

Cynthia A. Coffin  
Health Agent

## TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue  
Buzzards Bay, MA 02532



### MINUTES December 11, 2013

**Members in attendance:** Kathy Peterson, Chairperson, Stanley Andrews, Vice Chairperson, Galon Barlow and Kelly Mastria

**Support Staff in attendance:** Cynthia Coffin, Health Agent and Lisa Collett, Secretary

**Meeting was called to order at 7:02 P.M**

- 1) **POCASSET MOBILE HOME PARK - Chuck Sabatt – Discussion and possible vote regarding Mobile Home Park License renewal for 2014** – Ms. Peterson stated that she spoke with Bob Troy regarding condition number #9 on the existing conditions which will be included on the next license. Ms. Peterson would like to add this addendum to item # 9, which will be read when it is time. Mr. Sabatt stated that the status of the park, as far as septic issues, remains the same. There have not been any substantial issues. There is an occasional line back-up for a particular unit, but that is taken care of right away. He has only had 2 instances in the last few months. The park's septic system is checked out every week by Bill Gilpin of Capeway. Mr. Gilpin pumps as needed. The repair work that has already been done seems to be working. There was a major repair on a separate system that is at the intersections of 1<sup>st</sup> Avenue and 1<sup>st</sup> Street that was done sometime in the summer. That has alleviated problems that existed there. On the larger issue of the Park, he has located the assets that are substantial enough to fund the building of an on-site treatment plant. He identified those assets in October, 2013. He has now commenced the process for creating the plans for a new system and new onsite septic treatment plant. Mr. Sabatt met with the engineers a few weeks ago and they are going to be undertaking some initial review of the existing plans. It may be necessary to do some alterations of the existing site plan. It also may be necessary to seek some additional permitting from the Zoning Board of Appeals. Essentially he is in the process of commencing engineering and is looking forward to building the new plant. Mr. Sabatt stated that he does not have a time table yet, but the goal is within the year. Mr. Sabatt stated that another issue is the repair or replacement of a water delivery system. The court order did not provide for that. The court felt that they did not have the authority to order that a new water delivery system be installed and that a new system may need to be funded. Mr. Sabatt stated that he feels that the new water system is essential. He will try to persuade the Austin family that this would be a beneficial undertaking

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for them. Mr. Sabatt stated that he is requesting a renewal of the 2014 License to operate the Pocasset Mobile Home Park. Ms. Peterson stated as far as the permit goes, it is her suggestion to leave the conditions as written but also add, under number 9, that any proposed transfer of the property by option, purchase and sales agreement or any other agreement, must be filed with the Board of Health within 5 days of its execution for review and determination that all issues that are related to the boards jurisdiction, including the wastewater treatment plant water service and related items, are satisfactory to the Board of Health. Ms. Peterson stated that she did run this by the town attorney, Bob Troy, just to make sure this is something that the Board of Health can put into the license. Ms. Peterson asked if there are any questions for Mr. Sabatt. Mr. Barlow asked if Mr. Sabatt had any questions or concerns regarding the addition to item 9. Mr. Sabatt stated no. **Mr. Barlow made a motion to add this amended provision #9 to our existing conditions as read and reviewed by Mr. Sabatt and the Board of Health Chair. Ms. Mastria seconded the motion. All in favor. There was an amendment to the motion to add #9 and to renew the license. Mr. Andrews seconded the amended motion. All in favor.**

- 2) **14 BRIARWOOD LANE – Tom Donovan for Kevin & Sue O’Neil – Request a waiver to use the existing septic system for proposed renovations/additions** – Mr. Donovan stated that the O’Neil’s are presently renovating the house and has hired his company for the project. Part of the renovation was to separate the existing living room with a wall which will be approximately 7’6” in from the front of the house to incorporate an office for Mr. O’Neil. At present it has a glass door to the foyer and the proposal is to add a set of pocket doors that are 6 foot wide glass doors. Mr. Donovan stated that he has submitted to the board members a copy of the layout of the proposed office with a desk and file cabinets. He did the calculations for Cindy and if you were to consider the office a bedroom, as opposed to being part of the living room or an office, it would increase the square footage of the bedroom area by approximately 14% and decrease the non-bedroom space by 5%. This is part of the existing house. There will not be any additions in the proposed renovations but because of the by-law it would constitute an area that meets the bedroom definition, although they are glass doors. He is allowed by the by-law to construct the wall with a six foot opening, but to put the doors in, he needs to request a waiver. The interior layout of the house is minimal. There is a larger kitchen but there are no additions proposed on the house. He would request that the Board of Health waive the definition of bedroom and allow the office to be constructed as shown with incorporation of the two doors in the pocket frames. Ms. Mastria asked how many existing bedrooms. Mr. Donovan stated it is a 4 bedroom home. The septic system was installed in 2001. Mr. Donovan stated that he did find during the renovations that one sink in the basement was tied into the old septic system. The septic system had been changed prior to the passing of the papers mainly because it was too close to the water table. As a result the laundry sink in the basement has been disconnected and nothing is going to the old septic system. Mr. Donovan stated that the laundry room will now be located on the first floor. Mr. Gilbert from 580 Shore Road asked how many bedrooms the septic system will be sized for. Ms. Coffin stated 5 bedrooms and there are 4 bedrooms existing. **Ms. Mastria made a motion to**

approve the request for a waiver to use the existing septic system for renovations and additions at 14 Briarwood Lane, Tom Donovan for Kevin and Sue O'Neil. Mr. Barlow seconded. All in favor and the motion passes. Ms. Peterson added that Ms. Coffin put in the letter that the board waived these because of the glass door and reference the plans.

- 3) **18 RICHMOND RD – Bracken Engineering for David & Elaine Lagasse – Request to extend the variances already approved on December 12, 2012** – No one was present for this item so Ms. Peterson read the request to be heard out loud to the board members. Ms. Peterson stated that the board approved the original request on December 12, 2012 and now it is December 11, 2013. Ms. Coffin stated that the applicant applied for the building permit but she is still waiting for the new house plans to make sure that there are what the Board originally approved. Ms. Peterson asked if the board should extend for another 3 months. Ms. Coffin stated that she is not sure how quickly the applicant will be ready. Ms. Peterson asked if another 120 days is better. Mr. Andrews stated that the board also grants shorter extensions. Ms. Coffin stated that it is up to the board. Ms. Peterson stated that if the applicant does not have any plans within the next 3 months then they should come back before the board. Mr. Andrews agreed. **Mr. Andrews made a motion to approve the request for the extension of variances for 18 Richmond Road for 120 days. Mr. Barlow seconded the motion. All in favor and the motion passes.**
- 4) **38B SANDWICH RD – Kevin Naylor – Request extension on 30 day Housing Inspection order** – Mr. Naylor stated that his tenant, who occupies the upstairs unit, owes him \$6,000.00 and is in the process of being evicted. Ms. Peterson asked if the tenant, Mr. Brown is present for this meeting. Ms. Coffin stated that Mr. Brown was notified but did not show up to the meeting. Mr. Naylor stated that he went to court last week and has been awarded ½ of the \$6,000.00 owed. Mr. Naylor stated that on December 12, 2013, Mr. Brown will be given a 30 notice to leave the premises. Mr. Naylor stated that he has supplied the tenant with a CO detector and a smoke detector but the rest is going to require him to go into the unit and spend time to fix. Mr. Naylor stated that Mr. Brown has a nasty Pit Bull and his relationship with the tenant is pretty much ended, so he is asking the board to at least let him wait until Mr. Brown is gone, so that he can then go in and make the repairs. Ms. Peterson asked if Mr. Brown sent in any documentation that he notified the owner of the repairs that were needed to be done before he notified the Board of Health. Ms. Coffin stated she did not know, but only that she was told by Mr. Brown that he verbally told Mr. Naylor of the issues like the deck, the rotting door etc. Mr. Naylor stated that Mr. Brown was so far in arrears that he made a deal with him to forgive two month's rent to fix the stairs and obviously that was not done. In early October Mr. Naylor served Mr. Brown with the eviction notice, which is what prompted Mr. Brown to call the Board of Health and complain about the issues. Mr. Naylor stated that Mr. Brown told the judge that the reason he is not paying his rent is because of all these infractions which Mr. Naylor was never aware of, except for the stairs. Ms. Peterson asked if there were anyone in the audience to represent Mr. Brown. No one was present. Ms. Peterson asked if there were any receipts for the smoke alarm and the

CO detector. Mr. Naylor stated he did not have them with him but he does have them at home. Ms. Coffin stated that she did receive a call on December 9, 2013 from Mr. Brown that there was no hot water on Saturday. She spoke with Mr. Naylor who informed her that he hired a plumber to fix the problem. Ms. Coffin stated that the plumber informed her that a new hot water tank was being installed today, December 11, 2013. Mr. Naylor stated that he is fixing the water heater even though Mr. Brown owes him thousands of dollars. Ms. Peterson stated that the board cannot get into that issue. The board is trying to help Mr. Naylor within the law. Ms. Peterson stated that the problem is that Mr. Naylor does not have any receipts and Mr. Brown did not show up tonight. Ms. Peterson stated she needs copies of the receipts for the smoke detector and the water heater. Ms. Peterson stated that Mr. Naylor must keep meticulous records so that the board knows all of the issues have been addressed. She believes they have, and she understands Mr. Naylor's position. Mr. Andrews stated that it is hard with the complainant not being here. In the past both parties were present and the board was able to make sure that the landlord could get access to make repairs. The landlord has stated that he has a concern with a potentially unsafe condition to enter the property. The board cannot work on that right now. Mr. Andrews asked Ms. Coffin if there any extreme violations. Ms. Coffin stated the only thing she is really concerned about that the rear door will not close and she is concerned about a burned out outlet under the deck. Ms. Coffin asked Mr. Naylor about the outlet. The outlet looks melted and she is concerned about a fire hazard. She asked if that has been disconnected. Mr. Naylor stated that no it is not. Mr. Naylor stated that the dog attacks people and even attacked a meter person from NStar. Mr. Brown keeps the dog loose. Mr. Barlow stated that the board cannot take second hand testimony. Ms. Coffin stated that the only thing she is really worried about is that outlet. Mr. Naylor stated that he will have an electrician take care of that. Ms. Peterson stated that where Mr. Brown did not show up, she says the board should give Mr. Naylor 30 days. Mr. Andrews stated that he would like to see the issue with the outside outlet addressed as there is concern about a possible fire hazard. Ms. Coffin stated that Mr. Brown does not have access into the basement so she was unable to check. Ms. Peterson stated that the board should do what they usually do and fine the tenant for not allowing access. Ms. Mastria asked if that means the board can say something about the dog. Ms. Peterson stated that Mr. Brown needs to make the property secure for Mr. Naylor to get in. Ms. Peterson stated that in 30 days any number of things can happen. It could be 60 days, 90 or maybe 120 days before Mr. Naylor actually gets Mr. Brown out. Mr. Naylor stated that Mr. Brown is a tenant at will and should be forced to get out within 30 days. Ms. Coffin asked if Mr. Naylor has seen what the order from the judge is. Mr. Naylor stated that he has the order with him. Ms. Coffin stated that she was told by Mr. Brown that he was only going to be given 10 days after he was served to leave. Ms. Coffin stated that it was actually the clerk of the court that read to her that the tenant would need to leave within 10 days. Ms. Peterson read from the court order which stated that it is a court order and it is ordered and adjudged by the court that the plaintiff named above recover from the defendant named above possession of the subject premises shown above and deferred rent, use and occupation and so on. Ms. Coffin suggested that Mr. Naylor go to the Falmouth District Court because she told

the court over the phone that Mr. Naylor was going to give the tenant 30 days to vacate the premises and the clerk stated that this was more than what the court was going to give the tenant. Ms. Peterson suggested that Mr. Naylor call the Sheriff's Department and have Mr. Brown served as soon as possible. Mr. Andrews stated that his concern is requiring the tenant to make safe access to the dwelling for the landlord to get the work done and to make sure that the one issue of potential fire hazard that Ms. Coffin has identified be addressed. **Mr. Andrews made a motion to give Mr. Naylor the 30 days he has requested for the completion of these items, but that the item that is referenced under 410.351, the electrical ground fault outlet under the deck which appears to be melted of fire damage, be disconnected within 7 days and that the tenant be notified to provide safe access to the building as well for doing said repairs. If access is not granted then the tenant shall be fined according to our fine schedule and fees.** Ms. Coffin added if the repairs are able to be completed, especially the outlet that Mr. Andrews stated in the motion, to contact her at the office or have the electrician who has applied for the permit to repair contact her or submit documentation of the work. She needs something to show that these issues have been repaired. Mr. Barlow seconded the motion. All in favor.

- 5) **FERTILIZER REGULATION – Cynthia Coffin – Discuss and possible vote regarding the fertilizer regulation** – Ms. Peterson stated that she is aware of the extension on this and would like to make some more changes. Ms. Coffin stated that she would like to discuss what the Cape Cod Commission is going to do based on the fact that most of the towns are not going to approve the draft regulation as it exists. The Cape Cod Commission is going to readdress this and involved the Boards of Health in the discussion process to see if they can get a document that is more enforceable and manageable. Not that the board can't put stuff into the regulation because who knows what the final product will be, but she feels the board should write down their issues and she can submit them. Ms. Coffin stated that discussions have been suspended for one year so she is not sure when she will see another draft. Ms. Mastria asked if they will form a committee that has Board of Health members on it. Ms. Coffin stated that Board of Health people will now be on the board that wrote this regulation. It did not have a Board of Health rep on it before. Mr. Andrews asked if Ms. Coffin still wants feedback. Ms. Coffin stated that if the board gives her feedback, then she can forward the comments to whoever the Board of Health rep is. Ms. Mastria stated that she has some feedback. She read through the draft regulation and on 6.23 it says Municipal applicators or Landscape professionals who meet the following criteria shall be presumed to be proficient in the best management policy and may become certified fertilizer applicators without the need for additional proficiency assessment. There are numbers 1 through 5, but when it states to meet the following criteria, she asked if that meant all of the criteria or one from each. Ms. Peterson stated that she thinks it's one from each. Ms. Coffin stated that applicators must be one of those 5 designations. It states the first thing and then one of the following. Mr. Barlow reiterated what Ms. Coffin just stated. Ms. Peterson stated that she does not want to get overzealous about this because there are cranberry bogs that are subject to greater leaching than turf which are not even

mentioned in the draft. Mr. Barlow stated that the reality is if they grant all of the exemptions, people will object. They only want to regulate the people that are not going to fight back. Ms. Coffin stated that it may end up being more of an educational piece. Ms. Coffin stated that she sits on the 208 Wastewater study Committee for the Upper Cape and they are looking at other ways to meet the TMDL's, the nitrogen loading limits, and one of the things to address is fertilizers. She feels it would benefit the towns to have something because you actually get credit for addressing that part of the issue. Ms. Peterson stated that she does not want to get to where Falmouth is with theirs because they are way overboard. Ms. Coffin stated to the board to write her something, email her something, and talk to her for when the committee gets going. Ms. Mastria stated that the structure of the enforcement needs to be made clearer. Ms. Peterson stated that it should be able to be used in small quantities also. Less than .25. Mr. Barlow stated everyone will have an opportunity to re-read this and other boards of health may have similar concerns or different concerns but they will all need to be addressed. Ms. Peterson stated that the proper way to grow fine turf within the growing season is soluble sources of nitrogen that the plant can use immediately without leaching or runoff. That is in a study by Penn State. Ms. Coffin stated that Bill Clark's main concern is that there is no way to prove after the fact that fertilizer was used incorrectly. If you can't document something then it's going to have to be an education piece. Ms. Peterson stated that we hold golf courses to such stringent regulations. The more fertilizer they use the more they can charge. Ms. Mastria stated the exemptions will allow for residents to use more fertilizer because they can say their landscaper is certified. Ms. Peterson does not want a lot of laws on this. Ms. Coffin stated that she thinks it would be good if the Board of Health could control how much fertilizer is being used but she does not know how to get to that point. Mr. Barlow stated to start with one specific estuary of bay and do a study. Create a study group. Mr. Barlow stated that a lot of it is not coming from the lawns in the neighborhood. It may be coming with the tide. There are just so many contributors. Ms. Coffin stated that if it is such an issue then the State should regulate. Mr. Mort Toomey stated that he is on the committee for the selectmen's task force and the phase II storm water group and this has been a concern of theirs for quite a while now. At the last town meeting, they passed out different brochures. It's been a bit of a struggle to inform the public on what is going on. Mr. Toomey passed out samples of his brochures to the members of the board. Mr. Toomey stated that the last couple of years he has attended meeting and seminars regarding fertilizer. As far as regulating some of this stuff will be difficult. Falmouth has a program right now and Barnstable is pretty heavy with a program also. Mr. Toomey suggested that the board look into these other towns to see what they are doing. Ms. Mastria suggested that the schools start educating the students on the impacts of using fertilizer. Mr. Barlow stated that Barnstable County does go into schools already. They have a big camper that they go around the whole county to educate in environmental issues. Ms. Peterson stated that her point is that she wants to make sure that all manners of fertilizer applications are coming under scrutiny and not just one or two. People tend to want to blame one group for all the water problems etc. Mr. Toomey stated that it is easier to go after the big companies instead of the individual resident. Mr. Toomey suggested having the brochures at the

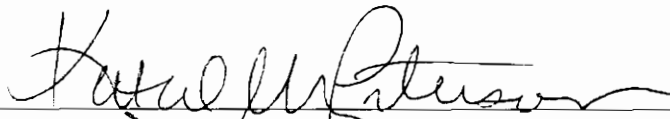
Home Depots and such for consumers to take on their way out of the store. Ms. Coffin stated that she doubts that retail businesses that sell fertilizer would allow brochures to be distributed. The state should regulate what is allowed in fertilizer then the Boards of Health would not need to worry about it. Mr. Mulvey stated that he is very encouraged and happy to see this issue come before the Board of Health. Ms. Coffin has been on this issue for years and was instrumental several years ago in developing a 3 fold hand out similar to the one presented to the board tonight. At that time, the lead on it was "the solution to pollution is you" and it went on to illustrate the different ways that the individual would lessen pollution. The residential and commercial use of lawn fertilizer is a major issue. Mr. Mulvey stated that he is also concerned about cranberry growing that puts down herbicide, fungicide, insecticide as well as fertilizer and nitrogen. These applications are under local, state and federal regulations but they are largely ignored. The new bogs are required to have a pond that holds their discharge for a period of hours so that the chemicals can degrade but with the older bogs, that is not required. When they flood a bog and then pull the plug and discharge, there it goes directly into Little Buttermilk as well as what goes down vertically to the soil and eventually into the estuaries. So agriculture use is regulated but not largely enforced. The commercial shell fishermen have said in the past that they saw bogs discharge and shortly after that see a black back flounder float to the top. It's been abused in the past and it needs to be monitored along with commercial and residential lawns. Mr. Barlow stated that it is not just the bogs but the animals that live there. It's very hard to distinguish the pollution coming out of the cranberry bog whether it's put there artificially or by the geese, muskrats and other animals that live within those bogs. Mr. Barlow stated that he does not know what the answer, is but he does see a lot of the issues. There are some towns already running willy nilly with it. Ms. Peterson stated that the board will not take a vote on the fertilizer regulation this evening and just put it back on a future agenda. Ms. Peterson instructs the board members to put their thoughts on paper and submit them to Ms. Coffin in advance. **No action was taken.**

**Mr. Andrews made a motion to adjourn. Mr. Barlow seconded. It was a unanimous vote. The meeting adjourned at 7:55 P.M.**

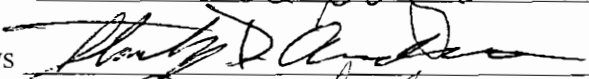
Respectfully taped and typed by  
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Reviewed and approved by  
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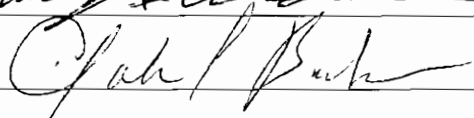
Kathleen Peterson



Stanley Andrews



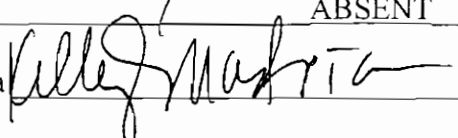
Galon Barlow



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ABSENT

Kelly Mastria



cc Board of Selectmen/Town Clerk