

# Board of Health

June 30, 2005

5:00 p.m.

**Members Present:** Mark Baker, Dan Brown, and Duane Gregory

**Members Absent:** None

**Health Agent:** Jane Evans

**Health Inspector:** Vacant

The meeting was called to order at 5:10 p.m.

## AGENDA

### Public Comments

1. Diane Corbo addressed the Board about her on-going concern with George Bryant's property. She noted that it had been one year since she last addressed the BoH on this matter and that rather than things getting better, it is evident that Mr. Bryant's "dump" is getting worse. With the lack of a Health Inspector, Mr. Bryant has not been issued a ticket since February 2005. Ms. Corbo noted that recently unmarked cars are being parked in the Angel Foods parking area for repairs. She noted that 9' of debris has now accumulated along all the fences and was again encroaching upon the Angel Foods parking area. She urged the members of the BoH to drive by to witness first-hand the situation. She also noted that she now has documented, written proof of the loss of income from renting her upstairs apartment (a loss of \$1200 per week rented). She noted that the Town has within its power to order a DPW clean-up of the property and place a lien against the property for payment of the removal of the debris and wonders why that step has not been taken. She also wondered why the ZBA and Building Commissioner have not cited this property for being an illegal dump. She realizes that the DRM is understaffed at present, but pleaded with the Town to take action. She also noted that this is not personal; she likes Mr. Bryant – but thinks that this may be the result of a mental disorder.
2. The BoH allowed Health Agent Jane Evans to respond. Jane stated that just today she ticketed Mr. Bryant and took pictures for the on-going litigation that the Town is pursuing against Mr. Bryant. The next scheduled court dates are July 28-29<sup>th</sup>. Hopefully some resolution will come from that.
3. Richard Ferri, PhD stated that he too lives in close proximity to Mr. Bryant's property and believes that it has indeed become a "dump." He believes that this is a matter of public health as he believes rodents are present in the dump heaps. He called the situation "horrendous."

### Old Business

#### 41 Off Cemetery Road – Appeal BoH Decision

William Rogers, his wife Ruth, and Environmental Specialist Paul Shea appeared to present Mr. Rogers' case to the Board. Mr. Rogers reminded the BoH that in 2001 there was a fire at their home. On March 8, 2001, he appeared before the Board and received permission for a voluntary upgrade to his septic system in conjunction with the repair to his home from the fire damage. However, in June 2001 Mr. Rogers became involved in a family lawsuit that kept him from pursuing the septic system upgrade. That lawsuit was finally settled in January or February 2005 and the septic system upgrade design was then completed.

However, in the interim, The BoH had passed a new regulation stating that if a septic system was to be located within 100' of a wetland, then alternative technology needed to be used. However, he noted that the new regulation did allow for a case-by-case determination – hence, his appeal to the BoH's decision made at its June 3<sup>rd</sup> meeting (which he apologized for not attending; he was under the impression that his case was going to be heard at the June 16<sup>th</sup> meeting).

Mr. Rogers noted that since the June 16<sup>th</sup> BoH meeting was cancelled due to a lack of a quorum, he proceeded to go before the Conservation Commission with Mr. Shea at its June 21<sup>st</sup> meeting to present his septic system upgrade plan. Mr. Shea stated that the ConCom had granted this project a "negative 3 determination," which meant that they saw no problem with the proposed system that was originally submitted to the BoH on June 3<sup>rd</sup>. The basis of

ConCom's decision was that the wetland in question is a site-regulated, isolated wetland and *not* a state/DEP regulated wetland. Citing that this was a voluntary upgrade, ConCom voted in favor of the proposed plan.

Mr. Rogers also noted that his proposed system is 12' above high ground water and about 61' from the site-regulated, isolated wetland.

Jane Evans noted that this was indeed new information about the type and delineation of the wetland, and that she agreed that no ground water issues were apparent in the area of the proposed system.

**Motion: Mark Baker moved and Duane Gregory seconded a motion to continue this case to the July 7<sup>th</sup> meeting to allow time for Mr. Rogers to submit to the Board and the Health Agent all the pertinent information from Mr. Shea and the minutes of the ConCom meeting; the Board would study the information and take the case up again at its next meeting. Vote: 3-0-0.**

## **New Business**

### **L. Douglas Freeman - New Temporary Tattoo Artist License**

Mr. Freeman noted that he had submitted to the Health Agent proof of liability insurance and noted that the policy would be renewed – along with all the other policies on his establishment – by the 8/9/05 expiration date. Mr. Freeman noted that he would be using a new form of temporary tattoo that utilizes alcohol-based paint. He would still adhere to the 18-year old restriction of the BoH's regulations and utilize the stipulated Release Form. He assured the Board that the product was 100% safe.

Jane Evans noted that the proof of insurance had been provided as well as the product information. She concurred that the product was safe and that Mr. Freeman possessed the required training necessary to apply the temporary tattoos.

Duane Gregory asked if his establishment had complied with ceasing to operate their Oxygen Bar – per the state's orders. Mr. Freeman acknowledged that he had.

**Motion: Duane Gregory moved and Dan Brown seconded a motion to approve Mr. Freeman for a temporary tattoo artist license. Vote: 3-0-0.**

### **Kristin Grella - New Massage Therapist License**

Jane Evans said she has the applicant's paperwork and all is in order. Mark noted that her insurance certificate expires today.

**Motion: Dan Brown made a motion and Duane Gregory seconded it to approve the LMT license with one condition that proof of a renewed insurance certificated must be presented to the Health Agent. Vote: 3-0-0.**

Mark then reminded the applicant that outdoor massage is not allowed in the Town of Provincetown – she acknowledged that.

### **25 Pearl Street – Title 5 Variance Request**

Mr. Jason Ellis presented the case on behalf of the owner, James Patrick. He noted that in preparation of a possible property transfer (the property is currently on the market), the owner was taking the pro-active step of complying with the new BoH regulation to upgrade his two cesspools to a Title 5 system. He further noted that a flow barrier would be installed (Plan Note #13). Duane led a discussion wishing to have a specific time limit placed into the motion so that the upgrade would indeed take place.

Jane noted that given the limited space on the lot, this "split" system appears to be the best possible solution.

**Motion: Duane Gregory moved and Dan Brown seconded a motion to approve the 4/15/05 plan for 25 Cottage Street with the requested variances with the following four conditions:**

- 1. A deed restriction limiting the number of bedrooms on the property to the existing three be filed with the Barnstable County Registry of Deeds;**
- 2. Every effort be made by the designer and installer to relocate the above-grade exit line to below-grade;**
- 3. All precautions be taken to protect the foundation and shed on parcel 87; and**
- 4. That the system be installed and a Certificate of Compliance be issued no later than 60 days after the property transfer closes.**

**Vote: 3-0-0.**

### **10 Washington Street – Title 5 Variance Request**

Reggie Donoghue of Coastal Engineering presented the case on behalf of the owner, Vernon Brown. He noted that this property consists of a 6-bedroom dwelling with four additional 1-bedroom cottages on the lot. He noted that

where required by the Water Dept. all water lines would be sleeved appropriately as noted on the plan. He also drew attention to the town drainage system that ran down the middle of the property and that his design had allowed for access to this should the town need to repair it. He further noted that although state Title 5 regulations allow for a 50% reduction in the SAS if alternative technology (enhanced nitrogen removal system) is used, his plan only called for a 37% reduction with the use of this technology.

Jane Evans noted that due to the small lot size, coverage on the lot, and the town drain system, this plan appears to be the only location for the new system.

**Motion: Dan Brown moved and Duane Gregory seconded a motion to approve plan C16507.00 dated 5/20/05 for 10 Washington Avenue with the condition that a deed restriction limiting the number of bedrooms on the property to the existing ten be filed with the Barnstable County Registry of Deeds. Vote: 3-0-0.**

### **Discussion – Harbor Committee Concerns**

Unfortunately, no member of the Harbor Committee was in attendance. With the Board's consensus, Mark will contact the Chair of the Harbor Committee and ask that they come to the next meeting if they still want to discuss issues of possible mutual concern.

### **Approval of Minutes for June 2, 2005**

Unfortunately, no minutes were in the Board's packets; therefore, a vote on the June 2<sup>nd</sup> minutes will take place at the July 7<sup>th</sup> meeting.

### **Any other business that shall properly come before the Board**

1. **Board Applicants:** Richard Ferri, PhD, ACRN, CNP and Geraldine ("Jerry") Anathan appeared before the Board to discuss their interest in becoming members. Dr. Ferri noted that he had served on the BoH for 5 years under Annie Howard. Jerry noted her business dealings in town and her eagerness to learn in order to serve the town. The Board thanked both these applicants for their interest and told them they would be contacted. The applicants then left the premises.
  - a. **Motion: Mark Baker moved and Duane Gregory seconded a motion to approve Geraldine ("Jerry") Anathan for the term that expires on 12/31/07. Vote: 3-0-0.**
  - b. Mark then entertained a motion to approve Dr. Ferri; no motion was forthcoming. In the Board's opinion, no motion was forthcoming due to Dr. Ferri's inappropriate and vulgar outburst directed toward an applicant at this meeting while the applicant was addressing the Board, in addition to the insincere and inappropriate reason Dr. Ferri gave for wishing to join the BoH.
2. **MA Association of Health Boards:** With the consensus of the Board, Mark asked Jane to handle the paperwork and check request to renew the Board's membership in this state association.
3. **Ron Hazel/Spunk the Monkey:** Jane noted that since the Cease & Desist Order had been given, no further body piercings appear to be taking place at his establishment.
4. **Dr. Cheryl Andrews' Wish:** Dr. Andrews expressed to Mark her desire that the BoH consider a regulation that would address the concern that some food businesses in town provide food for sit-down consumption, but do not provide a restroom for their patrons. This, she states, is in conflict with the plumbing code – especially those hooked into the town sewer. The Board asked Jane to confer with the Building Commissioner on the regulation concerning dining seats and toilet provision, and come back to the Board with additional information. Dr. Andrews had suggested tying a change of use into the provision for at least one toilet on these premises.
5. **Citizen Complaint vs. The Patio:** A citizen had complained about the outdoor food preparation at this new restaurant. The Board agreed with Jane that they had not been licensed for outdoor food preparation (e.g., a brunch omelet station) and that until such a license be granted, this should not be allowed.
6. **12 Cottage Street:** Mark inquired about a complaint that he had received regarding the possible illegal hook-up of a shed to a septic system. Jane had visited the property and indeed the shed in question was being remodeled – without a permit – to contain a toilet and a small kitchen. It had also been illegally connected to a new septic system on the property. Jane posted a "This is not a Habitable Dwelling" sign issuing a Cease & Desist Order and has advised the DRM staff of the need for a building permit. Jane also noted that she believes that this renovation is in violation of zoning regulations (i.e., too many structures on one lot).

## Health Agent's Report

Jane said that she continues to be extremely busy, given no Health Inspector assistance. Three beach closings were followed the next day by three beach openings (count went from 400 down to 2). Town staff is gearing up for Phase II of the sewer – the first step being flow assessments. Jane may be assisting in Phase II depending on the Town Manager's on-going assessment of need. Jane also noted the flier in our packets pertaining to the Avian Flu.

At 6:42pm, Jane asked that the Board vote itself into Executive Session to discuss a confidential issue.

**Motion: Duane Gregory moved and Dan Brown seconded a motion to adjourn to Executive Session. Vote: 3-0-0.**

**Motion: At 6:52pm, Mark Baker moved and Dan Brown seconded a motion to come out of Executive Session.**

**Vote: 3-0-0.**

Mark Baker, as Chair, maintained the minutes for the above referenced Executive Session.

## Board Members' Statements

**Dan Brown** noted a June 19<sup>th</sup> article in *The Boston Globe* addressing the efforts to combat Rabies on the Cape. He also noted an article in *InNewsWeekly* about the reporter, Steven Desroches' experience with contracting Lyme disease while on the Lower Cape, noting that this disease is reportable and there currently is no vaccine. Dan thought that *The Banner* may want to do an informational article about the risks of Lyme disease given the prevalence of ticks on the Cape this year. To conclude, Dan inquired who at DPW should be contacted about the apparent misplacement or missing town garbage cans that last year were located at the end of Pearl Street at Commercial and at the end of Masonic Place. Jane noted that the person to contact would be Sandy Turner at DPW.

**Mark Baker** asked if any member of the Board took issue with his June 22<sup>nd</sup> letter to the Board of Registration in Medicine concerning the community's need to have the investigation concerning Dr. Alberts brought to a conclusion as soon as possible. Mark explained that he had meant to bring this to the Board's attention at the June 16<sup>th</sup> meeting, but when that meeting was cancelled, he went ahead and sent the letter. Given the intent and wording of the letter, neither Duane nor Dan shared the Board of Selectmen Chair's concerns about the possible inappropriateness of this letter coming from the Board of Health's Chair.

**Duane Gregory** had no comments.

**The meeting adjourned at 7:02 pm by a 3-0-0 vote of a motion made by Mark Baker and seconded by Duane Gregory.**

Respectfully submitted,

Mark W. Baker

Board of Health Chair

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2005.

Mark Baker, Chair