



Terri A. Guarino
Health Agent

TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue
Buzzards Bay, MA 02532
www.townofbourne.com/health
Phone (508) 759-0600 ext. 1513
Fax (508) 759-0679



Meeting MINUTES March 8, 2023

RECEIVED
2023 JUL 13 AM 10:51
TOWN CLERK BOURNE

Meeting was called to order at 05:30 P.M.

This meeting was televised and recorded by Bourne Community TV for replay.

1. Attendance.

Board Members: Barbara Princiotta, Dusty Meier, and Don Uitti
Professional Staff: Terri Guarino, Stacey Burgess

Miss Guarino excused herself to leave at the start of the meeting.

2. Violation of 105 CMR 665.010(A): Minimum Standards for Retail Sale of Tobacco & Electronic Nicotine Delivery Systems and Bourne Board of Health Tobacco Regulations – Sale of a tobacco product to a person under the Minimum Legal Sales Age at Cape Side Convenience, 105 Trowbridge Rd, on Jan. 9, 2023 – 2nd offense – Continued from February 8, 2023.

Mr. Rafiq Islam, the owner of Cape Side Convenience, introduced himself as the representative of the matter.

Mr. Islam stated that he is thankful that the Board was willing to defer the date for his attendance since he was unable to attend. He explains that he is not here to contest the violation, but to express his remorse for the failure. He states that in his time running his shop, this is the second time it has ever happened.

Mr. Islam explains that on the date of the violation, the worker who sold the tobacco, who has a long history with the business, was distracted because a relative was undergoing a surgical procedure.

Mr. Islam again expresses his apologies for the violation, and wishes that he can continue with the store operation.

Miss Guarino excuses herself from the meeting, for the remainder of the meeting.

Ms. Princiotta questions what Mr. Islam has done to mitigate this for the future. Mr. Islam explains that he wrote a letter to the Board stating that he has introduced new signage regarding checking an ID and there will be more procedures in place to ensure this will happen. Mr. Islam again, states that he is embarrassed, and is apologetic regarding the incident and he does not want this to happen again.

Ms. Princiotta relays that the fines are set by the state and that the Bourne Board of Health cannot control the amount of the fine. She explains that it is \$2,000, and asks Mr. Islam when he would be able to make the payment of the fine. Mr. Islam responds that around the 15th of April would give him some time to make payment. Ms. Princiotta states that they will give him until April 30, 2023, so that he can have some breathing room.

Mr. Meier asks if a placard could be posted near the register to remind the workers about checking the ID's. Mr. Islam states that they already do. Mr. Islam approaches the Board members to show them the signage on the front door, and Mr. Meier suggests that there is a sign facing the employees stating "If born before this date..." by the register, so it can remind the cashier. Mr. Islam also shows the Board a photo of the young man who purchased the product, a cigar, and Mr. Meier indicates that he does have a beard.

Ms. Princiotta states that she does appreciate that Mr. Islam is diligent in this, and requests that he puts a sign regarding the "born before this date".

Mr. Meier makes a motion to impose a fine of \$2,000 against Ayan, Inc. as penalty for the second violation of 105 CMR 665.010 within a 36-month time period; and for this fine to be paid in full to the Town of Bourne no later than April 30, 2023. The Board shall not move to impose a prohibition on the sale of tobacco products at this time, but reserves the right to do so for subsequent violations incurred within the retail establishment, or for the failure to comply with this decision of the Board. Mr. Uitti seconds the motion. All were in favor, and the motion was passed unanimously.

3. 140 Wings Neck Road — Earl Lantery, P.E. on behalf of Peter & Susan Ohanian— Requesting a hearing before the Board of Health for proposing to install a new septic system equipped with Singulair nitrogen reducing technology.

Mr. Lantery introduces himself as the representative for the project. He thanks Miss Guarino and the Health Department staff for their assistance since he has been facing health problems. He states that they are intending on installing a Singulair 960, 600 gallon a day system. He refers to page 2 of the plans that he presented to the Board, and states that he has used all mono-pour tanks, so there is no mid-tank seen, and the top is sealed. He explains it keeps the tank away from the ground water, and that the Singulair will gravity feed into a pump chamber, and the pump chamber is located next to the garage and the SAS is over 200 feet from the road and the breakwater resource area. Mr. Lantery states he requested a variance for a one foot reduction for the separation between groundwater and the bottom of the system, from 5 feet to 4 feet, to try and keep down the height of the retaining wall.

Mr. Lantery explains that he has been before the Conservation Commission, and it was negative for the RDA, and he made a request for determination, and he moved the system slightly to protect some trees. There is an oak that is dead that needs to come down, and there are some holly bushes that can be relocated at the request of the Conservation Agent. Mr. Lantery explains that he originally submitted for a conventional system, but with the help of the Health Department, he has been able to alter the system so there can be nitrogen reducing technology.

Ms. Princiotta questions when the project went before the Conservation Commission. Mr. Lantery states that it was within the last month. Ms. Princiotta questions if there was a copy of the decision, and Mr. Lantery explains that he has one, and that he believes it is in the file. Miss Burgess explains the office did not receive that document. Ms. Princiotta states that a copy will need to be submitted so that it is officially stamped into the record since they have not seen it.

Ms. Princiotta asks about the green cards, and if they match the abutter's records, and Miss Burgess confirms.

Mr. Meier questioned the submission of nitrogen loading calculations, and Mr. Lantery states that they were provided and delivered it on Monday morning. Mr. Meier and Ms. Princiotta state that they do not have it, and that the deadline for submitting is the Wednesday at noon prior to the meeting so the Board can review them.

Mr. Meier discusses how they will have to move things like the water line and gas line, and that the sewer line is passing, but it is not present on the plans. Mr. Lantery states he can make that correction.

Ms. Princiotta highlights how this system failed a Title V inspection more than two years ago, so something should have been done by December of 2022. She also highlights that Mr. Lantery did submit the nitrogen loading sheet, but it

was not the correct form, and the calculations need to be submitted on the new Board of Health nitrogen loading calculation excel sheet, so it will need to be resubmitted.

Ms. Princiotta also discusses that it is very difficult to see the floor plans and to decipher if there are any proposed changes to the house, and normally they see existing and proposed floor plans. Mr. Lantery states that the owners informed him it is 3 bedrooms, and the assessors card also states 3 bedrooms. However, Mr. Lantery explained that Miss Guarino expressed that the office, which was a sunroom, has windows on 3 sides and a closeable door, so they made it 4 bedrooms with a garage. Ms. Princiotta explained that that is what the Board is unsure of, and asks if there is a water supply to the garage and the room above the garage. She states that there looks like there are attics, a room above the garage, and a potential workshop. Mr. Lantery states he will redraw the floor plans. Ms. Princiotta requests that the floor plans be clear and legible, and asks if there is a bathroom or water supply to the detached garage. Mr. Lantery states that he has been there, and there is not a water supply to the detached garage. Ms. Princiotta requests that Mr. Lantery revise the filing letter to reflect the variances and to make it clear if it is a septic system upgrade.

Miss Burgess states she has no comments and that Miss Guarino's comments covered all she would have to say. Ms. Princiotta explains there is more work that needs to be done before the Board grants approval, and states that they would appreciate if Mr. Lantery could make those changes. Ms. Princiotta states that they will meet next on the 22nd of March, and Mr. Lantery could either request a vote now, or sign a waiver of continuance for the next meeting. Mr. Lantery states that he would like to continue. Ms. Princiotta explains that the file is not complete so they will be unable to vote until the filing is complete.

Mr. Lantery explains that he is currently recovering from a brain injury, so his rebound has been difficult, but he is thankful for the aid that the Health Department staff has provided him. Miss Burgess explains he can sign the waiver now for continuance to the next meeting. Mr. Lantery requests a continuance until March 22, 2023.

Mr. Meier makes a motion for continuance until March 22, 2023 for 140 Wings Neck Rd, Earl Lantery, P.E. on behalf of Peter & Susan Ohanian — Requesting a hearing before the Board of Health for proposing to install a new septic system equipped with Singulair nitrogen reducing technology.
There was not a second or vote on the motion.

Ms. Princiotta states that Mr. Lantery is all set, and that they will see him on the 22nd.

4. Health Department Updates – Terri Guarino, Health Agent to provide information and updates.

Ms. Princiotta states that the Health Agent was dismissed, so they will plan to postpone this to a future meeting.

5. Preliminary presentation for discussion only – Overview and updates to Board of Health Variance/ Waiver Application forms.

Ms. Princiotta stated that since Miss Guarino is not present, they will postpone this to a future meeting.

6. Discussion and possible vote on filling the two vacant seats on the Board of Health pursuant to M.G.L. c. 41, § 11.

Ms. Princiotta states that there are two vacant seats, one from Galon Barlow, and one from Stanley Andrews. She questions if they would like to see someone volunteer for an appointment. Mr. Meier states that he has heard that the

Select Board has offered to reach out because there are multiple boards who need appointments. He states that he has heard that no one has come forward to volunteer. Ms. Princiotta explains that they should look at exploring ways to get someone to fill the position.

Mr. Uitti questions if they have notified the paper. Ms. Princiotta states that they can notify the Select Board of the vacancies, and they will meet with them on a mutually agreed upon date where they can ask them to fill the position until the next election, and then they would ask the Health Department to open up a talent bank form and advertise on the website and in the paper, so they can view the candidates and pick people. Mr. Meier asked when the Town election is. Ms. Princiotta states it would be around May, and despite the proximity of the election, it is important to notify them and allow people to join the Board. Mr. Meier states they should notify the bipartisan political party heads. Ms. Princiotta states that they cannot do that, and that they have 30 days to notify the Select Board, and that the Select Board cannot act on it until the Board of Health votes to notify them.

Mr. Meier makes a motion to notify the Select Board of the vacancies of Galon Barlow and Stanley Andrews, to request a meeting with the Select Board on a mutually agreed upon date and time between the chair of the Select Board and Acting Chair of the Board of Health for appointment to fill the positions until the next election, and to request that the administrative office open up a talent bank form for the vacancies for a minimum of two weeks from posting. Mr. Uitti seconds the motion. All were in favor, and the motion passed unanimously.

7. Approve the Minutes – Approve the minutes from the previous meetings dated September 14, 2022, February 8, 2023, & February 22, 2023.

Ms. Princiotta states that they will continue the minutes until a future meeting since they are still being worked on.

Mr. Meier makes a motion to extend the approval of the minutes from the September 14, 2022, February 8, 2022, and February 22, 2023, to a future meeting. Mr. Uitti seconds. All were in favor, and the motion passed unanimously.

8. Set tentative date for next meeting and adjourn.

Miss Princiotta notes that they did discuss March 22, 2023 as the next meeting. All agreed that date will work.

Mr. Meier makes a motion to adjourn. Mr. Uitti seconds. All were in favor, and the motion passed unanimously. The meeting adjourned at 5:59pm.

Taped by: Terri Guarino, Health Agent
Typed by: Viveca Stucke, Recording Secretary
Edited by: Stacey Burgess