to be able to serve beer and wine, burgers, sandwiches, and soup. They propose using disposable ware (paper and plastic) but using glassware for beer and wine. She suggested it be classified as a Lounge/Tavern at 20 gallons per day per seat allowing fifteen seats in the area of the three lanes being eliminated. Eating or drinking would not take place in the lanes, only in the tavern.

Board members discussed the preparation and cooking of hamburgers. It was noted that fifteen seats would not be very much capacity for a tavern. Ms. Sequin responded that the flow most likely would not exceed the 300 gallons per day allowed. The laundromat onsite takes daily readings of the water usage at the bowling alley which is currently much less than 100 gallons per day per lane. She compared it to the Yarmouth bowl-

ing alley that has a snack bar and their water meter readings averaged 20-30 gallons per day per day per lane.

Mr. Canning explained that previously a lounge/tavern in Orleans was approved for appetizers and beverages. Currently there are fast food establishments limited to use of paper products. The issue of serving alcoholic beverages outside the tavern would be allowed only in the seats behind the alley. People standing at a bar are not counted as seats.

For comparison, Ms. Sequin discussed the Yarmouth bowling alley permitting process and noted that they averaged a total of 70 gallons per day.

Mr. Currier explained that other bowling alleys in Massachusetts allow people to walk around with their beer, just not near the lanes.

Board members concerned about water uses for washing the glasses. Currently the bowling alley does not have any food service. Ms. Sequin noted that dishwashers use very little water and fast food establishments use only paper products. She discussed further the type of operation and scope of service for the bowling alley that could typically be a Lounge/Tavern using twenty gallons per day per seat for their proposed fifteen seats.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted in the matter of the Orleans Bowling Alley at 191 Route 6A to grant the Bowling Alley permission to have a minor restaurant which has fifteen (15) seats and is permitted to use only disposable materials except for beer and wine for which they can use glass. Consumption is allowed on premise as approved by a Liquor License. The vote was 4-0-0.**

### **Agenda Item 8 – Hearing – 78 Old Colony Way, Danforth II, Unit A**

Mr. David Doddridge, tenant of the property at 78 Colony Way, Danforth II, Unit A, was present for this hearing. Mr. Albert Schoemann and Mrs. Pamela Schoemann, owners of the property at 78 Old Colony Way, Danforth II, Unit A, were also present for this hearing.

Mr. Canning outlined that this hearing was requested by David Doddridge, the tenant at 78 Old Colony Way Danforth II Unit A. The Hearing is an appeal to an ordered issued to Mr. Doddridge dated August 10, 2011 requiring him to comply with the provisions of 105 CMR 410, the State Sanitary Code, Chapter II Minimum Standards of Fitness for Human Habitation, Section 410:810, Access for Repairs and Alterations which addresses the tenant's responsibility to provide access for repairs/alterations as follows:

*Every occupant of a dwelling, dwelling unit, or rooming unit shall give the owner thereof, or his agent or employees, upon reasonable notice, reasonable access, if possible by appointment, to the dwelling, dwelling unit, or rooming unit for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of 105 CMR 410.000.*

The following is a history of the Health Department's involvement in the housing issues at 78 Old Colony Way Danforth II A

Date	Content	Response
June 10, 2011	David Doddridge filed a complaint with the Health Department stating that an internal plumbing leak has continued for over a month and is causing serious health concerns. The leak is from a septic pipe and the carpeting is soaked and mold growth is occurring.	Health Department conducted an inspection on June 10, 2011. Observed issues included: faulty lock on slider, faulty electrical switch in living room,  Water damaged flooring in hall bathroom, master bedroom (including closet) and master bathroom. The leak was coming from the plumbing serving a condensation pan on the second floor.

June 10, 2011	Met with owner on site, reviewed violations, Oceanside Restoration was on site removing carpeting, cutting wall board, plumber had been contacted and was en route to address leak in upper level unit.	
June 14, 2011	<p>HD issued order to owner Albert Schoemann.</p> <p>Within 24 hours – repair lock on slider, repair electrical switch in hallway</p> <p>Continue good faith effort to repair the damage from the plumbing leak.</p> <p><b>Certified Mail RRR</b></p>	<b>Received June 17, 2011</b>
August 8, 2011	<p>Upon tenants request the Health Department conducted a follow up inspection:</p> <ul style="list-style-type: none"> <li>• Electrical switch and lock on door repaired.</li> <li>• Plumbing leak repaired.</li> <li>• Per Oceanside Restoration the walls and floors have been treated for mold.</li> <li>• Flooring in hallway, master bedroom, and master bath had been removed and not replaced.</li> <li>• The sheetrock in the master bedroom closet was removed to a height of 2' and has not been replaced.</li> <li>• The hole in the hall bathroom wall has not been repaired.</li> </ul> <p>In addition the tenant pointed out that the hallway overhead mechanism does not function properly, requires a four way switch.</p>	<p>8-8-11 HD issued follow up order to citing remaining violations and order the repair of the hallway light fixture.</p> <p><b>Certified Mail RRR</b></p> <p><b>Received 8-11-11</b></p>
August 10, 2011	Health Department received correspondence from owner stating that there has been an ongoing problem gaining access to the condo unit to make the necessary repairs.	
August 10, 2011	<p>Health Department issued order to tenant to grant access to the owner per the provisions of Chapter II.</p> <p><b>Certified Mail RRR</b></p>	<b>Received 8-15-11</b>
August 17, 2011	<p>Health Department received a letter from the tenant stating that it is beyond the Health Agent's jurisdiction to order that he allow Mr. Schoemann into the dwelling to perform work that is outside the scope of the law. He notes that he has completed all of the necessary work with the exception of the carpeting.</p> <p>Mr. Doddridge requested a formal hearing with the Board of Health</p>	Hearing scheduled for 9-1-11
8-18-11	<p>Health Department wrote a letter to Mr. Doddridge stating:</p> <p>The Health Department's notice was to inform the tenant of his obligation to allow the owner or his agents into the unit to complete the necessary repairs. Nowhere in the</p>	

	<p>August 10, 2011 correspondence was the tenant ordered to allow the owner into the dwelling to complete repairs outside of the scope of the law.</p> <p>However, the Health Department pointed out if it has been determined by the owner that additional work, beyond what is specifically contained in the June 14, 2011 and August 8, 2011 orders is required to comply with the provisions of 105 CMR 410.000, access must be granted to the owner/agent for the purpose of making such repairs or alterations.</p>	
8-19-11	Mr. Doddridge and Mr. Schoemann were notified of today's hearing.	<p>Doddridge received notice on 8-22-11</p> <p>Schoemann received notice on 8-20-11</p>

Mr. Canning noted that this hearing is in response to the order to Mr. Doddridge to allow the owners or their agents entrance to the unit to make repairs.

In response to Mr. Doddridge's letter of August 17, 2011 Attorney Taylor explained that the Health Agent has complete authority from Chapter II to order Mr. Doddridge to allow the owners entrance to the unit.

Mr. Doddridge explained that he had allowed them entrance to make repairs not required by 105 CMR and replacement of the carpet is the only requirement left to comply with 105 CMR. He explained the sequence of allowing insurance adjusters entrance to the unit to see the damage. He clarified that the work the owners want to have done is not required to comply with 105 CMR and in his estimation is not necessary. Mr. Doddridge requested that after three months of inconvenience, the carpet must be replaced.

Mr. Schoemann explained that two insurance adjusters and Oceanside Restoration had agreed on the repairs needed. He explained that Mr. Doddridge did not permit people to enter the unit for four weeks, until July 7, 2011.

Mr. Doddridge rebutted that he would take responsibility for the first two weeks but he had been living with sewage in the carpet from the upstairs waste pipe. He outlined the chronology of events and explained that after the plumber finally found and repaired the leak, he started making repairs on his own. However, the owner wanted to make more extensive and unnecessary repairs.

Attorney Taylor requested clarification that no work had been done between July 7<sup>th</sup> and August 9<sup>th</sup> and that Mr. Doddridge did not pay the August rent; which Mr. Doddridge confirmed with the exception that some minor electrical repairs had been completed. He also noted that several contractors had been in to measure areas in preparation for the work to commence.

Pamela Schoemann outlined her chronology of the events since April 10, 2011 and their efforts to correct the problem. Attorney Taylor inquired whether they had signed a contract with Oceanside Restoration; however Mr. Schoemann explained he had signed a letter of intent. Mr. Schoemann noted that the insurance inspectors had outlined the work needed to be completed and Mrs. Schoemann expressed frustration that the tenant had covered up rotted wood with sheetrock.

**After hearing both parties, the Board of Health dismissed the hearing.**

Dr. Schneider discussed that the Board of Health has recently spent considerable time and effort regarding housing issues that are not within the purview of the Board.

### **Agenda Item 6 – Waiver Request – 26 Towhee Lane**

Mr. Canning distributed a revised floor plan of the dwelling. (*Exhibit 6-1*)

Ms. Judith Bruce, owner of the property at 26 Towhee Lane, was present to explain her request for a waiver to 310 CMR 15.301 Title 5 – Septic System Inspection and the Orleans Board of Health Subsurface Sewage Disposal Regulations, Section VII. Septic System Inspection. She explained that three years ago she had been required to redesign the septic system and replace the leach field and add a pump chamber. As a result of filing for a Building Permit for a bedroom addition she has been required to have the pump chamber and leach field dug up for inspection. Because it would destroy her wildflower gardens planted over those septic components, Mrs. Bruce requested a waiver from the required inspections.

Mr. Canning outlined that the new septic system for five bedrooms was applied for and approved on December 18, 2008; and was installed in April, 2009. He read from Title 5 and the Orleans Board of Health Subsurface Sewage Disposal Regulations the requirements for the inspection. He noted that Mrs. Bruce now plans to finish the fifth bedroom; however, the regulations require inspection of all components before a Building Permit can be issued.

Mrs. Bruce emphasized that all of the components are accessible but exposing them would destroy her wild flower gardens.

Mr. Canning suggested that the inspection might be conducted when the flowers are dormant, or they could be inspected utilizing an inspection camera. He also suggested that the inspections could be postponed until after the renovation but that they must be completed prior to issuance of a Certificate of Occupancy. He reminded that all covers must be within six inches of grade.

Mr. David Birnie, a septic system inspector in the audience, suggested that the entire septic system could be inspected utilizing a camera.

Board members discussed eliminating the need to dig up the gardens by using a camera for inspection.

**On a motion by Mrs. Suraci and seconded by Attorney Taylor, the Board of Health voted in the matter of 26 Towhee Lane and Mrs. Bruce's request to have relief from digging up and visually inspecting the leaching field and pump chamber of her two-year-old septic system, thus preserving the wildflower garden that is now flourishing in that spot. It would be difficult for the flowers, if not everybody else, to have those disturbed more than necessary. That she be given the opportunity to get the system inspected after issuance of the Building Permit but prior to issuance of the Occupancy Permit.**

Discussion ensued regarding the possible need for a waiver in locating or inspecting certain components.

**Dr. Schneider suggested amending the motion to include: within the limits of the visualization by the cable camera; excepting that with this new system, parts of it cannot be seen, we would accept them as okay.** Mrs. Suraci agreed with the amendment. **The vote was 4-0-0.**

### **Agenda Item 7 – Approval Request – Cape Cod Biochemical Company**

Mr. Rick Howe, President of Cape Cod Biochemical Company (CCBC) was present to discuss the use of their septic tank maintenance product, Custom Culture Liquid Settlers (CCLS). He noted that the Orleans Board of Health has approved use of their products in the past (Stop & Shop). This current application is to be allowed to sell CCLS on a blanket basis in Orleans. Mr. Howe outlined the history of his company and explained the primary purpose of CCLS being BOD removal, suspended solids removal, solids digestion and odor control in septic tanks which results in cleaner effluent going to a leach facility. He emphasized that it will not eliminate the need for pumping and maintenance. CCLS has been approved by Mass. DEP under Title 5, and is approved by the USDA for use in the federal meat, poultry, and egg program. Mr. Howe noted that CCLS customers are all septic contractors and that CCLS is a green product made on Cape Cod. CCLS is safe for home use and is free of all pathogens.

Mr. Canning explained that the Board of Health Regulations state that an additive cannot be used in a septic system without prior individual approval by the Board. He continued that prior to 1995 no one approved the use of septic system additives. Mr. Canning outlined several factors for the Board members to consider in evaluating the use of this product.



Mr. Birnie explained that he has had good success with the product as another tool for the septic contractor. He doesn't sell this product to someone with failing cesspools; however, he does sell it to homes with a garbage disposal. CCLS can also improve the operation of the interior pipes in a house although it is marketed to improve bacteria in the septic system sending a cleaner effluent to the leaching field. He has used it for years and he can see the difference in septic tanks that use the product.

Dr. Davis requested clarification of what the bacteria break down. Mr. Howe explained that it degrades starches, proteins, grease fats, surface scum, and helps settle the suspended solids that might flow to the leach field. Dr. Schneider, although impressed with the presentations, expressed concern about the effectiveness of additives and concern about setting precedent by allowing the blanket use of CCLS and the requests from others. Mrs. Suraci discussed that once the Board allows the blanket use of CCLS it would be difficult to regulate similar internet products. Dr. Davis emphasized that the Board would be allowing only contractors to use the product, not individuals. Attorney Taylor opined that additives may help a lot or a little, but if there is no evidence of harm to a system, septic inspectors will make the decision whether or not the additive will help a septic system.

Mr. Birnie explained that of the 24 licensed pumping contractors licensed in Orleans, each one has found certain products they prefer to use. The product from CCBC can only been sold by septic contractors, not hardware stores or other stores; however those stores can sell several products not approved by the Board of Health. He explained further the function of a septic tank and the situations needing an additive. He noted that he has had some good results and some bad results where he has to use other methods. Mr. Howe emphasized that his company only sells its products to septic contractors, not individuals.

**On a motion by Dr. Davis and seconded by Attorney Taylor, the Board of Health voted with respect to Cape Cod Biochemical Company to approve this product for use by contractors in Orleans without having to come before the Board for permission. CCLS (Custom Culture Liquid Settlers) is the product to be approved. The vote was 4-0-0.**

### **Agenda Item 8 – Hearing – 78 Old Colony Way, Danforth II, Unit A - Addendum**

Attorney Taylor again apologized to the other Board members for his frustration with the discussion during the hearing on 78 Colony Way, Danforth II, Unit A. Mr. Canning requested direction from the Board regarding the outstanding Health Department Orders.

**On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted in the matter of 78 Colony Way, Danforth II, Unit A that after hearing from both sides the Board dismissed the hearing. The Orders that are in place, that have been approved by the Board of Health, remain in effect for one year. The vote was 4-0-0.**

Dr. Schneider emphasized that contrary to Mr. Doddridge's opinion in his letter of August 17, 2011, Mr. Canning, as Health Agent, has the authority to enforce 105 CMR 410, the State Sanitary Code, Chapter II Minimum Standards of Fitness for Human Habitation.

### **Agenda Item 9 – Approve Minutes**

The minutes of the Board of Health meeting held on August 4, 2011 had previously been distributed to Board members for review and approval. Dr. Schneider stated that on Page 3, he had incorrectly stated that the lot size was just less than two acres where it was just less than 40,000 square feet.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to approve the minutes of the meeting on August 4, 2011 as corrected by Dr. Schneider. The vote was 3-0-1. Dr. Davis was not present at that meeting.**



## **Agenda Item 10 – Review Correspondence / Old and New Business**

10 – 1 – A letter from the Health Agent dated August 15, 2011 to Robert Plausky regarding 137 Rock Harbor Road, Unit #8 had previously been distributed to Board members for review and discussion. Mr. Canning reported that in response to a tenant's complaint, the Health Department conducted an inspection on August 1, 2011. At that inspection conditions existed to provide for insect harborage in the chimney. The owner was contacted and a dead raccoon was removed from the chimney. During that same inspection it was discovered that some of the windows and doors were lacking locks. On August 12, 2011 the Health Department received another complaint about hundreds of flies in the dwelling and made another inspection of the premises. The owner has been contacted again to remedy this situation which was as a result of not thoroughly complying with the original order. To date the owner has not replied to correspondence about the second complaint.

10 – 2 – A letter from the Health Agent dated August 18, 2011 to Trudy Nordhausen regarding 18 Industry Way, Unit B had previously been distributed to Board members for review and discussion. Mr. Canning reported that this case is closed.

10 – 3 – A letter from the Health Agent dated August 16, 2011 to Robin Sullivan and Dylan Stanton, Trustees of The Earth House Realty Trust regarding 121 Route 6A had previously been distributed to Board members for review and discussion. Mr. Canning reported that as a result of a septic inspection it was found that a cesspool exists on the property. He expects the owner will ask for Board approval to alter the septic system to abandon the cesspool and connect the sewer lines into the existing septic tank.

10 – 4 – Minutes of the July 13, 2011 Meeting of the Board of Managers for the Orleans, Brewster, Eastham Groundwater Protection District had previously been distributed to Board members for review and discussion.

10 – 5 – A letter to Daniels Recycling Company, Inc. dated August 18, 2011 and inspection report dated August 16, 2011 had previously been distributed to Board members for review and discussion. Mr. Canning reported that there has been additional improvement and they are close to compliance.

10 – 6 – A letter from Ben Buck dated August 5, 2011 regarding alternative wastewater treatment systems, pharmaceuticals in the water, and endocrine disruptors had previously been distributed to Board members for review and discussion.

## **Agenda Item 11 – Health Agent's Report**

Mr. Canning reported on the following:

11 – 1 – A copy of the Orleans Council on Aging **TIDINGS** announced the flu clinic to be sponsored by the Orleans Health Department and the VNA on September 23, 2011 from 1:00 p.m. to 4:00 p.m. He noted that there is plenty of vaccine for this flu clinic.

### **Temporary Food Permits**

The following had already occurred and had to be ratified.

#### **Nauset Farms**

Rob Sethares has his Certified Food Protection Manager but needed a variance for potentially hazardous foods and for cooking hot dogs, hamburgers, and shrimp outdoors on a grill at Nauset Farms during the power outage following Tropical Storm Irene. Mr. Canning explained that he had conferred with Attorney Taylor who concurred that a variance should be granted to Mr. Sethares, then ratified by Board members.

**On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted to grant a variance and ratify the Temporary Food Permit for Nauset Farms to cook hot dogs, hamburgers, and shrimp outside on a grill during the power outage caused by Tropical Storm Irene. The vote was 4-0-0.**

### **Cape Cod Healthcare**

Ritt Communications, a Research Focus Group held an event at Snow Library and served wrapped sandwiches, cookies, chips, water, and soda. All items were pre-wrapped and served immediately. Again, Mr. Canning and Attorney Taylor discussed and approved a Temporary Food Permit to be ratified by Board members.

**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to ratify the Temporary Food Permit issued to Cape Cod Healthcare / Ritt Communications to serve wrapped sandwiches, cookies, chips, water, and soda at the Snow Library. The vote was 4-0-0.**

### **Hernica Williams**

Hernica Williams has applied for a Temporary Food Permit to hold Bake Sales (to aid victims of the Springfield tornadoes and other charities) at Stop & Shop on September 10, and 29. She has requested a waiver of the fee because of her charitable work. She plans to sell home baked cake, brownies, or cookies. All items will be kept under a cake cover and served to order using paper plates or aluminum foil.

**On a motion by Mrs. Suraci and seconded by Attorney Taylor, the Board of Health voted to waive the fee and issue a Temporary Food Permit to Hernica Williams for a bake sale to be held on September 10 and 29, 2011 at Stop & Shop to aid the victims of the Springfield tornadoes and other charities. The vote was 4-0-0.**

### **Independent Fraternal Order of the ODD Fellows**

Ann Marie Gill has requested a variance needed for cooking outdoors, and for the menu. They do have a Certified Food Protection Manager for the event, the Ed Gill Memorial Run to be held on September 25, 2011 from 11:00 a.m. to 2:30 p.m. Hamburgers, hot dogs, clam chowder, raw oysters and littlenecks, and bottled water will be offered. The raw bar items are to be provided by a licensed retail shellfish truck which is refrigerated. The shellfish will be shucked to order and the shellfish will be held on ice in small batches at the shucking table. Hamburgers and hot dogs will be cooked on a gas grill and served to order. Chowder will be provided hot by Capt. Elmer's and will be held hot in chafing dishes. All items will be single use, and condiments will be served in individual packets. Tongs, gloves, ladles, and spoons will be used for service. Bleach and water will be used to sanitize tables and coolers. All food service will be on the lawn area with a tent over the food service area. Hand washing facilities will be available at the ODD Fellows lodge and there will be a portable hand washing station set up near the shellfish shucking area. Restrooms are available at the ODD Fellows and at Fitness Revolution.

**On a motion by Dr. Davis and seconded by Mrs. Suraci, the Board of Health voted to approve a variance for cooking outdoors and for the menu for the Ed Gill Memorial Run to be held at the ODD Fellows Hall on September 25, 2011 from 11:00 a.m. to 2:30 p.m. The vote was 4-0-0.**

### **Lower Cape Pop Warner**

Mr. Canning noted that for this applicant, one event has occurred and must be ratified; the next events must be approved. He explained that the Orleans Police Department determined that the Lower Cape Pop Warner football organization was serving refreshments at a football game without the proper variance for serving potentially hazardous food items on August 28, 2011. He noted that upon notification from the Police Department he had them cease cooking any fresh foods, but allowed them to continue to sell prepackaged food items.

Lower Cape Pop Warner, represented by Kristin Dash, is a nonprofit organization so it is exempt from the requirement to have a Certified Food Protection Manager during the events. However, the menu does offer potentially hazardous food items which will be cooked outside.

The events are held at the Nauset Regional Middle School Field, and are to be held August 28, (already occurred), September 4, September 25, October 2, October 16, and October 30, 2011. Coffee, hot chocolate, muffins, and donuts from Dunkin Donuts will be served from 9:00 a.m. to 11:00 a.m. Hot dogs and hamburgers will be served from 11:30 a.m. to 3:00 p.m. Bottled water, soda, juice, granola bars and chips will be available all day.

All food will be purchased (or donated) from a licensed food establishment and stored at a licensed food establishment (EPOCH of Brewster) until it is brought to the field the day of the games. Hamburgers and hot dogs will be kept in coolers with ice; hamburgers will be held and cooked from frozen. Hand washing facilities are not available on site. However, a hand washing station will be set up using a bucket with a spigot, hand soap and paper towels. Hand sanitizer also will be available. All potentially hazardous food items will be discarded at the end of the day (pre-packaged, shelf stable items will be stored at licensed facility until next use). Tongs, gloves and wax paper will be used for service with extra utensils available if needed. Only disposable items will be used for customer service. A tent will be provided over the serving area. Porta-potties will be available on site.

**On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted to ratify a variance to cook potentially hazardous food outside at the events on August 28, September 4, September 25, October 2, October 16, October 30, 2011 for the Pop Warner football games.**

Attorney Taylor noted for the record that the Pop Warner organization has requested this many times in the past. He was annoyed that they presented a permission slip from a year ago and tried to pass it off as current when challenged by the Police Department; and he expects that in the future they will apply in a more timely manner.

**The vote was 4-0-0.**

### **Tropical Storm Irene**

The tropical storm caused several power outages in Orleans. Of significant concern to the Board of Health was the loss of power in licensed food service establishments. Beginning early Monday, the Health Department contacted all commercial kitchens by site visit or telephone to determine their status. Based on the initial contact, follow-up communications were conducted. The commercial kitchen owners were cooperative and took the action necessary. As of today all of the commercial kitchens have had their power restored. Unfortunately a lot of food products were lost because of inadequate refrigeration.

Dr. Schneider reported that a restaurant at which he was dining was very complimentary about help from the Health Department staff during the power outage. Attorney Taylor noted that a resident expressed dismay that all restaurants don't have generators to maintain their refrigeration and freezer units when they lose power.

### **Flu Clinic**

Mr. Canning made the following announcement.

A flu clinic has been scheduled for Friday, September 23, 2011 between 1:00 p.m. and 4:00 p.m. at the Orleans Senior Center, 150 Rock Harbor Road. Pre-Registration is required and is available online by going to the Town of Orleans web site at: <http://www.town.orleans.ma.us>, click on Flu Clinic Registration. Individuals without internet access 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. and 4:00 pm. (Please have your insurance card ready prior to calling). Eligibility for flu vaccine at these clinics is open to all Orleans residents ages 18 and older. Please bring your insurance card and personal identification (photo ID/drivers license) to the clinic.

Plenty of vaccine is available and the clinic is being held early this year.

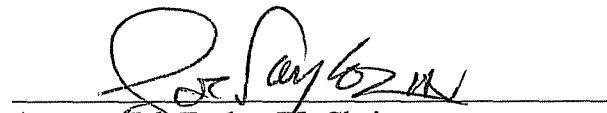
### **Agenda Item 12 – Adjournment**


**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted to adjourn this meeting at 4:45 p.m. The vote was 4-0-0.**

Respectfully submitted,


  
Lynda M. Burwell, Board Secretary

**ORLEANS BOARD OF HEALTH**

  
Attorney Job Taylor, III; Chairman

  
Jan Schneider, M.D.

Excused  
Augusta F. McKusick, Vice Chairman

  
Robin K. Davis, Ph.D.

\_\_\_\_\_  
Elizabeth Suraci

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**Date Approved/Accepted**

**DOCUMENTS PROVIDED FOR THE SEPTEMBER 1, 2011  
MEETING OF THE ORLEANS BOARD OF HEALTH**

**Agenda Item 2 – Variance Request – 8 Priscilla Road**

- 2 – 1 – Letters dated August 4, 2011 from TerraFilter regarding the Particle Size Analysis for #1 and #2.
- 2 – 2 – Packet information from June 2, 2011 and August 4, 2011 packets.

**Agenda Item 3 – Variance Request – 34 Route 6A**

- 3 – 1 – Variance Application Form from Ryder & Wilcox, Inc.
- 3 – 2 – Site Plan of Proposed Construction by Ryder & Wilcox, Inc. dated 8/5/11
- 3 – 3 – OHD letter dated 6/21/11 to Ryder & Wilcox, Inc.
- 3 – 4 – MDEP letter dated 7/14/11 to OBOH regarding proposed variances
- 3 – 5 – Excerpt of OBOH Minutes of Meeting on June 2, 2011

**Agenda Item 4 – Hearing Request – 225 Brick Hill Road**

- 4 – 1 – Hearing Application Form from Ryder & Wilcox, Inc.
- 4 – 2 – Proposed Sewage Disposal System Alteration dated August 19, 2011
- 4 – 3 – First and Second Floor plans
- 4 – 4 – Excerpt of 310 CMR 15.255

**Agenda Item 5 –Hearing Request – 191 Route 6A**

- 5 – 1 – Hearing Application Form from Ryder & Wilcox, Inc.
- 5 – 2 – Proposed On-Site Sewage Treatment and Disposal System dated Rev. 5/30/01 prepared by Ryder & Wilcox, Inc.
- 5 – 3 – Excerpt of 310 CMR 15.203

**Agenda Item 6 – Waiver Request – 26 Towhee Lane**

- 6 – 1 – Letter (no date) from Judith Bruce to OBOH including photo of area in question
- 6 – 2 – Existing Floor Plan (no date)
- 6 – 3 – Excerpt from 310 CMR 15.301 and OBOH Subsurface Sewage Disposal Regulations, Section VII. B and C
- Exhibit 6 – 1 – Revised Floor Plan (no date)

**Agenda Item 7 – Approval Hearing – Cape Cod Biochemical Company**

- 7 – 1 – Letter dated July 27, 2011 from CCBC
- 7 – 2 – Letter dated May 23, 2011 from CCBC
- 7 – 3 – OHD Letter dated July 1, 2011
- 7 – 4 – Excerpt of OBOH Minutes of Meeting on June 2, 2011

**Agenda Item 8 – Hearing – 78 Old Colony Way, Danforth II Unit A**

- 8 – 1 – David A Doddridge Letter dated August 17, 2011 to OHD
- 8 – 2 – OHD Letter dated August 10, 2011 to David A Doddridge
- 8 – 3 – OHD Letter dated June 14, 2011 to Albert Schoemann
- 8 – 4 – OHD Letter dated August 8, 2011 to Albert Schoemann
- 8 – 5 – Schoemann Letter dated August 16, 2011 to David A Doddridge
- 8 – 6 – Schoemann Letter dated August 17, 2011 to OHD
- 8 – 7 – OHD Letter dated August 18, 2011 to David Doddridge
- 8 – 8 – OHD Letter dated August 19, 2011 to David Doddridge and to Albert Schoemann
- 8 – 9 – Schoemann Letter dated August 24, 2011 to OHD

**Agenda Item 9 – Approve Minutes**

- 9 – 1 – OBOH Minutes of August 4, 2011

**Agenda Item 10 – Review Correspondence and Old/New Business**

- 10 – 1 – OHD Letter dated August 15, 2011 to Robert Plausky – 137 Rock Harbor Road, Unit 8
- 10 – 2 – OHD Letter dated August 18, 2011 to Trudy Nordhausen – 18 Industry Way, Unit B
- 10 – 3 – OHD Letter dated August 16, 2011 to Robin Sullivan & Dylan Stanton – 121 Route 6A
- 10 – 4 – Orleans, Brewster, Eastham Groundwater Protection District Board of Managers Meeting Minutes of 7/13/11
- 10 – 5 – OHD Letter dated August 18, 2011 to DRCI – 29 Giddiah Hill Road
- 10 – 6 – Ben A Buck Letter dated 8/5/11 to John Kelly and OBOS

**Agenda Item 11 – Health Agent's Report**