



TOWN OF ORLEANS – BOARD OF HEALTH MINUTES OF MEETING

September 20, 2012

The Board of Health convened its meeting at 2:00 p.m. on Thursday, September 20, 2012 in the Skaket Meeting Room of the Orleans Town Hall.

Present: Vice Chair Elizabeth Suraci, Augusta McKusick, Jan Schneider, M.D., and Robin Davis, Ph. D. Also present: Health Agent Robert Canning, Finance Committee Liaison Dale Fuller and Susan Christie Selectmen Liaison.

Excused: Chairman Job Taylor, III

Agenda Item 1 – Public or Press

There was no one present for Public or Press.

Agenda Item 2 – Variance Request – 23 Herring Brook Way

Mr. Jason Ellis of J.C. Ellis Design Co. represented Timothy and Carol Counihan, owners of the property at 23 Herring Brook Way. Mr. Ellis explained that during installation of the new septic system the pump chamber had been installed slightly closer to the drain that intercepts high groundwater, and less than ten feet from the property line. He requested modification to the variances granted previously.

Mr. Canning reviewed and read through the previous variances granted by the Board of Health on June 2, 2011.

Eileen Chamberlain, abutter at 25 Herring Brook Way, questioned that the septic system installed is very close to her property line and that she could find no evidence that the property had been surveyed. Her septic system is located very close to the same property line and could the new construction have compromised the soil structure supporting her septic system. If the town changes its regulations, would its location prevent her from enlarging her system if needed?

Mr. Canning explained that the new soil absorption system meets the minimum ten-foot setback from a property line requirement. If necessary, Title 5 would allow a variance to within ten feet between two systems. Mr. Ellis explained that the property was surveyed sometime around July, 2009.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of 23 Herring Brook Way, to modify the variances described by Mr. Canning as follows:

- 1. The proposed pump chamber is located twenty feet from a drain that intercepts high groundwater where a twenty-five foot separation is required. A five foot variance request. This variance is being modified to an eight foot variance to allow installation of the pump chamber seventeen feet from the drain.**
- 2. The pump chamber was installed nine feet six inches from the property line where ten feet is required. A variance of six inches is allowed.**

The vote was 4-0-0.

Agenda Item 3 – Variance Request – 29 & 29A Cove Road

Mrs. Stephanie Sequin of Ryder & Wilcox, Inc. represented Lynn and Dona Pike, owners of the property at 29 and 29A Cove Road. Mrs. Sequin noted that the main three-bedroom dwelling (29) was built in 1966 with a series of three cesspools. The two-bedroom cottage (29A), built in 1945, has a 1000 gallon septic tank and leaching pit. Because the property is for sale and has cesspools, they proposed to upgrade the septic systems for both dwellings. There are two buildings with a total of five bedrooms on a 12,500

square foot lot; with other factors such as the water line, two driveways, brick walkways, topography, and several mature trees to be considered. The two bedroom septic system would consist of the existing 1000 gallon septic tank and a Cultic system designed for two bedrooms. There would be no variances needed for this system. The main house (29) new system requires two variances in order to install an upgraded system: one variance to allow the soil absorption system to be installed five feet from the property line, a five foot variance; and one to allow a portion of the soil absorption system to be greater than 36 inches below the final grade, a two foot variance.

Mr. Canning discussed that because the design criteria for the cottage (29A) is less than 330 gallons per day a deed restriction will be required. He also explained that Title 5 allows components more than three feet below the surface with the use of H-20 components and the system is vented.

Board members discussed the indication on the plan of H-20 components.

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 29 and 29A Cove Road. I move that we grant the upgrade approval for this property as presented on this plan dated September 6, 2012. We grant a five foot variance of minimum setback distance to the eastern property line for the soil absorption system for the main dwelling. A two foot variance shall be granted for the soil absorption system to be more than 36 inches below grade. The system has to be vented and as designed, an H-20 system will be put in place. The two-bedroom cottage (29A) should have a deed restriction because is cleared for 238 gallons per day. The vote was 4-0-0.

Agenda Item 4 – Variance Request – 6 Burning Bush Lane

Mr. Andrew Grover of Ryder & Wilcox, Inc. represented Martin and Joanne Healy, owner of the property at 6 Burning Bush Lane. Mr. Grover distributed a panoramic view of the back yard and proposed pool area. (*Exhibit 4-1*) He proposed a swimming pool with a fence greater than twenty feet from the pool apron and explained that the existing stockade fence is in good condition and that the remaining fencing would be four feet in height with self-closing gates. The entire pool area can be observed from the house and there are no doors from the house directly into the pool area. Mr. Grover requested a variance to be a maximum of 43 feet from the pool apron at its furthest point.

Mr. Canning explained that the Board can grant a variance to the town by-law requiring fencing less than 20' from the pool area.

Board members noted that the plan shows a half wall to be constructed. Mr. Grover was asked about a studio showing on the property site plan and was told that it is an existing structure that will be staying where it is and is outside the pool plan.

There were no abutters present.

On a motion by Dr. Schneider and seconded by Mrs. McKusick, the Board of Health voted in the matter of 6 Burning Bush Lane. The question at hand is the proposed installation of a swimming pool and the required fence that has to give it complete protection, which by State regulations, should be no more than twenty feet away from the periphery of the pool. However, because of the aesthetics on the one hand, and the shape of the lot on the other, it is proposed that at certain points in the perimeter this exceeds twenty feet. At its furthest point, being a corner basically, it will be forty-three feet away. The other distances are within reach; maybe twenty-five or twenty-five and three-tenths, at the other corners of the pool. I, therefore, propose that we approve this variance to the regulation. The vote was 4-0-0.

Agenda Item 5 – Determination/Variance Request – 21 Standish Road

Mr. Charles and Mrs. Jean Snow, owners of the property at 21 Standish Road, were present for this hearing. Mrs. Snow explained that the Snow family has owned this property since 1944 but it was built

around 1900 as a four-bedroom dwelling. There are no ceilings in any of the rooms and no foundation, therefore it is used only during the summer months. Because the property is for sale, Ryder & Wilcox had prepared an engineering plan for a four-bedroom Title 5 septic system. However, upon evaluation by the Health Department, two bedrooms do not meet the State criteria of a bedroom because of lack of sufficient light and ventilation. The windows could be replaced but they prefer that the character of the dwelling be maintained. Mr. Snow reiterated that the four rooms have always been used as bedrooms.

Mr. Canning noted that it would be a variance to Chapter II of the Housing Code for rooms 3 and 4. He outlined the measurements of both rooms and their light and ventilation.

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 21 Standish Road, property owned by the Snows. Findings are that this is an old Cape house, a cottage well over one hundred years old. It has been used as a cottage with four bedrooms since its existence although bedroom 3 and 4 are slightly short on natural light and ventilation. The house does have a totally open ventilation system because none of the separating walls go to a ceiling. I would move then that we grant a variance from Chapter II of the Housing Code for light and ventilation for bedrooms 3 and 4; and furthermore ask that a deed restriction be recorded that this is a four-bedroom house. The vote was 4-0-0.

Agenda Item 6 – Determination/Variance Request – 10 Highview Lane

Mr. Norman Proctor, owner of the property at 10 Highview Lane, was present for this hearing. He distributed a packet of plans and other documents (Exhibit 6-1). There is confusion whether there are four or five bedrooms in the house, and the property is for sale. Mr. Proctor explained that when the house was constructed in 1987 the original plans were revised to include construction of a bedroom and bathroom over the garage. He also noted that the plans were redesigned at that time for a five-bedroom septic system. Mr. Proctor noted that there is a prospective buyer for the property and the question of four or five bedrooms must be clarified.

Mr. Canning noted that in 1987 a septic permit for a four-bedroom dwelling was approved. The as-built on file shows a system consisting of a 1000 gallon septic tank, distribution box, and a six foot by eleven foot leaching pit (larger than originally approved). The Certificate of Compliance shows that a redesigned plan must be submitted by the engineer. The revised plan dated July 9, 1987 shows an increase in the number of bedrooms to five, and the adjusted leaching area. The Certificate of Compliance was issued on October 23, 2011. However, the Building Department has plans for four bedrooms, not including the bedroom over the garage; there is no record indicating that the house was constructed with five bedrooms. Mr. Proctor has records verifying that the room and bathroom above the garage were completed during the original construction, but only the Health Department records were changed to five bedrooms in 1987. It has been proven that the flow for five bedrooms existed legally prior to July 1, 2009; however the Board would have to determine the flow for the septic system.

Board members discussed the break in the paper trail. However, the house has an established flow of 550 gallons per day and Mr. Proctor has convinced the Board that the dwelling has had five bedrooms since the original construction in 1987.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of 10 Highview Lane. There is an issue of the total number of bedrooms. Quite clearly and from what we have been told, and from photographic evidence, this house and including the attached garage, both built in 1987, has five bedrooms, one built over the garage and four in the main house. The Health Department's paper trail always spoke of five bedrooms. Indeed, the septic system established has a capacity of 550 gallons per day, enough for five bedrooms. However there is a paper glitch which is not the concern of the Board of Health. In the Building Department which for some reason, their plans for this dwelling show only four bedrooms. However, since we are reassured that this system can cope with 550 gallons per day, and has done so certainly since 1987, that we reestablish a paper trail that the septic system is up to that capacity. The vote was 4-0-0.

Agenda Item 7 – Hearing Request – 89 Portanimiticut Road

Mr. Jonathan Gilmore, representing himself, his father (living at the property), and his two brothers, trustees of the property at 89 Portanimiticut Road, was present for this hearing. The property is about seven acres, and has two residences (one a cottage and a salt box with seven bedrooms) both having cesspools. Previously they had filed for a subdivision and have two approved septic plans to replace the cesspools. However, because his father is still living in one of the dwellings nothing will be done with the subdivision plan at this time. Mr. Gilmore requested that the order to upgrade the septic system be extended until after his father passes.

Mr. Canning noted that the Health Department issued an order in February, 2012 after inspections were conducted as a result of the subdivision plan. Mr. Gilmore had filed a petition in March requesting an appeal of the upgrade timing. If the property is sold, Mr. Canning urged that the two cesspools be upgraded.

Board members discussed whether the systems had been inspected for structural stability. Mr. Canning reported that there are no reports on the structural stability of the cesspools.

On a motion by Mrs. McKusick and seconded by Mrs. Suraci, the Board of Health voted in the matter of 89 Portanimiticut Road that the property is held in trust. It is an eight acre property. There are two dwellings on there and because it is anticipated that it may be a subdivision, the two cesspools that serve the property's two dwellings would need to be upgraded. However the main house is the domicile of an elderly gentleman and the systems have not failed. I move that we extend the Board of Health order until January 1, 2014 with the exception that if the system should fail or the land is sold or subdivided we would readdress this situation. The vote was 4-0-0.

Agenda Item 8 – Approve Minutes

The minutes of the Board of Health meeting held on August 16, 2012 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 held on August 16, 2012 as presented. The vote was 4-0-0.

Agenda Item 9 – Committee Appointments

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted to elect Robert Rich to another three-year term as representative to the Board of Water and Sewer Commissioners. The vote was 4-0-0.

Agenda Item 10 – Review Correspondence / Old and New Business

10 – 1 – A Request for Waiver for Septic System Inspection at 3 Namskaket Road had previously been distributed to Board members for review and discussion. The distribution box cannot be located and access to the septic tank is more than seven feet deep making it not accessible to run a line to observe.

On a motion by Dr. Schneider and seconded by Dr. Davis, the Board of Health voted in the matter of 3 Namskaket Road to grant a waiver for inspection of the distribution box prior to sale of the property. The vote was 4-0-0.

10 – 2 – A letter from the Health Agent to the Associate Commissioner of the Bureau of Environmental Health regarding the licensure of public bathing beaches in Orleans had previously been distributed to Board members for review and discussion.

10 – 3 – A letter from Chrysalis Environmental Services regarding disposal of “sharps” in the regular trash had previously been distributed to Board members for review and discussion. Mr. Canning noted that disposal of sharps is handled in Orleans by the Fire Department; and he described what would be considered sharps.

10 – 4 – A compilation of Unit Activity for Cape Cod Medical Reserve Corps. From September 1, 2011 through September 1, 2012 had previously been distributed to Board members for review and discussion.

10 – 5 – A notification from the Mass. Department of Health regarding the fifth confirmed case of Eastern Equine Encephalitis and fifteenth case of West Nile Virus had previously been distributed to Board members for review and discussion.

Agenda Item 11 – Health Agent’s Report

There will be a flu clinic scheduled for Orleans residents on Thursday, September 27, 2012 from 1:00 p.m. to 4:00 p.m. at the Council on Aging.

Licensing/Permits

Temporary Food Permits

Orleans Chamber of Commerce

Mary Corr representing the Orleans Chamber of Commerce had requested a Temporary Food Permit and a Variance for cooking outdoors and for the menu to be served. The Chamber Clambake/Barbeque will be held at the Odd Fellows Hall on September 29, 2012 from 12:00 noon to 5:00 p.m. John Sully would be the Certified Food Protection Manager for the event.

Lobster, steamers, corn, and potatoes would be cooked in a traditional clambake format.

- Start by digging a pit and lining with rocks
- Start a wood fire to heat the rocks then remove a majority of the wood ash.
- Layer wet seaweed, vegetables and then seafood in pit and cover with a tarp.
- All products are steam cooked by this method.
- All items will be served when done, there will be no hot holding.
- This portion of event is pre-order only

Hot dogs would be cooked in a steamer, and finished on a grill.

John Sully, of the Yardarm, would prepare and serve clam chowder, raw littlenecks, cooked shrimp, cocktail sauce, and cut lemon.

- Raw bar would be provided by a licensed retail shellfish purveyor.
 - Shellfish to be shucked to order
 - Shellfish will be held on ice at shucking table in small batches
- Chowder would be heated at the Yardarm to 165° F, transported hot, and will be held hot in a crock pot.
- Shrimp would be pre-cooked and held on ice.
- Pre-portioned cocktail sauce would be available.
- Lemons would be cut at the Yardarm and held on ice.

Frank Ferzoco of Dr. Frank N’ Swine would prepare and serve ribs, brisket, chicken, pulled pork, baked beans, bottled or canned water and soda.

- Pulled pork, baked beans and brisket would all be cooked ahead of the event at the Universal Lodge kitchen and would be held hot in insulated hot holding units.
- Chicken and ribs would be cooked on-site in a smoker/ grill.
- Food will be from licensed sources.

The CFPM would be on site and will act as a “floater” in order to monitor proper food handling. All items would be single use, and condiments would be available in individual packets. All leftover food will be discarded. Hand-washing facilities would be available at the Odd Fellows Hall and there would be a portable hand-washing station set up near the food production area. Restrooms would be available at Odd Fellows Hall and there would be porta-potti’s on site. Tongs, gloves, ladles, spoons would be used for service with extra utensils available if needed. Sanitizer will be specifically purchased for the event and used to sanitize tables and coolers. All food service would be on the lawn area with a tent over the food service area.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the Chamber of Commerce Clambake/Barbeque to be held on September 29, 2012 at the Odd Fellows Hall. Temporary Food Permits are granted to the Chamber of Commerce, Yardarm, and Dr. Frank N' Swine and grant Variances for the cold, hazardous foods. Note that John Sully will be the person in charge and food handler. The vote was 4-0-0.

Orleans Fire Department

The Orleans Fire Department has requested a Variance for the menu to be served during their Fire Prevention Week Pizza Party on October 6, 2012 from 1:00 p.m. to 3:00 p.m. at the Orleans Fire Station. Because the Fire Department is a non-profit organization, a Certified Food Protection Manager would not be required. Pizza and lemonade would be served. The pizza would be provided by Papa Gino's. The lemonade would be store bought, pre-made in bottles and served in disposable cups. The event would be held indoors. Gloves would be worn to prevent bare-hand contact with ready-to-eat food. Hand-washing and restroom facilities would be available at the Fire Station.

On a motion by Mrs. McKusick and seconded by Mrs. Suraci, the Board of Health voted in the matter of the Orleans Fire Department Fire Prevention Week Pizza Party to grant a Variance for the menu to be served on October 6, 2012. The vote was 4-0-0.

Cape Cod Fish Share

Dave Henchy, a Farmers' Market Retail Food vendor, was previously approved to sell on September 15, 2012 and would like to continue through the end of the season.

The fish would be picked up in Chatham and brought to a facility in New Bedford for processing, where it is filleted and pre-packaged into portions of 1.25 lb. and 1.5 lb. The food establishment will be delivering fish that has been pre-ordered through the fish share as well as selling retail at the market. All fish would be held in a refrigerated truck, on ice until it is picked up by customer. There would be no display of food. Temperature logs would be kept every half hour. The food establishment has wholesale and retail truck permits through DMF, mobile food vehicle permit from Brewster, State Hawker and Peddler license, and a HACCP manager certification.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of the Cape Cod Fish Share to grant a Farmers' Market Retail Food Permit. The vote was 4-0-0.

Dry Swamp Bog Farm

Vincent Ollivier and Kevin Galligan have applied for Residential Retail and Farmers' Market Retail permits. The Serve Safe exam is scheduled for Saturday, September 15, 2012 so the Health Department will not have the results before the next Farmers' Market. Their plan is to start with bagging dried cranberries that have been processed at a licensed facility (Decas Brothers). The cranberries are from their bog and have been transported to the facility for processing. Their future plans include whole berry cranberry sauce and cranberry jelly as well as cranberry vinegar. Inspection of their kitchen was conducted on September 12, 2012 and everything was in order.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the Dry Swamp Bog Farm to grant the two permits; one for a Retail Food Permit and one for a Farmers' Market Retail Permit. The vote was 4-0-0.

Orleans Community Partnership

On October 5 and 6, 2012 the Orleans Community Partnership will sponsor a Ukulele Jam and a Ukulele workshop. They will be serving pre-packaged cookies and snacks, bottled water, and coffee from a local establishment. Restrooms and hand washing facilities will be available in the building. There will be no bare hand contact with the ready-to-eat food.

On a motion by Mrs. McKusick and seconded by Dr. Schneider, the Board of Health voted in the matter of the Orleans Community Partnership to move approval of their two events on October 5 and 6, 2012. The vote was 4-0-0.

Hunan Gourmet

On July 12, 2012 the Board of Health voted to accept the HACCP plan for the acidification of rice at the Hunan Gourmet Restaurant. This approval was necessary for the preparation of Sushi. A review of the record indicates that the Board did not formally vote to grant the variance for the process.

On a motion by Dr. Davis and seconded by Dr. Schneider, the Board of Health voted in the matter of the Hunan Gourmet Restaurant to approve the Variance for preparation of Sushi. The vote was 4-0-0.

Disposal Works Installers Permit

Kelly Sullivan, owner of Dig It Construction has applied for a Disposal Works Installer Permit. They are currently installing a septic system at 9 Main Street, under a State permit.

On a motion by Dr. Schneider and seconded by Mrs. Suraci, the Board of Health voted in the matter of Dig It Construction to grant a Disposal Works Installers Permit. The vote was 4-0-0.

Agenda Item 12 – Adjournment

On a motion by Dr. Schneider and seconded by Mrs. McKusick, the Board of Health voted to adjourn this meeting at 3:27 p.m. The vote was 4-0-0.


Respectfully submitted,


Lynda M. Burwell, Board Secretary


ORLEANS BOARD OF HEALTH

Excused

Attorney Job Taylor, III; Chairman


Jan Schneider, M.D.


Elizabeth Suraci, Vice Chair


Robin K. Davis, Ph. D.

Augusta F. McKusick


Date Approved/Accepted

**DOCUMENTS PROVIDED FOR THE September 20, 2012
MEETING OF THE ORLEANS BOARD OF HEALTH**

Agenda Item 2 – Variance Request – 23 Herring Brook Way

- 2 – 1 – Variance Application by J.C. Ellis Design Company, Inc.
- 2 – 2 – OHD letter to JC Ellis dated July 28, 2011
- 2 – 3 – Excerpt of OBOH Meeting Minutes June 2, 2011

Agenda Item 3 – Variance Request – 29 & 29A Cove Road

- 3 – 1 – Variance Application Form by Ryder & Wilcox, Inc.
- 3 – 1 – Proposed On-Site Sewage Treatment and Disposal System plan by Ryder & Wilcox dated September 6, 2012

Agenda Item 4 – Variance Request – 6 Burning Bush Lane

- 4 – 1 – Letter from Ryder & Wilcox dated September 6, 2012 including Site Plan
- Exhibit 4 – 1 – Panoramic view from in front of kitchen windows

Agenda Item 5 – Determination/Variance Request – 21 Standish Road

- 5 – 1 – Letter dated August 22, 2012 from Charles N. Snow
- 5 – 2 – OHD memo to File dated August 17, 2012
- 5 – 3 – Four photographs of bedrooms
- 5 – 4 – Assessor's Record

Agenda Item 6 – Determination/Approval Request – 10 Highview Lane

- 6 – 1 – Letter from Norman W. Proctor dated September 4, 2012
- 6 – 2 – OHD memo to File – Chronology of events
- Exhibit 6 – 1 – Various documents including revised floor plans

Agenda Item 7 – Hearing Request – 89 Portanimiticut Road

- 7 – 1 – Letter dated March 20, 2012 from Jonathan Gilmore
- 7 – 2 – OHD letter dated February 7, 2012 to Jonathan B. Gilmore Tr.

Agenda Item 8 – Approve Minutes

- 8 – 1 – OBOH Minutes of Meeting held on August 16, 2012

Agenda Item 10 – Review Correspondence / Old-New Business

- 10 – 1 – Request for Waiver, Difficulty Locating Components – 3 Namskaket Road
- 10 – 2 – OHD letter dated September 6, 2012 to Bureau of Environmental Health – Town beaches licensed
- 10 – 3 – Letter from Chrysalis Environmental Services dated August 22, 2012 – Sharps disposal
- 10 – 4 – MRC Activity from September 1, 2011 through September 1, 2012
- 10 – 5 – MDPH Notification – EEE and WNV