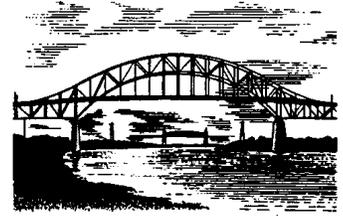




**TOWN OF BOURNE  
BOARD OF HEALTH**  
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Cynthia A. Coffin,  
Health Agent

**MINUTES  
JULY 13, 2011**

**Members in attendance: Kathy Peterson, Chairman; Stanley Andrews, Vice-Chairman; Don Uitti; Galon Barlow; Carol Tinkham**

**Support Staff in attendance: Cynthia Coffin, Health Agent; Carrie Furtek, Health Inspector; Melissa Chase, Secretary**

**Meeting was called to order at 7:10 pm by Vice-Chairman Stanley Andrews.**

**Mr. Andrews stated that Chairman Peterson had left the room for a short time and that item one (wind turbine regulations) would be pushed back on the agenda.**

**2) 9 Canal Drive: Steven Doyle representing applicant Anne Garefino**

The involved property is at 9 Canal Drive, on the western-most tip of Wings Neck. Mr. Doyle stated that they had been before the Board in 2006 for repair of the site so that remodeling could be done. A new septic system was put in the back yard. The system approved by the Board at that time was a Microfast system with a UV treatment and pressure dosing. That system was installed within a year or so. The garage is part of the site. Mr. Doyle stated that since that time, they have come up with a new set of plans to raze per FEMA guidelines. They recently went before the Conservation Commission to get approval to go forward with the project, and the project has been before the Zoning Board of Appeals for approval of the modified house plans. Mr. Doyle stated that he was before the Board asking for a waiver allowing them to continue to use the system as installed in 2006-2007 with the new floor plan. The problem is the existing deed restriction with the '06 approval was specific to the original set of floor plans. That also was a 3- bedroom plan. Mr. Doyle pointed out that they in fact went from 5 bedrooms to a 3 bedroom as part of the design. On the new house plan, there are 3 moderately sized bedrooms: 2 bedrooms are between 150-200 sq. ft. each, with the master bedroom being a little larger. He stated they would be essentially raising up leaving the same footprint on the lower level, and that it is actually about 100 sq. ft. smaller footprint than what is there today. He also stated that the garage is to be removed and nothing will be added in its place. He felt it was a "pretty simple" open floor plan with the living, dining and kitchen

area to the front of the dwelling, with 2 bathrooms, 1 master bath in the master bedroom and the 2 additional bedrooms.

Mr. Andrews asked Ms. Coffin for the date of installation of the original system; Ms. Coffin stated it was installed in 2007. Mr. Andrews found reference in minutes from December 2007 pertaining to the issue. Ms. Coffin stated that the system was already in the ground, then they came back to do additions with a new owner who apparently didn't end up purchasing the property. All of the approvals were for the renovations for the property with the existing alternative system. She stated that it is now just a new proposal, so the deed restriction would have to be re-recorded. Mr. Andrews stated that, according to the 2007 minutes, there was a question as to whether the system was up and running because there was not electricity to the facility. Ms. Coffin stated that one round of testing by the wastewater contractor was fine, and then there were two or three reports. She stated that Carmody had them as compliant; however, she felt they were not compliant with the Board of Health's testing. Mr. Andrews expressed that his concern was that the system was installed and never run, so the two years of testing and inspections were never done. Ms. Coffin stated that she had told Mr. Doyle that he would probably need a whole new two years of testing with the new house. Mr. Andrews asked if it was an alternative system that had an indicator light for alarm that is inside. Ms. Coffin was unsure. The installer, Mark McNally, was present and confirmed that the system has an alarm inside. Mr. Andrews asked if the system is currently operational; again, Mr. McNally was able to confirm that it was. Mr. Andrews asked if it had no further testing because it had fulfilled its 2-year requirement. Ms. Coffin stated that it had not fulfilled testing requirements because she could not find all the quarterly testing on Carmody. She was only able to find 1 sample recorded by Brian from the County. Mr. Doyle stated that he felt that the interruption in the test results has to do with the power being shut off. Mr. McNally agreed, saying that it is a seasonal home and the owner turned the power off the first winter, thus the blowers were not on, so testing could not be done. Since that first season, the power has been kept on year round, even though the house is unoccupied in the winter. Mr. Andrews stated that the new procedure being done with these alternative systems is putting the indicator lights for the alarm and the operation of the system visible from the street so that it is known that the system is up and running and they are not being shut down. He stated that the system is to be on all year. Ms. Tinkham asked if, without 2 years of testing, the Board was unable to approve the request. Ms. Coffin stated that it could be approved, with the understanding that 2 years of testing with the current occupancy would be required. Ms. Coffin's other concern with the property is the presence of a well and if it was still potable water. Mr. McNally had a copy of the well testing, and Ms. Coffin indicated that the result looked good. Mr. Barlow asked Mr. Andrews to open up discussion to the audience. When Mr. Andrews opened up the discussion to the public, one neighbor stepped forward: Tim Cronin of 7 West View. He stated that he had no problem with this particular plan, but that the previous plan was too high for abutting neighbors. Mr. Andrews pointed out that this discussion was in regards to the septic system only. Mr. Cronin said that after talking with the installers, he felt that the system seemed to be working, but pointed out that the outside light is not visible from the front of the property because it is on the back of the garage that is going to be torn down. Mr. Andrews asked if the engineer would be agreeable to 2 more years of testing with the occupancy of the new residents, as well as to

installing an alarm light that is visible from the road; Mr. Doyle agreed on both counts. **Mr. Barlow moved to approve the request for the raze and rebuild of the house at 9 Canal Drive; to continue the 3 bedroom deed restriction; to require 2 more years of testing on the alternative system; to allow them to keep the current system under the new occupancy with the requirement that they have a 2 year contract for wastewater operation to test and maintain; and the installation of the alarm/operation light visible from the street. Mr. Uitti seconded the motion. The motion passed unanimously.**

Mr. Andrews turned the meeting back over to Ms. Peterson, stating the item 2 had been taken out of turn.

### **1) Wind Turbine Regulations**

Ms Peterson thanked everyone who sent in information over the past 2 weeks, stating that it had been very helpful and quite a bit had been used. She stated that Brian Wall, attorney for the Town and Board of Health was in attendance and had helped through the long and arduous process. She expressly thanked Diane Tillotson, who had sent a letter and red lined the original regulations. Many of her comments have been written into Bourne's regulations. Ms. Peterson also thanked Attorney Suny and Dr.McCuney for their contributions as well. Ms. Peterson read the updated regulations (see attached document with highlighted sections for changed areas—changes and discussion will be noted in the minutes)

**changes under the definition section “abandonment”:** There has been recommendation by Ms. Tillotson, with the agreement of Ms. Peterson, that the definition of abandonment shall include: *A WECS shall be considered abandoned if not operated for 365 consecutive days.*

**changes under section “ambient noise study”:** The addition of the last sentence: *The Board may allow previous studies submitted under a special permit and/or concurrent application.*

Ms. Peterson stated that the addition of this change will prevent undue expense and duplication for the applicant.

**changes under section “fees”:** the addition of the last sentence: *To avoid duplicative expense and burden on the applicant the Board may allow previously submitted studies after a public hearing and a vote by the Board.*

Ms. Peterson stated that, again, this change would prevent undue expense and duplication for the applicant, provided that the Board votes the studies acceptable.

**changes under section “notices and hearings” :** the addition of the last sentence: *The Board will allow a concurrent application to the Town of Bourne with final action by the Board of Health after a special permit has been authorized and/or issued as many projects change in nature and stature before finish. The Board will work with any applicant to refrain from duplicity of requirements.*

**changes under section “performances standards”** : under both the day and night standard, the addition of the last sentence : *The board may allow a greater db(A) where the applicant has proven at a public hearing that there are not any inhabitants that would be affected.*

Mr. Andrews asked if this would be by a variance. Ms. Peterson said yes. She also stated that you cannot deny persons the process of a permit and thanked Ms. Tillotson for pointing that out.

**changes under section “variances”**: the addition of the phrase *in conjunction with other town regulating authorities* (in regards to sufficient funding for the decommissioning of a WECS).

Ms. Peterson stated this wording would prevent the duplication of monies from the applicant.

**changes under section “emergency access”**: addition of the phrase *or provide the board with sufficient facts that the WECS cannot be accessed by personnel not authorized.*

Ms. Peterson stated that it had been pointed out in a letter that there is sufficient security at the base of all turbines. The addition of this phrase will require proof of that security.

Mr. Barlow pointed out a discrepancy from the draft version in the current wording (under variances): it should read *radius of 2x the height* rather than **2x radius of the height**. After members debated the definition and scope of abutter notification for a variance application, the final agreement of scope for notification under the section “variances” is to *provide notification to abutters within a radius of 3x the height of the WECS.*

Ms. Coffin pointed out that the section “**modulation**” should have the phrase *shall not exceed* put in to read *The amplitude modulated noise measurable in overall a-weighted sound pressure level peak to trough separations SHALL NOT EXCEED 4db or greater at the closest property line.* Ms. Peterson stated that it should also have *The Board may allow a greater db(a) where the applicant has proven at a public hearing that there are not any inhabitants that would be affected.*

Mr. Andrews stated that he felt that the security/bond requirement under the “variances” section needed to have an addendum that would allow the Board direct access to the funds, even if those funds were part of a requirement of another town authority. Attorney Wall pointed out that the section from the previous draft on “security” was mistakenly left off the current draft and needs to be put back in. Mr. Barlow felt the section under “permits & conditions” that allows for the Board to impose conditions it deems necessary to protect public health would cover asking for a separate bond/security accessible to the Board.

(There was a short recess at this time to remedy a recording issue; the meeting was called back to order at 8:05 pm)

Ms. Peterson stated that there would now be some additions and corrections added to the draft:

Addition to the end of the draft:

***Section G: Severability***

***If any provision of these regulations is deemed invalid, the remaining provisions shall remain in effect.***

Reinsert with current accepted wording (as read by Mr. Andrews):

***Section F: Security***

***The Board may require the posting of security in the form of a bond, a deposit of monies or other security sufficient in the opinion of the Board to secure the decommissioning (of the WECS) or to remedy health concerns. Said security may be required by other town boards and shall satisfy the requirement if it is listed for the Board of Health's discretion.***

Attorney Wall asked to work with the Chair to “clean up” the current draft for spelling and formatting errors so that the corrected draft could be approved by the Board at a special meeting.

**Mr. Barlow made a motion to continue the discussion and vote on the Wind Turbine regulations until Wednesday, July 20 at 5pm to give the Chair and Town Council time to put the regulations together in a legal and acceptable fashion. Ms. Peterson amended the motion to say: to give the Chair and Council time to fix grammatical and formatting errors before the regulations are accepted by the Board. The motion was seconded by Mr. Uitti. The motion to continue passed unanimously.**

Ms. Peterson thanked Attorney Wall for his hard work with the Board on this matter. When the discussion was opened up for brief public discussion, John Lipman pointed out that Wednesday July 20 at 5pm is the Cape Cod Commission's hearing on the New Generation Wind Project and asked that the meeting to approve the regulations might be held at a better time.

**Mr. Barlow amended his motion to be: to continue the possible vote of the new wind turbine regulations until Tuesday July 19 at 6 pm. The motion was seconded. The motion to continue the wind turbine regulation vote until Tuesday July 19 at 6pm passed unanimously.**

Again, Ms. Peterson opened up for brief public discussion. Lydia Manter expressed her concern about the notification of abutters in regards to shadow flicker. The Board unanimously expressed a comfortable acceptance of the set radius of 3x the height of the WECS, and the discussion was closed.

**2) 485 Circuit Ave—Don Bracken for Mr. & Mrs. Kenneth Cheitlin**

There were no audience members present representing this item. Ms. Coffin explained that the variance had expired in January without a permit being pulled. The architectural drawings are still the same. She stated that they basically need a waiver to continue building the system.

**Mr. Andrews moved to extend the waiver for 485 Circuit Ave for 6 months from July 13, 2011. Mr. Uitti seconded the motion. The motion to extend the waiver for 485 Circuit Ave for 6 months passed unanimously.**

**4) 118 Wings Neck Road**

There were no audience members present representing this item. Ms. Coffin stated that when the property was recently inspected, she discovered a 3<sup>rd</sup> story that had not been discussed. There were 2 rooms on this floor that, despite not currently being used as bedrooms, meet the definition of bedroom (a room that offers minimal seclusion). The property owner has spoken with the Health Agent, and expressed that he never intended to use the 3<sup>rd</sup> floor as bedrooms and was agreeable to opening up the 3<sup>rd</sup> floor with 4 ft. cased openings. Ms. Coffin will be inspecting the property to ensure that the changes have taken place. She has put the permit on hold until that time. Mr. Andrews questioned how the builder missed the 3<sup>rd</sup> floor on the architectural drawings. Ms. Coffin stated that full architectural drawings were never received, but feels that the changes to the configuration will rectify the situation. She has put the permit on hold until the inspection is complete.

**No action by the Board was required; Ms Coffin was just updating the Board on the situation.**

**5) 9 Scraggy Neck Rd.—horse license for Carolyn Neal**

There were no audience members present representing this item. Ms. Coffin passed around pictures showing the condition of the pasture area taken July 1 and July 12. She stated that Ms. Neal was told on July 1 that the issue would be brought before the Board. There have been complaints against this property for 5-7 years. Three years ago the MSPCA took her horses away. She now has 2 new horses on the property. The neighbors have complained of a downed fence, which has been rectified. There have been many complaints about the manure smell. The last inspection by the Health Agent revealed more than 50 piles of manure, indicating that it had not been cleaned up in over a week. Ms. Neal repeatedly claims that she is having help come over to clean up, but it appears that the manure is just being spread around and sand put on top of it. The MSPCA has been called, but no action has been taken by them because the horses are being fed and watered. It was the opinion of Ms. Peterson that, after more than 5 years of dealing with this situation, it was time to pull her license and give her a respectable amount of time to place the horses. **Mr. Andrews moved for a certified notification to 9 Scraggy Neck Road--Carolyn Neal of a revocation hearing to be scheduled for the August 10 meeting. Mr. Uitti seconded the motion. The motion passed unanimously.**

**6) 17 Holly Circle –request of Health Inspector—Charles Lowney owner**

Audience members in attendance regarding this item were Forrest Barton and his wife Joanne. Mr. Barton stated that they have been renting the dwelling at 17 Holly Circle since June 2010. Once the property was emptied of the previous tenant's debris/furniture,

it was discovered that the garage attached to the dwelling was rotted and in disrepair. They have redone the interior of the home, as well as some of the exterior (which was not their responsibility). Rain water from the garage leaks into their daughter's bedroom through a shared wall. Mr. Barton claims that the owner, Mr. Lowney, has refused to address the situation with the garage. The tenants have correspondence with the landlord back through September 2010. However, the Board of Health did not get involved until May 2011. Ms. Peterson asked for copies of the correspondence from May 2011 forward to be given to the Board of Health. Ms. Furtek stated that she had done an inspection of the property on May 27 and wrote a letter with the concerns to Mr. Lowney mailed on June 1<sup>st</sup>. She also called him, mailed a certified letter, and another non-certified letter on June 21<sup>st</sup>, as well as a fax and another phone call, all with no response. Because of this complete lack of response to her concerns, Ms. Furtek asked that the issue be added to the July 13 agenda. Four days after it was added to the agenda, Mr. Lowney sent an email saying that he had taken out a building permit. Ms. Furtek confirmed with Roger in the building department that a permit had been pulled, but had not yet been issued. Ms. Furtek stated that the repairs included totally redoing the deck and the ceiling of the garage. There is water damage from the garage into the bedroom with the shared wall. Ms. Furtek felt the house portion where the tenants had done work was "wonderful". Ms. Peterson stated that by the next regularly scheduled meeting, she wanted a signed work order. Mr. Andrews disagreed, stating that he wanted a certificate of completion, that there was plenty of evidence in the email trail showing that the owner had a contractor, had applied for a permit and on July 10<sup>th</sup> the condo association gave the approval for exterior work to be done. He requested that a certificate of completion be shown by the Aug 10 meeting, or for Mr. Lowney to be in front of the Board with an explanation. **Mr. Utti made a motion to continue the issue to August 10. Mr. Andrews seconded the motion. The motion to continue the issue surrounding 17 Holly Circle until August 10 passed unanimously.**

#### **7) Pocasset Mobile Home Park**

Audience member in attendance regarding the Pocasset Mobile Home Park (PMHP) was Attorney Chuck Sabatt. Attorney Sabatt stated that there have been 6 leaching trenches installed on site in hopes of alleviating issues of septic overflow at the park. So far, the system is holding. It is checked regularly for overflow by Bill Gilpin from CapeWay. There was recent trouble with a line on 4<sup>th</sup> Ave. Maintenance worker Mr. Hutchings cleared the line and found quite a bit of debris in the line. Peter Valeri then excavated the line, and recommends that approximately 1200 linear feet be replaced due to occlusion with tree roots. This has been communicated to the DEP. The DEP has requested a more substantial solution with a significantly larger tank. The matter is somewhat on hold because of the plans to put in a wastewater treatment facility, for which the engineering firm employed by the PMHP has already filed with the DEP. The feasibility study for the project will be part of Attorney Sabatt's report to the Superior Court.

Attorney Sabatt stated that there have been a few minor issues over the July 4<sup>th</sup> holiday weekend with a water line break on Sat, July 2. The residents of the 5 units affected by the break were told that they would be reimbursed for any potable water they purchased, and that they could also find alternative accommodations for which they would be reimbursed. The morning of Tuesday July 5, the water line was repaired and by

Wednesday afternoon all units had potable water with sufficient pressure. There was another report on July 13 of a backup on a specific line on 1<sup>st</sup> St. Mr. Valeri responded; Attorney Sabatt stated that the Health Agent and site manager were there. Mr. Valeri found that the septic cap on a vacant pad had been removed and is missing. In the pipe there were rocks and debris. It appears that someone had been tampering with the line. Mr. Valeri is going to excavate and repair the line.

Attorney Sabatt stated that, as far as the park goes, there is a manager on site; there is routine maintenance being done; these issues are all somewhat under control. He did express the desire to revisit, at some point, 3 licensing issues: 1) the escrow account requirement, 2) twice monthly inspections by certified septic inspector and 3) requirement of a chain link fence. Ms. Peterson stated that no action could be taken because those items were not on the agenda as a “discuss and vote”. Mr. Andrews asked Attorney Sabatt to formally apply to have these items added to the agenda so that it can be properly posted. Ms. Peterson pointed out that the license is coming up for renewal soon, and asked for an agenda item be added to the August 10 meeting agenda to discuss and possible vote on modification for the PMHP license and extension of said license under the present circumstances with Attorney Charles Sabatt as receiver.

Mr. Andrews asked Attorney Sabatt when the feasibility report on the wastewater treatment facility that is going to the Superior Court would be available, as it would be pertinent to the Board of Health as well. Attorney Sabatt stated that there was a motion pending at the Suffolk Superior Court in regards to whether or not the PMHP and its management entity are liable under the complaint, requiring that the park construct a new wastewater treatment system, including a new collection system. Attorney Sabatt is required to report within 60 days of the issuance of that finding. The hearing is scheduled for July 26; the Court will likely issue its decision at the end of September, meaning that his report will be due around the end of November/beginning of December. Attorney Sabatt intends to enlist professional assistance for the analysis of the financial feasibility of the project, but assures the Board that he will keep them apprised of any information as it becomes available. Ms. Peterson asked for Attorney Sabatt to give a date to which he would like the license extension to go to when he files for inclusion on the Aug 10 agenda that would keep him from needing to continually ask for extensions, suggesting perhaps the end of January would be acceptable. Attorney Sabatt concluded his update on the PMHP to the Board.

**No Board action was required at this time.**

#### **8) Approval of the Minutes dated June 22, 2011**

**Mr. Uitti motioned to accept the Minutes as written. Mr. Andrews seconded the motion. The motion to accept the minutes dated June 22, 2011 passed unanimously.**

**The meeting was adjourned at 8:57 pm.**

**Next regularly scheduled meeting will be Wednesday, August 10, 2011**

Respectfully submitted

Melissa A. Chase  
Secretary

Kathleen Peterson \_\_\_\_\_

Stanley Andrews \_\_\_\_\_

Galon Barlow \_\_\_\_\_

Don Uitti \_\_\_\_\_

Carol Tinkham \_\_\_\_\_

cc Board of Selectmen/Town Clerk