

# Board of Health

December 1, 2005

5:00 p.m.

**Members Present:** Jerry Anathan, Matt Damon, Duane Gregory

**Members Absent:** Ken Janson (excused absence)

**Health Agent:** Jane Evans

**Health Inspector:** Brian Carlson

The meeting was called to order at 5:00 p.m.

## **AGENDA**

### **Public Comments**

There were none.

### **Old Business**

#### **29 Pearl Street**

Request for reconsideration/modification of motion of February 3, 2005.

A copy of a hand-written letter was handed out to members of the Board. It contained a recap of Jacqueline Sperry and Nancy Ross' concerns.

Mr. Quinn, the installer, also attended the meeting. His insurance company finds it redundant to issue a surety bond. He has the required liability coverage of \$1Million.

The Health Agent's recommendation is to remove this requirement for a surety bond from the motion of the February 3, 2005 meeting. The abutters (Parcel 54) have also requested an inspection of their basement by structural engineers and have a photo record of such. As well, they would like no disturbance of their fence. Mr. Quinn agrees to all of the above.

**Motion: To amend the February 3, 2005 motion regarding 29 Pearl Street by removing the portion of the motion which requires the installation contractor post a surety bond specific to parcel #54 for work prior to commencement.**

**Motion by Duane Gregory Seconded by Matt Damon Voted 3-0-0.**

**Motion: The installer is to: not disturb the fence on parcel 54; have the foundation of parcel 54 inspected by a structural engineer and photos of the foundation taken prior to the installation of the septic installation at 29 Pearl Street.**

**Motion by Duane Gregory. Seconded by Jerry Anathan Vote 3-0-0.**

## **New Business**

### **25 Watson's Court**

#### Show Cause Hearing / Discussion

Ken Costa, the owner, and Jamie Veara, representing attorney, addressed the case. Reggie Donahue from Coastal Engineering was also present. Jane Evans reports that the foundation was constructed differently from what was originally approved. Former building commissioner, Warren Alexander had approved a full foundation as opposed to a crawl space which affects the BOH granted variances. Distance from a crawl space has to be only 10 feet and from a full foundation the requirement is 20 feet. A basement window well was constructed made of corrugated metal and directly abuts the leaching field.

Jamie Veara explained that the homeowner did this with no intentions to be in violation. There was an error in allowing the full foundation by the department and now that the issue has come to light, the situation needs to be remedied and the homeowner is willing to address what needs to be done, as the system is already installed, as well as the foundation.

Jane recommends re-application for variances, waterproofing the foundation and a sealed waterproof cement window well replacement, along with installation of advanced nitrogen removal system.

Mr. Veara argued that the expense of retrofitting the nitrogen removal system is quite prohibitive and since his client is in this position through no fault of his own, he shouldn't have to bear that expense. The board discussed with Jane, how important this was, since we don't worry too much about lateral leaching here due to our very sandy soil. Jane explained she would be remiss in not recommending the nitrogen removal system, but the Board has in the past approved systems without requiring it and it was the Board's prerogative to omit it.

#### **Motion:**

- 1. Re-application of variances with abutter notification and revised septic system design plan to show actual location of all components.**
- 2. All exterior walls of the foundation to be made waterproof.**
- 3. The corrugated metal window will be replaced with waterproof cement and sealed.**

**Motion by Jerry Anathan Seconded by Matt Damon Vote 3-0-0.**

(The HA recommends that no building permit be issued until they return with a re-application.)

## **Race Point Lighthouse**

### Septic System Discussion

Jim Walker representing, accompanied by Alan Cabral of Felco Engineering. They now want to put in one system to service two buildings, rather than two separate systems. At this time they have one empty building not generating any water but they plan to put in two bedrooms eventually, as well as the existing four bedroom building. They have a well so they don't fall under growth management. It's about 10 acres of property owned by the government. They've already gone to ConCom. HA requires an upgrade of all systems when one fails. Jane stated "Actually by doing that (one system), Mr. Walker, you've actually gotten rid of all the restrictions that we had. If you present new plans – that would be adequate."

Duane Gregory commented, "So there are no issues and all systems are go."

## **34 Snow's Lane**

## Title 5 Variances

A letter was received from Attorney Chris Snow requesting a postponement due to a redesign of the project. The case was withdrawn without prejudice and will be refiled at a later date.

## 5 Holway Avenue

### Administrative Consent Order

Will Joy from Coastal Engineering said that this was a rather straightforward application. The building's owner is the Center for Coastal Studies and it abuts the church property. The current system was built in the 60s and the building is currently vacant.

**Motion to recommend an ACO for this property to the BoS for the following reasons:**

- 1. Property is within a geographic area that could be served by an extension to the existing sewer system.**
- 2. The septic system in question is failed or failing.**
- 3. A proposed septic system would require variances and possibly a variance to depth to groundwater.**
- 4. This proposed system would require mounding.**

**Motion by Jerry Anathan    Seconded by Matt Damon    Vote 3-0-0.**

## 13 Wareham Street

### Administrative Consent Order

Mary Ellen Spingler presented her own case. She is having some construction done on the property (no bedroom increase), with the dollar amount triggering upgrade to Title V. Jane Evans said that this property is currently operating with two cesspools, failed on technicality only and she recommends approval of an ACO.

**Motion to recommend an ACO for this property to the BoS for the following reasons:**

- 1. Property is within a geographic area that could be served by an extension to the existing sewer system.**
- 2. Property is currently served by cesspools.**
- 3. The septic system would fail based upon Board of Health regulations regarding the continued use of cesspools.**
- 4. The proposed system would be varianced due to the small lot size.**

**Motion by Matt Damon    Seconded by Jerry Anathan    Vote 3-0-0.**

A motion was then made, seconded and approved to take Other Business out of order since there was a couple waiting to address the BoH. Vote 3-0-0.

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

Mr. and Mrs. Thomas Galloway of Waterside Condominium, 21 Dewey Avenue, appeared before the BoH in order to give an update on their situation. They asked for a 30 day extension on a former ruling stating that by December 3, 2005 their new title 5 must be installed. They were told at that time - if for some reason they could not begin installation - then they must come before the Board and revisit the issue. They asked for a 30 day extension even though they hope they may not need it.

**Motion: Issue a 30 day extension to Waterside Condominiums for installation of Title V septic system. If they are not underway before December 31, 2005, they must come before the BoH again.**

**Motion by Duane Gregory    Seconded by Matt Damon    Vote 3-0-0.**

## Approval of Minutes for November 17, 2005

**Motion: Approve the minutes of the November 17, 2005 meeting.**

**Motion by Matt Damon Seconded by Duane Gregory Vote 2-0-1 ab JA.**

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

Jane Evans did a walk-through at **3 Carver Street, Top Floor Unit** at Barbara Baker's (the owner) request. Barbara is about to put her condo on the market and wanted to make sure that she did, indeed, have a 3 bedroom unit. Two of the bedrooms appeared to not have the full headroom to fit the bedroom definition. They do have an inspection report from 2002.

Duane Gregory feels Jane needs to measure the square footage of the bedrooms and see if they qualify as "bedrooms" per Title V and our local definitions/regulations. Duane said it should be measured carefully and then cite the BoH regulations if the rooms fall short. If there is a question about the historic use or if the owner wants to appeal, they can then come before the board to present their case.

John Fitzgerald, the Town Treasurer, approached Jane with an unusual problem. **Shankpainter Sales Condominiums, located at 54 Bradford Street**, has a portion of its land that was taken in foreclosure by the Town.

The situation is complex, but the issue regarding the BoH is that a portion of their leach field now sits on land that they technically do not own, which is a violation of Title V. The town would like this situation rectified and the proper filings to be done in Barnstable.

Duane Gregory feels that at this time, Jane Evans should handle this for the town as the Board of Health is not fully up to speed on this complicated legal situation.

**Motion: Direct the Health Agent to inform Shankpainter Sales Condominiums that they are in violation of Title 5 by having their leaching field on property that is not owned by the condominium and to take whatever further action, as necessary, relative thereto.**

**Motion by Duane Gregory Seconded by Jerry Anathan Vote 3-0-0.**

**Motion: Include the ACO Policy Statement into the minutes.**

**Motion by Jerry Anathan Seconded by Matt Damon Vote 3-0-0.**

The Health Agent also presented the Board of Health with criteria for recommending **Administrative Consent Orders (ACO)**. The criteria are as follows:

1. Property is within a geographic area that could be served by an extension to the existing sewer system. This area to be determined in consultation between the Board of Health, Board of Selectmen and the Water and Sewer Board.
2. The septic system in question is failed or failing based upon Title 5 definitions of failure or any system that the Board of Health deems failed.
3. Property is currently served by single or multiple cesspools.
4. Varianced septic systems with priority given to the following:
  - a. Varianced to groundwater
  - b. Varianced to wetland and/or coastal areas
5. Harbor side septic systems
6. Mounded or raised septic systems

Brian Carlson, the Health Inspector told about a new state mandated plan called by the acronym, **COOP**. It is a complete disaster plan that would be implemented by the Town in the event of any

disaster, whether it be storm, disease, or whatever. There is an enormity of work involved in this plan and not a lot of time to come up with it. It will be presented at a staff meeting on Monday and the state requires that the BoH knows about the central function and who would be in charge of it, i.e., the order of succession, etc. Each department head has been directed to come up with a list of succession for each department. State wants it done by the end of January 2006! HA says that a lot of people are complaining about the time frame and that every BoH on the Cape has been overwhelmed with this.

Brian said that there's an infectious disease plan, plus a whole lot of other plans. Ted Meyer, the Chief of Police, also has a directive. Brian feels it has to be put into a booklet, i.e. emergency funds. emergency numbers, special needs children, animals, etc. The BoH is going to be asked for help.

Brian said that he had received a call from Val Carrano, head of the COA, giving him the date of December 21<sup>st</sup> for flu shots for care givers, health providers, etc.

HA has informed all the septic haulers about the new fees.

Brian said that today is World AIDS day.

Update on 130 Commercial Street. No one is living there. The owner lives in Santa Monica, CA.

### **Board Members' Statements**

There were none.

### **Adjournment happened at 6:30 p.m.**

Respectfully submitted,

*Evelyn Gaudiano*

Evelyn Rogers Gaudiano

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

Duane Gregory, Vice Chair