

## TOWN OF ORLEANS – BOARD OF HEALTH

### MINUTES OF MEETING

November 3, 2011

The Board of Health convened its meeting at 2:00 p.m. on Thursday, November 3, 2011 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Chairman Job Taylor, III, Jan Schneider, M.D., and Robin Davis, Ph.D. 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, Elizabeth Suraci

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

There was no one present for Public or Press.

#### **Agenda Item 2 – Variance Request – 176 Quanset Road**

Mr. Andy Grover of Ryder & Wilcox represented Jim and Diane Sapienza, owners of the property at 176 Quanset Road. He distributed three Site Plan Sketches dated August 11, 2011 (*Exhibit 2-1*). Mr. Grover explained that currently there are two dwellings located on property; one with five bedrooms and one with four bedrooms, and the current septic systems serving each house. The owner proposes to remove the four-bedroom house and rebuild the five-bedroom house to contain seven bedrooms. All wells and current septic systems will be abandoned and a new I/A septic system and town water will be installed. Mr. Grover outlined the set-back variances being requested.

Attorney Taylor discussed the proposed variances and commented on the inclusion of town water and use of an I/A septic system.

Mr. Canning outlined that this parcel consists of 81,000 square feet (1.86 acres) and an additional parcel of land (6 acres) abuts this property. He noted that this property is under Order to Repair the existing septic systems and that Board members might consider this proposal an improvement over maintaining both dwellings on the property with variances for upgraded septic systems.

Board members noted the plan as presented, although requiring drastic variances, is an improvement over the current property.

There were no abutters present.

**On a motion by Dr. Schneider and seconded by Attorney Taylor, the Board of Health voted in the matter of 176 Quanset Road. The issue at stake is the geography is a parcel of land surrounded by wetlands and will need variances no matter what is done with it. The plan as proposed involves the complete demolition and removal of a smaller dwelling which currently contains four bedrooms and is served by cesspools which are under Order; and the major reconstruction of the larger dwelling down to its foundation, the current house having five bedrooms, and erecting a new building somewhat expanded over the foundation of the old to a total of seven bedrooms, this being a reduction of total bedrooms by two. Furthermore, the redesign of the septic systems with a nitrogen-reducing I/A system coming, replacing the two current systems; and town water is going to be piped in. In order to do this on the geography a series of variances have been listed, both to State and Title 5 requirements and to those of Orleans. The variances as requested are:**

- **There be a nineteen foot (19') variance of the septic tank being six feet (6') from a coastal bank where twenty-five feet (25') is required by the State.**

- A forty-two foot (42') variance to the soil absorption system to be eight feet (8') from the coastal bank where fifty feet (50') is required by the State.

Since Orleans' regulations are somewhat more stringent, two variances of the septic tank of forty-four feet (44') and the soil absorption system of ninety-two feet (92') for a variance.

I move that because of the improvement that this project proposes over the current system, that we approve the request as listed.

Finally, there are a series of variances required for the Reserve Area should this ever become necessary.

- A twenty-six foot (26') variance to the Reserve Area to the coastal bank.
- A seventy-six foot (76') variance to the Reserve Area to the coastal bank by the more stringent Orleans standards.

The vote was 3-0-0.

### **Agenda Item 3 – Definitive Subdivision – 79 & 89 Portanimicut Road**

Mr. Philip Scholomiti of Ryder & Wilcox represented the Sand Heap Trust I Nominee Trust, owner of the property at 79 and 89 Portanimicut Road. The property is in Groundwater Protection District 3. Division of this property will create two lots where Lot 1 currently contains two dwellings. The total area of Lot 1 parcel is 4.59 acres. Lot 2 will have a panhandle access to approximately three acres. Lot 1 is under a Conservation restriction providing a right of way where the panhandle is planned. He discussed the future septic system plans if the subdivision is approved.

Board members inquired of the number of bedrooms in the two dwellings to which Mr. Scholomiti responded he would have that information after conducting the septic inspections.

Mr. Canning explained that Title 5 requires that prior to division of any land any existing septic systems must be inspected. The presence of cesspools would be considered "failure" under the Board of Health regulations. He also discussed the Conservation restriction and how the Nutrient Management Regulations affect use of the lot.

Board members questioned further about the Conservation restriction. It appears that the smaller dwelling is used only seasonally, and currently there are no plans to change either dwelling.

Mr. Canning will inform the Planning Board of the discussion at this meeting.

### **Agenda Item 4 – Determination/Variance Request – 110 Hopkins Lane**

Ms. Dee Higgins and Richard Harris, owners of the property at 110 Hopkins Lane, were present for this hearing. Ms. Higgins requested a determination as to whether the dwelling has three or four bedrooms prior to marketing the house for sale. She discussed her calculations of the light and ventilation of the two upstairs bedrooms noting that they might be incorrect. She also explained that the septic system is designed for four bedrooms but the house is classified as three bedrooms in the Assessor's records.

Mr. Canning outlined the three decisions for Board members to consider. First, review the request for a variance to Chapter 2 of the State Housing Code regarding the two bedrooms on the second floor. Second, consider the "approved capacity" as listed on the latest septic plan. Third, determine if and how the Nutrient Management Regulations affect this discussion. Mr. Canning reviewed his memo to File. (*Packet Item 4-5*)

Discussion ensued to determine if the upstairs bedrooms meet the criteria of a bedroom considering the ceiling height, light, and ventilation. Mr. Canning described the two upstairs bedrooms, noting that one room is just shy of the minimum requirements. The other upstairs bedroom is split by a chimney partition making one area of the room unusable but the other portion similar in size to the other upstairs bedroom.

**On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of 110 Hopkins Lane to consider the upstairs bedrooms to be bedrooms and downstairs two rooms to be**

bedrooms despite the fact that they are slightly shy of light and ventilation in view of the fact that it is an older building. The vote was 3-0-0.

Mr. Canning clarified that the second issue is that of the capacity of the septic system.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted that in view of the historical fact that this room was one of four bedrooms over the years that this house was occupied with a full family. Only later did it become used for other purposes. It was still and architecturally did not change. Therefore I would say that in my motion, that we approve apparently this as a fourth bedroom; recognizing that the current Title 5 system, which was installed in 1990, has a capacity for the four bedrooms which it normally would have if we approve this motion. The vote was 3-0-0.

### **Agenda Item 5 – Discussion – 23 Herring Brook Way**

No one was present for the discussion of 23 Herring Brook Way.

### **Agenda Item 7 – Approve Minutes**

The minutes of the Board of Health meeting held on September 1, 2011 had been previously distributed to Board members for review and discussion. Dr. Schneider recommended a minor change to the minutes.

On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to approve the minutes of the meeting held on September 1, 2011, as amended. The vote was 3-0-0.

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

8 – 1 – The minutes of the Orleans, Brewster, Eastham Groundwater Protection District meeting held on September 22, 2011 had previously been distributed to Board members for review and discussion.

8 – 2 – A report from the Cape Cod Commission regarding the Development of Regional Impact of the Orleans Comprehensive Wastewater Management Plan had previously been distributed to Board members for review and discussion. The full report is located in the Health Department office.

8 – 3 – A letter from GHD of the Quarterly Gas Sampling Results at the Orleans Landfill had previously been distributed to Board members for review and discussion. Mr. Canning noted that all results were within the limits required by the state.

### **Agenda Item 9 – Health Agent's Report**

Mr. Canning reported that there would be another flu clinic to be held on Friday, November 18, 2011 from 2:00 p.m. to 4:00 p.m. at the Orleans Senior Center. Pre-registration is required and is available by using the town's website or by calling the Health Department or Senior Center. This clinic is open to all Orleans residents age 18 or older.

9 – 1 – A letter from the Health Department to Daniels Recycling Company, Inc. dated October 25, 2011 requesting them to be present at a hearing scheduled for November 17, 2011 at 3:00 p.m. had previously been distributed to Board members for review and discussion.

9 – 2 – A memo from Erika Woods, Assistant Health Agent, to file regarding a follow-up inspection conducted at Daniels Recycling Company's facility had previously been distributed to Board members for review and discussion.

### **Agenda Item 6 – 3:00 p.m. Public Hearing – Board of Health Fees**

Attorney Taylor opened the Public Hearing to hear comments and consider adoption of the 2012 Board of Health Fee Schedule. Mr. Canning read into the record the legal advertisement previously published in the Cape Codder which included the list of proposed fees.

Board members noted that they had previously discussed the proposed fees and expressed appreciation to the staff of the Health Department for their work in developing comparisons with other Cape towns.

There was no one present to comment on the proposed fees.

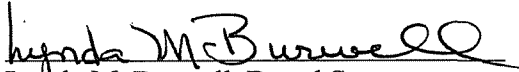
Attorney Taylor declared the Public Hearing closed.

**On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted that in view of the discussion we have already had and in view of the very careful and thorough presentation we have just heard, I move that we accept the changes as they were presented to the Public Hearing. The vote was 3-0-0.**

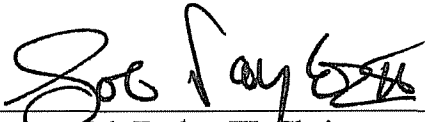
### **Agenda Item 11 – Adjournment**

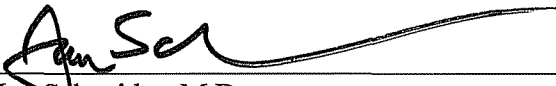
**On a motion by Attorney Taylor and seconded by Dr. Schneider, the Board of Health voted to adjourn this meeting at 3:10 p.m. The vote was 3-0-0.**

Respectfully submitted,

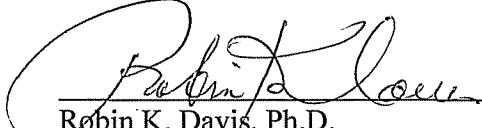
  
Lynda M. Burwell, Board Secretary

### **ORLEANS BOARD OF HEALTH**

  
Attorney Job Taylor, III; Chairman

  
Jan Schneider, M.D.

Excused  
Augusta F. McKusick, Vice Chairman

  
Robin K. Davis, Ph.D.

Excused  
Elizabeth Suraci

December 15, 2011  
Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE NOVEMBER 3, 2011  
MEETING OF THE ORLEANS BOARD OF HEALTH**

**Agenda Item 2 – Variance Request – 176 Quanset Road**

- 2 – 1 – Letter and Variance Application Form prepared by Ryder & Wilcox
- 2 – 2 – Floor Plans of Existing Dwellings and Proposed Dwelling
- 2 – 3 – OHD Letter to Dickson Island Trust dated 4/20/11 Order to Repair Main House Septic System
- 2 – 4 – OHD Letter to Dickson Island Trust dated 4/20/11 Order to Repair Guest House Septic System
- 2 – 5 – Topographical map of Existing Conditions
- Exhibit 2-1 – Three Site Plan Sketches of Building Coverage Calculations

**Agenda Item 3 – Definitive Subdivision – 79 & 89 Tonset Road**

- 3 – 1 – Letter and Preliminary Subdivision Plan Application Form prepared by Ryder & Wilcox
- 3 – 2 – Preliminary Subdivision Plan of Land prepared by Ryder & Wilcox dated 10/13/11

**Agenda Item 4 – Determination/Variance Request – 110 Hopkins Lane**

- 4 – 1 – Letter request for bedroom determination from Deanna M. Higgins dated 10/25/11
- 4 – 2 – Letter from FELCO, Inc. dated 10/19/11
- 4 – 3 – Excerpt of 105 CMR 410.000
- 4 – 4 – Assessor's Record of 110 Hopkins Lane
- 4 – 5 – OHD Letter to File dated 10/14/11
- 4 – 6 – Disposal Works Construction Permit dated 10/26/90

**Agenda Item 5 – Discussion – 23 Herring Brook Way**

- 5 – 1 – Counihan Letter request for discussion dated 10/20/11
- 5 – 2 – OHD Letter to JC Ellis Design dated 7/28/11
- 5 – 3 – JC Ellis Design Septic System Upgrade Plan dated Rev. 8/1/11
- 5 – 4 – OHD Letter to Counihan dated 9/6/11

**Agenda Item 6 – Public Hearing – Board of Health Fees**

- 6 – 1 – Legal ad for Public Hearing on 11/3/11
- 6 – 2 – List of Board of Health Fees
- 6 – 3 – Comparison of Cape Cod Towns' Board of Health Fees

**Agenda Item 7 – Approve Minutes**

- 7 – 1 – OBOH Minutes of September 1, 2011

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

- 8 – 1 – Orleans, Brewster, Eastham Groundwater Protection Dist. Meeting Minutes of 9/22/11
- 8 – 2 – Summary of Cape Cod Commission Decision dated 10/13/11 re: Orleans Comprehensive Wastewater Management Plan
- 8 – 3 – GHD Letter dated 10/25/11 re: Quarterly Gas Sampling Results for Orleans Landfill

**Agenda Item 9 – Health Agent's Report**

- 9 – 1 – OHD Letter dated 10/25/11 to DRCI re: Public Hearing on 11/17/11
- 9 – 2 – OHD Memo to File dated 10/27/11 re: DRCI Follow-up Inspection of DRCI