



**Town of Wareham  
Board of Health**

**Meeting Minutes**

**September 1, 2010**

**Present: Guy Campinha  
Diane Allen  
Dr. Thomas Gleason  
Lisa T. Irish**

**Robert M. Ethier, Health Agent**

**Chairman Guy Campinha opened the Board of Health Public Hearing Meeting at 4:08, September 1, 2010. Dr. Charles Gleason notified us that he is on vacation. So, we are going to move ahead with the agenda.**

**4:05p.m. 230 Blackmore Pond Road, J.C. Engineering – Variance to Local Regulations  
– New Construction**

**Approved with condition.**

**J.C.:** We are seeking to re-apply for permission to construct a 3 bedroom home since those previous permits have expired. We are asking for a Variance from 150 foot setback down to 100 and we are asking for an additional bedroom Variance. We are designing for a three bedroom, which is minimum for Title V. We are also installing a MicroFast Tank to provide further treatment.

**GC:** This MicroFast, does that require a maintenance agreement?

**J.C.:** This is under a General Permit.

**GC:** So, it requires a maintenance agreement.

**J.C.:** I would require a maintenance agreement? Twice yearly or yearly?

**GC:** It could be twice it could be 4 times. But we need to get that. That would come under the manufacture's recommendation maybe. I would want to see that. I also want to see a maintenance agreement in place, signed, so when the owners come in that they have got that maintenance agreement, that they are well aware of what they have to do to maintain this system. That is going to be part of the package. On the three bedroom, Bob, how do we assure that down the road that they don't go and change it to 4?

**RE:** We make them put a note on the plan that a deed restriction has been applied for so as not to increase. But on new construction, I don't know if it is gonna fly. I think that was the problem before. The system was too big, was it no?

**J.C.:** I can't fit a 4 bedroom. I could fit a 4 bedroom but I don't have enough for reserve. I am able to fit a 3 bedroom primary and 3 bedroom reserve

on the site. So, we are building a 3 bedroom on the site.

**GC:** I don't have a problem with a 3 bedroom. I just want to be assured that we are not going to get a 4 bedroom. It is always going to maintain a 3 bedroom. As long as there is an assurance of that, I have no problem with that. I agree. Instead of trying to get a 4 in there. I am not objecting to 3 bedrooms with a restriction. I want that someplace in writing. I want that disclosed to the homeowner and everybody.

**J.C.:** I am trying to avoid additional costs to the homeowner.

**RE:** A couple of years ago the Board decided that a deed restriction on the plan would be acceptable.

**GC:** Is that binding?

All I am saying is that I don't have a problem. What you are doing is fine. I am not worried about you. I am worried about someone behind you. I want full disclosure and if it is just the plans, that's fine.

**RE:** I think when they come with a new construction permit application from the building department and I have to review it and if they try to get anything more than that, I usually catch it. In this case, I think it would be acceptable. It has been acceptable in the past. I am worried about Conservation. Have you been there yet?

**J.C.:** Yes. Approved.

**RE:** Approved? Okay, good. I will talk to John. If you could just vote on it and make a final decision after I talk to him.

**GC:** Does anyone else have any questions.

**DA:** **I make a Motion that we grant a Variance of the 50ft, from 150 to 100 and a Variance from designing for an additional bedroom, 3 bedrooms instead of 4.**

**RE:** And Bob's suggestion is that it's contingent about his talking with John Churchill.

**DA:** Okay, with the contingent of Mister Ethier talking with the engineer, John Churchill.

**GC:** **Okay and I second it, so it is moved.** So, we are all set. Bob will talk to Mister Churchill and from there we will be fine. Thank you. Nice job.

**4:10p.m. 33 Agawam Lake Shore Drive, C.S.N. Engineering – Variance to State & Local Regulations – Upgrade All Variances Granted.**

**GC:** Move the septic tank 10 ft., I think they are going to go 6.8. Septic tank from property is going to 4. They requested 6, 10 ft. property line, 5.5. 10ft from the property line, 7.9. That's what they can get us. 10ft. from the nearby property line, they need 7. 20ft from the foundation wall, they need a 10 ft Variance. 10ft from the water supply line, 4. I think they can sleeve it. The septic tank, they want 1000 instead of 1500. State your name and tell us who you are and tell us what you need.

**UNK:** [237].

**GC:** I think they speak for themselves.

**RE:** I think you have to either sleeve the water line or move it. You can not put a barrier in there.

**GC:** I think the wise way would be to sleeve it and then a barrier for the foundation. You need to protect that. You want to prevent cross contamination. They are going to make a chamber with the 1000 septic tank.

**RE:** Actually you can't do it without half of those Variances or any of them even under maximum feasible compliance. So, they are worthy of this job and I know it has not been easy. But I would vote that we give her the Variances as long as she changes that letter that says you have to sleeve the water line and still ask for the Variance of 6 feet. Revised plan and revised letter that has to go into the file also.

**GC:** Any questions? Okay.

**LI:** **I make a Motion that we grant the following Variances. Number 1: Septic tank not 10 ft from foundation wall, 3.2 ft. Variance. Number 2: Septic tank not 10ft from Westerly property line, 6 ft Variance. Number 3: SAS not 10ft from Westerly line, 5 ft Variance. Number 4: SAS not 10 ft. from Easterly property, 2.1 ft Variance. Number 5: SAS not 10 ft. from Northerly property line, 7 ft Variance. Number 6: SAS not 20 ft from foundation wall, 10 ft Variance. Number 7: SAS not 10 ft from water supply, 6 ft Variance. Number 8: Septic tank capacity not 1500 gallons but 1000 gallons, 500 gallon Variance. Number 9: Septic tank/Pump chamber greater than 36 in below finish grade, a 7 in Variance. And we need revised letter for a sleeved water line. For 33 Agawam Lake Shore Drive.**

**GC:** **Seconded. So moved. We are all set.**

**4:15p.m. 47 Barker Road, J.E. Landers-Cauly – Variance to State Regulations – Upgrade**

**Variance Granted**

**GC:** We have had this before.

**RE:** I came before the Board on this issue a while back, two months ago anyway. This is down the end of Shangri-La. I went out there to do a final inspection and the system was way down in the ground. It looked like it was a big hole and I noticed right off the bat that you can not re-grade this because the house is a certain elevation, there is a big hill right around it and then the road it right here. So, if you try to swing that elevation down, you are just going to create a bowl. So we are just waiting. When I talked to the DEP, Brett Rowe, .... What we need from you is, you have to pay for the Variance request, give us a Variance request letter and come back up before the Board because we are not prepared and then let them vote on it again and then you can go to the DEP from there. But we are trying with Mister Landers here to try and get this thing resolved. I mean it has been in the ground a long time.

**GC:** Why can't we grant the Variance contingent upon your following up with the State. Why have him come back? If you are comfortable with it, that makes the most sense.

**RE:** I think it is a final resolution to this.

**GC:** I think we should grant the Motion and then let you follow it up and chase it and do what has to be done.

**DA:** **I make a Motion that we grant a Variance for 47 Barker Road, local Variance for placement of 7 ft 1 in of fill over SAS, with Mister Ethier following up with the State.**

**GC:** **Okay, I second the Motion. So, approved.**

**4:20p.m. Cape Cod Gas – Smoking in the Workplace – Violation**

**Fined \$200.00**

**GC:** You are the representative for Cape Cod Gas? Would you state your name?

**GB:** My name is George [0002]. I am the manager of the ....

**GC:** What is going on?

**GB:** We are here before you for the charges for the .... We have signs – **No Smoking**, on the pumps. We have gone to court twice already on these things. We have tried our best. We ask for stickers so we can put everywhere. We want to be legal in everything we do. Some customers they just don't listen. We can't call the cops every time.

**GC:** So, you are saying that it is a customer who was smoking.

**GB:** We don't smoke.

**GC:** So, it is not an employee. No.

**GB:** We don't know when it happened or who complained but we don't smoke.

**GC:** Let me find out what was observed.

**BE:** I was not personally on this one at all. I was informed by Bob Colette, who is with the Cape Cod Tobacco program and also the DPA. He says the manager was in his office smoking. It was a violation. They have already one selling to minors, I believe. So, the suggestion of Bob Colette is a \$200 fine and it says here a suspension for 7 consecutive days. But because he was smoking, I would ask the Board to waive the removal of the cigarettes from the store because there was not a selling violation. Bob Colette was adamant that it was ....

**GC:** If he mis-identified the smoker, manager or some other worker, he says there is smoking in the building.

**BE:** He said that the manager was smoking in his office.

**GC:** Now you are aware of the first offense, selling to a minor?

**GB:** No, one of the ....

**GC:** But you were still the manager?

**GB:** Yes.

**GC:** So, you are aware of that. And you are stating that if there was smoking, it was not you or anybody else, it was a customer.

**GB:** We have a small office, not even bigger than this table. We don't smoke.

**GC:** Was it on the island Bob or was it in the building?

**BE:** It was in the manager's office. They caught the manager.

**GC:** Where is your office, inside the building?

**GB:** Inside the garage.

**GC:** So, your office is really small in the garage.

**GB:** Maybe 4 by 5, 4 by 4, a small desk, a camera and the coffee machine.

**BE:** Mr. Colette is out of town. He said he would be glad to appear and identify the person that was smoking in the office at the next hearing, if we choose to do that.

**LA:** I think that is probably best.

**BE:** Give him the benefit of the doubt.

**GC:** If you are not there, who is in charge?

**GB:** I am not there all the time. Couple of guys.

**GC:** Maybe could it be one of those who was smoking. Sometimes someone from the garage could come in. So, it means he could have seen someone else smoking. But you are responsible for that person.

**GB:** Maybe someone in the garage was smoking.

**GC:** Does somebody in the garage work for you?

**GB:** Yes.

**GC:** Okay. So, if you had a mechanic in there and he was smoking... Okay and you are recommending a \$200 fine?

**BE:** Well, first offense was Selling to Minors. Second offense was Smoking in the Building. Are Regulations are both the same statute. It does not say here that it is a separate issue. It was a separate offense not the same twice. I suggest to the Board that in the future, if that happens, if it is the third offense, you still lose your license to sell for 30 days. Whether you are smoking in the building or not.

**GC:** What he is saying is that it is a \$200 fine. You can let this go and let Bob Collette come in and try to identify the smoker or just have the fine and if he accepts the fine, then be done with it. And if he doesn't then we will have Bob Collette here so we can have testimony.

**TG:** It would seem to me that somebody was smoking. Doesn't matter who it was. I would go with the fine and go from there.

**GC:** I agree.

**GB:** You do what needs to be done.

**BE:** Under the circumstances, would the Board wish to waive the 7 day suspension of the permit to sell cigarettes? Only because it was a smoking violation and not a selling.

**GC:** I would suggest we waive the 7 days. I think it is a \$200 fine. And he has assured us that he will .... I would like to see some type of plan. I know it sounds kind of crazy but some kind of a written plan of how you are going to go about stopping people from smoking in the building. Remember next time it happens, you are going to lose your permit to sell.

**DA:** I make a Motion that we fine Cape Cod Gas for Smoking in the Workplace, \$200.

**GC:** I second that. You can see Suzanne sometime. Good luck. Thank you.

**4:25 p.m. 222 Lake Avenue, Valler/Chapter II violation – Order to Appear**

**Motion to hold for re-inspection**

**GC:** State your name.

**GV:** George Valler.

**GC:** And you are at 222 Lake Avenue.

**GV:** That is correct.

**BE:** Here is the original complaint, garbage and trash. The neighbors made the original complaint. Here is some photos. I believe Dave took these photos. Here is the letter that was written. There was a subsequent letter. The reason that the gentleman and his wife are here is because of these complaints and these photos in here. Here is the Chapter II Violations.

**GC:** These photos are the re-inspection or the original inspection.

**BE:** Those are the original inspection. The re-inspection letter was right here and this was dated August 23<sup>rd</sup>. The original letter was dated July 6<sup>th</sup>.

**GC:** So, it is well over 30 days. This was originally inspected by John on a complaint?

**BE:** This was inspected I believe, by Dave Flaherty.

**GC:** I think the original complaint was....John Viveros.

**GC:** And then David followed up.

**DA:** So, it hasn't been taken care of.

**GC:** Go right ahead.

**GV:** I would like to know who did the last inspection.

**GC:** David Flaherty, according to the letter, yes.

**GV:** Why didn't he knock on my door?

**GC:** What do you mean?

**GV:** And why with the first inspection, Mr. Viverios, came to my door, introduced himself, told me the problem and he took some pictures and that was that. The second person, who I see is not here...

**GC:** Let's go back. Did Mr. Viverios, when he knocked on your door, did he tell you what had to be done or put that in writing? Did you get a copy of the letter that said you had 30 days to correct it?

**GV:** Yes.

**GC:** Okay so you were informed that you had 30 days to inspect it.

**GV:** Now, when the second person came, who is not here, he never came to my door.

**GC:** Why would he come to your door? He came to see ....

**GV:** To tell me who he was and what he was doing.

**GC:** Well, let me ask you this. In the 30 days that the letter said that you had to correct, you made the corrections?

**GV:** Absolutely.

- GC:** So, you are refuting. What I hear you saying is that he came and said it was not done but in fact it was done.
- GV:** Right. My husband is 76 years old. If you came to my house today, you would see there is nothing out there. The person who made the complaint ..... There is not tarp, there is no garbage.
- GC:** I think there is a terminology problem. You are saying that it is all furniture and we will get the Code for you. So you can see what the State calls what this here is. I know what you are thinking, trash from the house, rubbish, garbage. I think it goes beyond that because if you have .... But it is cluttered. I look at it and there is no question in my mind that there is clutter.
- BE:** Let me read them the definition of rubbish and garbage. I will go out there in the next couple of days and see if they have cleaned up and if it is acceptable, I will dismiss the case and you can go on about your business. Maybe the letter went out before you had done anything.
- GC:** In the future, if you can't make the 30 days, give them a call and show progress. Bob will go out there and if it is fine, fine. If not we will have you come back here.
- DA:** **I make a Motion that we hold the Chapter II Violation on 222 Lake Avenue until it is re-inspected.**
- GC:** **I second it.**

**4:30 p.m. 112 Fearing Hill Road, Flaherty & Stephani – Variance to Local Regulations**

**Variance Granted**

- RF:** Good afternoon. My name is Robert Flaherty.
- TG:** The well is at the front of the lot?
- RF:** Yes.
- GC:** He is going to make a 10 ft. setback here. There will be two. This is zoned for 3 bedrooms and not in a zone 2.
- BE:** Do you have any off set distances from the well on the property?
- RF:** Yes, we do.
- DA:** **I make a Motion that we grant the Variance to 112 Fearing Hill Road to allow the homeowner to maintain his existing well, which would be 101 ft. from the proposed SAS.**
- GC:** **I second.**

**4:35 p.m. Recycling Committee, Law Enforcement – Discussion**

Marilyn Field Recycling Co-ordinator discussed Pay as You Throw program. Talked about the trailer parks, apartment buildings and rooming houses using dumpsters and offering recycling. Discussed SEMAS encouraging recycling. How to separate regular trash from recycling.

- TG:** You can not blame the haulers if the people in the trailer parks and apartment buildings do not put their stuff in the proper containers.

**GC:**

The haulers need to go to the trailer parks or apartment buildings and inform them that they need to appropriately separate their trash and recycling goods because they are going to get fined. The State of Massachusetts does not mandate recycling right now. It really is not in the hauler's control.

Prepared by: J. Reed  
Date: September 27, 2010

Signed and dated: \_\_\_\_\_

Guy S. Campinha, Chairman \_\_\_\_\_

Charles S. Gleason, M.D., Member Charles S. Gleason

Diane E. Allen, Member Diane E. Allen

Thomas L. Gleason, M. D., Assoc. Member Thomas L. Gleason MD

Lisa T. Irish, Assoc. Member Lisa T. Irish

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