

## TOWN OF ORLEANS – BOARD OF HEALTH MINUTES OF MEETING

December 20, 2012

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

Present: Chairman Job Taylor, III, Vice Chair Elizabeth Suraci, and Augusta McKusick. Also present: Health Agent Robert Canning, Selectmen Liaison Susan Christie and Finance Committee Liaison Dale Fuller.

Excused: Jan Schneider, M.D. and Robin Davis, Ph.D.

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

Mrs. McKusick discussed a new organization, Orleans Can, whose mission is to provide factual information in support of a wastewater management implementation plan that is effective, economical, efficient and equitable for the citizens of Orleans. For more information about the group and its mission, go to [www.Orleanscan.org](http://www.Orleanscan.org).

### **Agenda Item 2 – Variance Request – 40 Gesner Road**

Mr. Tim Brady of East Cape Engineering, Inc. represented Charles Silbert, owner of the property at 40 Gesner Road. Mr. Brady explained that several years ago a septic system was designed for the existing house. However a new dwelling is proposed and they would like to relocate the house further from the wetlands and in that process, move the septic tank and pump chamber. This plan has been approved by the Conservation Commission. On the new plan there is no room to show a reserve area because of the location of wetlands, therefore any new system would need to be built in the same place as the proposed system. Mr. Brady requested a variance to the Orleans requirement to show a Reserve Area on the plan because it cannot be shown without variances. He noted that Mr. Canning advised him about a Title 5-compliant Reserve Area, but he explained that any new system would have to be built in the same location as shown on the proposed plan.

Attorney Taylor explained that it was his opinion that a Title 5-compliant Reserve Area could not be shown on the proposed plan without a variance. At this point Mr. Brady requested a continuation of the hearing.

Mr. Canning reiterated the history of the property. In 2006 the Board of Health granted variances for repair of the septic system and for setbacks to a property line and the wetlands (the top of the coastal bank). Previously, according to Title 5, a Reserve Area was not required for repair of a septic system. The Health Department received an application for replacing the dwelling and moving the septic system as a result of a change to the foundation. He discussed the change in foundation and the fact that it is not able to meet the Orleans regulations for a Reserve Area. The proposed dwelling takes up more room on the lot; therefore it prevents showing a feasible Reserve Area on the plan. The Reserve Area could not be shown in 2006, and still cannot be shown as required.

Board members discussed that in 2006 a compliant Reserve Area could not be shown. If it was impossible then why could it be possible now? Mr. Canning explained that Mr. Brady is requesting a variance to the requirement to show a Reserve Area noting that, if necessary in the future, a replacement septic system would be located in the same area as the proposed septic system. Mr. Canning also noted that Mr. Brady might be able to show a Reserve Area in compliance with Title 5. Regardless of showing a Reserve Area

on the plan, the solution to replacing a failed septic system or component would be to excavate the old one and place the new one in the same location.

It was noted that moving the house further from the wetlands (top of coastal bank) is a great environmental advantage, but the Reserve Area must be shown on the plan in order to meet the standards of Title 5.

Mr. Brady emphasized that when or if this system fails, the best place to put it is back where it is. Once again, he requested a continuance of this hearing to the next meeting on January 3, 2013.

**On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted in the matter of 40 Gesner Road to continue the discussion until the next meeting which, I believe, is January 3, 2013. The vote was 3-0-0.**

### **Agenda Item 3 – Preliminary Subdivision Review – 84 & 90 Portanimicut Road**

Mr. Tim Brady of East Cape Engineering, Inc. was present for this hearing. The owner of the property is Coffman Portanimicut Road Nominee Trust and Robert A. Moss, Jr. Mr. Brady explained that this proposed subdivision plan is to convert two parcels of land into three with a proposed road offering access to the two rear lots. Each lot would have in excess of 40,000 square feet of land. The owner has proposed well water because of the expense to bring town water to the two rear lots. A gravel road is proposed to facilitate drainage and there are no wetlands within 100 feet of the properties. Lot 3 would accommodate a five-bedroom dwelling while the houses on Lots 1 and 2 could each have four bedrooms.

Mr. Canning explained that there are no existing septic systems requiring inspection prior to approval. These proposed lots would be subject to Orleans Nutrient Management Regulations and possibly the District 2 Groundwater Protection District Regulations of one bedroom per 10,000 square feet of land. In the past the Board of Health has expressed concern that potable water must be supplied to all lots.

Mr. Brady offered that they have not drilled any test wells to determine the possibility of potable water on the properties; however, in the event that potable water is not available, town water could be piped in from Portanimicut Road.

Board members inquired about the house behind this property. Mr. Brady explained that the house has been demolished and the property is now owned by the town.

It was a consensus of the Board that the proposed subdivision plan would be appropriate and they have no comments for the Planning Board.

### **Agenda Item 4 – Discussion/Approval Request – 148 Route 6A**

Mr. John O'Reilly of J.M. O'Reilly & Associates, Inc. represented Joanne Liberles and Chris Hardman (also present), owners of the property at 148 Route 6A. Mr. O'Reilly proposes to change the use from being classified as an office space to a yoga/Pilates studio. The sewage design plans allowed for office space at 115 gallons per day. This compares to an educational facility with no cafeteria, showers, or gymnasium at five gallons per day per person. They would be limited to a maximum of twenty-three people per day. Each session would have approximately three to ten people and occasionally fifteen on a weekend day, with two or three sessions per day.

Mr. Canning explained that previously this issue has been discussed by the Board of Health with exercise facilities being classified as office space; this facility has been requested to be classified as an educational institution. The daily flow per square foot for this educational space is very close to the daily flow per square foot for the office space.

**On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted in the matter of 148 Route 6A to grant the request. The vote was 3-0-0.**

## **Agenda Item 5 – Review Correspondence / Old and New Business**

Mr. Canning announced that the Health Department has closed the housing violation issue at 33 Eli Rogers Road. All housing items have been satisfied and the underground fuel storage tank has been removed from the property.

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

### **6 – 1 – Orleans Community Partnership**

The Orleans Community Partnership represented by Stephen Bornemeier, requested a Temporary Food Permit to serve food at two events at the "Old Firehouse" at Parish Park. A teen sing-a-long is to be held on Friday, December 28, 2012 from 4:00 p.m. to 10:00 p.m. and an "Eye on the Sixties Reception" is to be held on Monday, December 31, 2012 from 1:00 p.m. to 6:00 p.m. They will be serving purchased bottled and canned beverages (non-alcoholic) as well as prepackaged snacks. Prepared coffee and tea will be obtained from Hot Chocolate Sparrow, Dunkin Donuts, or a similar outlet. Restrooms will be available on site for hand washing.

**On a motion by Mrs. McKusick and seconded by Mrs. Suraci, the Board of Health voted to approve the Temporary Food Permit for the Orleans Community Partnership for a teen sing-a-long to be held on December 31, 2012 from 4:00 p.m. to 10:00 p.m. The vote was 3-0-0.**

**On a motion by Mrs. McKusick and seconded by Attorney Taylor, the Board of Health voted to approve the Temporary Food Permit for the Orleans Community Partnership for an "Eye on the Sixties" Reception to be held on December 31, 2012 from 1:00 p.m. to 6:00 p.m. The vote was 3-0-0.**

### **Vote to Waive Fees**

The Orleans Board of Health Fees requires a \$25 Administration Fee for Food Service Establishments for Non-Profit Establishments. Historically the Board has waived the administration fee for town and school Food Service Establishments. The following applications have been received by the Health Department:

- Nauset Regional Middle School
- Orleans Council on Aging
- Orleans Elementary School

**On a motion by Attorney Taylor and seconded by Mrs. Suraci, the Board of Health voted to waive the fees. The vote was 3-0-0.**

Mrs. McKusick suggested that a policy be established for waiver of the fees for town Food Service Establishments. Mr. Canning explained that there are several non-profit organizations that have Food Service licenses. He also explained that the Board has waived the fees for Temporary Food Permits for special events at a non-profit organization. This vote was to waive the fees for Annual Food Service Permits for town and school Food Service Establishments.

## **Discussion**

### **I/A Technology Monitoring Requirements – 176 Quanset Road**

Mr. Canning explained that on November 3, 2011 the Board granted variances for the repair of a septic system at 176 Quanset Road. The variances were for the redevelopment of a property which had two dwell

ings (total of nine bedrooms) into one dwelling having seven bedrooms. He listed the variances as follows:

To 310 CMR 15.211 Minimum Setback Distances:

- The proposed septic tank is to be six feet from a coastal bank where a 25 foot setback is required. A 19 foot variance request.
- The proposed soil absorption system is to be eight feet from a coastal bank where a fifty foot setback is required. A 42 foot variance request.
- The proposed reserve area is located 24 feet from a coastal bank where a fifty foot setback is required. A 26 foot variance request.

To Orleans Board of Health Subsurface Sewage Disposal Regulations Section 185-17 3 (D) Setback Requirements:

- The proposed septic tank is to be six feet from a coastal bank where a fifty foot setback is required. A 44 foot variance request.
- The proposed soil absorption system is to be eight feet from a coastal bank where a 100 foot setback is required. A 92 foot variance request.
- The proposed reserve area is located 24 feet from a coastal bank where a 100 foot setback is required. A 76 foot variance request.

The proposal included the addition of an I/A Technology unit. However, at the time of the approval the Board did not set the conditions for its approval. The proponent would like to move forward with the installation of the septic system and is awaiting the Board's conditions of Approval. Mr. Canning listed the following conditions usually required by the Board in similar situations:

- In addition to any testing required by the DEP, if the property is to be used on a year-round basis, the owner is to test the influent and effluent quarterly for BOD, TSS, and total nitrogen. **If the property is to be used seasonally, the owner is to test the effluent two times per year for BOD, TSS and total nitrogen.** The concentration of total nitrogen of the effluent is limited to no greater than 19 PPM. All results for this monitoring must be submitted electronically thru the Barnstable County Health Department's Carmody Database program within thirty (30) days of the sampling date.
- All conditions of the DEP general approval for an AdvanTex System must be strictly adhered to.

**On a motion by Mrs. McKusick and seconded by Mrs. Suraci, the Board of Health voted in the matter of 176 Quanset Road to approve the recommended conditions but keep the testing at quarterly until notified by the owner that the property is used seasonally. The vote was 3-0-0.**

Mrs. McKusick reported that she and Dr. Davis met with Mr. Canning to review the data on I/A systems. She noted there were some improvements and some properties had no change. Mr. Canning suggested discussing this information when the whole Board is present.

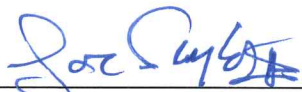
### **Agenda Item 7 – Adjournment**

**On a motion by Mrs. McKusick and seconded by Attorney Taylor, the Board of Health voted to adjourn this meeting at 2:39 p.m. The vote was 4-0-0.**

Respectfully submitted,

  
Lynda M. Burwell, Board Secretary

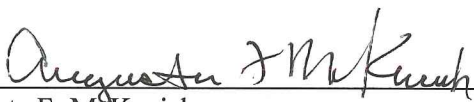
**ORLEANS BOARD OF HEALTH**

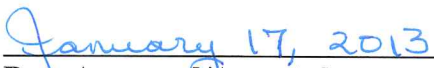
  
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Attorney Job Taylor, III; Chairman

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Excused  
Jan Schneider, M.D.

  
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Elizabeth Suraci, Vice Chair

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Excused  
Robin K. Davis, Ph. D.

  
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Augusta F. McKusick

  
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Date Approved/Accepted

**Documents Provided For the December 20, 2012  
Meeting of the Orleans Board of Health**

**Agenda Item 2 – Variance Request – 40 Gessner Road**

- 2 – 1 – Request for Variance prepared by East Cape Engineering
- 2 – 2 – Site and Proposed On-Site Sewage Treatment and Disposal System Plan by Ryder & Wilcox, dtd. Jan. 24, 2006
- 2 – 3 – Site Plan- Removal of Existing House and Proposed Dwelling by East Cape Engineering dtd. Dec. 7, 2012
- 2 – 4 – Excerpt of 310 CMR DEP Title 5, 15:301, System Inspection
- 2 – 5 – Prior correspondence between OHD and Ryder & Wilcox

**Agenda Item 3 – Preliminary Subdivision Plan – 84 & 90 Portanimiticut Road**

- 3 – 1 – Planning Board memo transmitting the Preliminary Subdivision Plan for OBOH review.
- 3 – 2 – Color map showing parcels

**Agenda Item 4 – Discussion/Approval Request – 148 Route 6A**

- 4 – 1 – Letter from J.M. O'Reilly & Associates dated December 14, 2012
- 4 – 2 – OHD Letter dated December 14, 2012 re: 65 Old Colony Way - Classification

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

- 6 – 1 – Orleans Community Partnership Application for Temporary Food Establishment