

# Provincetown Board of Health

**Public Meeting**  
**Thursday**  
**October 6, 2005**  
**5:00 p.m.**

**Members Present:** Dan Brown, Matt Damon, Duane Gregory, and Ken Janson

**Members Absent:** Jerry Anathan and Rick Ferri (both excused)

**Health Agent:** Jane Evans

**Health Inspector:** Brian Carlson

Meeting called to order at 5:00 p.m.

## **AGENDA**

### **Public Comments**

There were none.

**Motion: Take Old Business out of order and place after New Business in order to speed the presentations of those in attendance.**

**Motion by Duane Gregory Seconded by Ken Janson Unanimous.**

### **New Business:**

#### **Rolf Solbach**

##### **New Massage Therapist**

Dan Brown stepped down. Rolf had been previously approved. The Health Inspector recommended approval. Mr. Solbach does have a copy of his insurance that he received today. Duane Gregory noted that he needs 3 letters of recommendation but has only one. He wondered who would provide the letters and what would be the subject of them? He was patiently told that the letters of recommendation are usually from people that you've worked for or with. Something that relates to the business you anticipate going into.

**Motion: Ken Janson recommended approval of the massage therapist license for Rolf Solbach with the condition that two more letters of recommendation must be received before the license is granted. Matt Dillon seconded the application and it was approved 3-0-0.**

#### **12A Pleasant Street**

##### **Title 5 Variance**

Jason Ellis presented the case to the BoH. Duane Gregory disclosed that her office was involved in selling the property to the owner in the past. No one objected to having her sit in on the case. The property is currently served by 3 cesspools and the installation of a Title V is voluntary.

**Motion: Approval the plan dated July 25, 2005 with the variances as requested with the following condition:**

- 1. A deed restriction for three bedrooms must be recorded at the Barnstable County Registry of Deeds with proof of the recording presented to the Health Agent prior to obtaining the septic system installation permit.**

**Motion by Dan Brown    Seconded by Ken Janson    Vote 4-0-0.**

### **290A Bradford Street**

#### Title 5 Variance

Jason Ellis presented the case on behalf of Clarence Moten & Nelson Newton. Jason said that the property is served by a single cesspool and he chose the location because of extensive landscaping on the property. Jonathan Sinaiko is an abutter and he wondered how he would be affected by the set back requirement to a cellar wall on his property should he decide to build on that area of his property.

The Health Agent informed Mr. Sinaiko that presently Title V doesn't necessarily work in reverse (i.e. if he applies for a permit to construct a dwelling with a full foundation, he would have to conform to distance from his property line and the abutter's septic wouldn't be considered.

**Motion: A motion was made to approve the October 5, 2005 plan as revised for 290A Bradford Street with the following conditions:**

- 1. a deed restriction limiting the number of bedrooms to the existing two must be recorded at the Barnstable County Registry of Deeds.**
- 2. Proof of the recording must be provided to the Health Agent prior to the issuance of a septic system installation permit.**
- 3. The waterline is to be sleeved with a 150 pressure test pipe.**

**Motion by Matt Dillon    Seconded by Dan Brown    Voted 4-0-0.**

### **6 Duncan Lane**

#### Title 5 Variance

Jason Ellis presented this case on behalf of Elizabeth Mackin, the owner. Duane disclosed that she actively sells real estate and the property is listed on the Multiple Listing Service. She asked if anyone had any objections to having her sit on the case? There were no objections. Jane Evans, the Health Agent, said that this is obviously a better solution than the current cesspool which is located within 50' of a wetland. The Board has granted this type of variance for other existing properties. This entire property is within 100' of the isolated wetland. Safeguards such as those suggested are more for harbor-related properties where bathing and shell fishing take place and not specifically for a non-contributing isolated wetland. Mr. Ellis stated that this wetland is basically a small swamp where concerns are more likely to be around phosphorus rather than nitrogen. Obviously nitrogen removal does not address phosphorous. Jonathan Sinaiko said that the abutters are concerned that it might be used for more than 1 bedroom.

The abutters from Parcel 109 were very concerned about the installation of the septic system at 6 Duncan Lane. They said they had never been notified yet they owned the property directly next door at 4 Duncan Lane. (The reason they were not notified is that the Town mailed the notice to their Quincy address which they no longer live but never notified the Town of their change of address.) Their concern about wanting to make sure it was only ONE bedroom was addressed. The owners could possibly use the room over the garage as an accessory use studio. It can never be rented out and/or used for a habitable dwelling or bedroom. The potential use of the garage will only be for accessory use.

**Motion: Approve the plan for a septic system installation for 6 Duncan Lane with the following**

**conditions:**

- 1. A deed restriction limiting the number of bedrooms to the existing one be recorded at the Barnstable County Registry of Deeds.**
- 2. Proof of the recording is to be provided to the Health Agent prior to release of the septic system installation permit.**

**Motion by Duane Gregory    Seconded by Ken Janson    Voted 4-0-0.**

**Motion: Dan Brown made a motion and Ken Janson seconded it: Hear 154 Commercial Street property which wasn't on the initial agenda. It was agreed to unanimously.**

Duane Gregory stepped down from the case. Len Bowen, the owner of Harborside Realty has the property (154) up for sale. The owner of the property wishes to sell the property but it has a flawed septic system. He was told that the pipes leading into the septic tank were installed incorrectly and are too low. The seller would ideally like to be hooked into the sewer by virtue of an ACO. The Health Agent said that an ACO cannot be recommended since they don't have a failed septic system. A sale would trigger an inspection and if it could be fixed it wouldn't be deemed failed. These problems can be fixed with a repair.

Len Bowen thanked the BoH for their time and valuable input.

### **Delinquent Sewer Hook-ups**

Jonathan Sinaiko, Chair of the Water & Sewer Board said that it has been requested that the BoH issue an order for these red-dot delay people to connect within a specific period of time with suggested fines of \$200/day if they don't comply. Dan Brown felt that this was a simple issue; these people agreed to hook-up. Jonathan has backed off on fines mainly because they represent a civil issue and thus are not enforceable. Jane has copies of letters that have been sent to these people over a period of time (as in for the past year)!

Specific properties were discussed and the W&S Board felt that if the BoH were involved then it would put teeth in their enforcement. If the BoH demands hook-ups and the people don't comply then this becomes a criminal issue. Duane Gregory suggested that she'd like to hear from legal council whether these proposed fines for non-compliance can be rescinded, if the Board should so choose, after they are levied.

The Health Agent suggested a letter to the red-dots giving them 7 days to appeal and/or the same 7 days to name a contractor and 14 days to hook into the sewer. The Health Inspector wondered - what if someone who is destitute comes before the Board?

**Motion: Continue this discussion until the next meeting pending the Health Agent investigating what the BoH's legal responsibility is and specifically whether or not we can rescind the fines once they are mandated.**

**Motion by Duane Gregory    Second by Dan Brown    Voted 4-0-0.**

### **Discussion:**

Jonathan Sinaiko said that we're at the point where the BoH has to come to the aid of the Health Agent to say that we need help. We are volunteer committees and we shouldn't just be ignored. Decisions are made in town hall that affect our boards. There was a facilitated meeting where the W&S Board was not notified but were magnanimously allowed to speak. They receive no thanks and/or recognition from the BoS or the Town Manager for their many hours of volunteerism. Dan Brown said he just resigned from the BoH for that very reason.

## **Public Outreach**

This subject was continued until the next meeting. Brian and Dan want to have monthly newsletters to outreach and tell the townspeople that they have their best interests at heart. He wants to put a friendlier face on the Board. Brian was willing to do it. DG said, "let's continue it." It was a pet project of Dan's.

## **Old Business:**

### **Bathing Beach Water Quality**

The HA felt Barnstable County Lab's help was cost prohibitive. The Truro Lab would do it for a much more reasonable cost. Unfortunately Jane doesn't have the time – she's on only 3 days a week.

### **Septage Study**

Dan Brown noted that this septage study had been fought for in two town meetings in a row. There was \$20K appropriated to study whether septic haulers would be able to put septage directly into the sewer plant. Unfortunately the Town Manager chose to take the money and put it into the General Fund. Duane Gregory said that perhaps the BoH can do a memo to the W&S Board and request an update on the "septage study" which has yet to take place.

### **Approval of Minutes for August 16, 2005**

**Motion: Approve the minutes for the August 16<sup>th</sup> meeting with the attachment included.**

**Motion by Duane Gregory Second by Dan Brown Voted 4-0-0.**

### **Approval of Minutes for September 1<sup>st</sup>, 2005**

**Motion: Approve minutes of the September 1<sup>st</sup>, 2005 meeting.**

**Motion by Duane Gregory Second by Dan Brown Voted 4-0-0.**

### **Approval of Minutes of Public Hearing of September 15<sup>th</sup>, 2005.**

**Motion by Ken Janson Seconded by Matt Dillon Voted 4-0-0.**

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

There was a great deal of conversation among the Board members regarding having the Health Agent's position reduced to part time. Dan Brown feels the timing is poor. As we're now seeing, it does affect our ability to handle certain issues. Jane said that she has yet to be informed in writing that she is only part time. Jane has requested that this reduction be put into writing. This request has not been fulfilled. Duane Gregory said that it's imperative that we have a full-time HA.

Dan Brown has resigned from the BoH. His resignation was prompted primarily because of the frustration of being Chair and not getting the support, respect, and/or recognition from the BoS or the Town Manager. He further feels that there is a culture of arrogance and disregard and it surprises him that anyone would want to chair a board.

Duane would like Dan to reconsider and she feels he has good skills for the chair. Personally she is not interested in being chair. She would like to urge Dan to stay on. And maybe his comments can get these attitudes changed.

Dan also wanted the Board to know that his resignation has nothing to do with the new appointment to

the Board. DB hopes he will not be black-balled if he opts to come back on the BoH.

Duane commented that often Board of Health's are elected and this kind of circumstance is a good indicator that the BoH maybe should be an elected group. In an elected Board, the Health Agent, in essence, works for the Board.

Matt wishes Dan to reconsider – he joined the board because of Dan.

### **Health Agent's and Health Inspector's Reports**

Health Agent said that she's part time and doesn't have a lot to say. I have been so lucky to have wonderful board members and board chairs. She further said that she enjoyed coming to every one of their meetings.

### **Board Members' Statements**

Duane Gregory said that she will be resigning from the Board as well in the near future. She has wanted to for some time now, but hung in there until there was a full board. For now, as Vice Chair, she'll run the next meeting.

Ken Janson would like to think about the Chairmanship.

A sad adjournment happened at 7:10 p.m.

Respectfully submitted,

*Evelyn Gaudiano*

Evelyn Rogers Gaudiano

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

Duane Gregory, Vice Chair