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TOWN OF BOURNE BOARD OF HEALTH

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MINUTES

February 12, 2020

Members in attendance: Kathleen Peterson, Chairperson; Stanley Andrews, Vice Chairperson; Galon Barlow Jr.; Donald Utti; and Kelly Mastria via remote participation.

Support Staff in attendance: Terri Guarino, Health Agent; Carly Cote, Health Inspector and Kaitlyn Shea, Health Inspector

Meeting was called to order at 6:03 pm

Ms. Peterson asked if anyone was recording at this time.

Mr. Barlow made a motion to call Kelly Mastria for remote participation. Mr. Utti seconded the motion, all in favor and the motion passed.

1. **ISWM Update – General discussion and update on landfill operations.** Dan Barrett General Manager of ISWM was not available to present the ISWM Update and as a result of this the agenda item was not heard.
2. **50 Savary Ave – Kenneth Breivogal P.E. of J.E. Landers Cauley on behalf of owners Philip Kozar II and Andrea Heston- Requesting multiple variances to State and local Board of Health regulations. Setback variances requested include a 1.4 foot reduction from the required 10 foot from the tank to the basement wall. A 10 foot reduction in the required 20 foot setback from the SAS to the basement wall. A 2.4 foot reduction in the required 10 foot distance from the tank to the property line and a 4.9 foot reduction in the required 10 foot setback distance from the SAS to the property line and a 1.5 foot increase in the 3 foot depth of a system below finished grade.** Mr. Breivogal was present to explain the project to the Board. He noted that he is not a licensed P.E. as stated in the agenda and is an employee of Jack Landers-Cauley. Mr. Breivogal noted that the Health Agent Miss Terri Guarino had asked him to bring some revised plans stating the elevation of the poly-liner. He indicated that he had those revisions and would like to distribute them to the Board. Mrs. Peterson extended her thanks to Mr. Breivogal for putting together the material for this submission as quickly as they did. The revised sheet explains the elevation for the top of poly-liner and for the bottom of the poly-liner. Mr. Andrews asked how the poly liner is going to be sealed when the water main pipe is connected to the home. Miss Guarino noted that the water main is the responsibility of the North Sagamore Water District and that the site will be thoroughly inspected before it is covered over. Ms. Peterson asked Mr. Andrews if he would be comfortable with the inspection being done by both the North Sagamore Water District and by Miss Guarino. He replied that he would be comfortable with administrative inspection. Ms. Peterson asked if Mr. Barlow had anything to add. Mr. Barlow stated that he also would be comfortable with administrative approval. Miss Guarino stated that the septic installer is also required for the variances to be approved. Phil Kozar, owner of 50 Savary Ave stated that the installer has already been chosen. The installer will be Brett Ellis from Done Right Construction. Mr. Kozar also noted that the tree that needed to be removed for his project to proceed was removed that day (February 12th). Miss Guarino asked if Mr. Ellis was aware of the time frame surrounding this project. Mr. Kozar indicated that he did speak to Mr. Ellis regarding the time frame and that he was sure that it was able to be done in time. Mr. Andrews asked if Miss Guarino thought that a bedroom deed restriction should be instituted in this instance. Miss Guarino replied that she

did not feel as if this was necessary due to the variances that would be granted are only setback variances to physical dwellings. **Mr. Andrews made a motion to grant the setback variances requested including a 1.4 foot reduction from the required 10 foot setback from the tank to the basement wall. A 10 foot reduction in the required 20 foot setback from the SAS to the basement wall. A 2.4 foot reduction in the required 10 foot setback from the tank to the property line. A 4.9 foot reduction in the required 10 foot setback distance from the SAS to the property line and a 1.5 foot increase in the 3 foot depth of a system below finished grade. Mr. Uitti seconded the motion. Roll call vote to approve Mrs. Mastria...yes, Mr. Barlow...yes, Mr. Uitti...yes, Mr. Andrews...yes, Ms. Peterson...yes. All in favor and the motion passed unanimously.**

3. **52 Savary Ave – Kenneth Breivogal P.E. of J.E. Landers Cauley on behalf of owners Mr. & Mrs. Edward McGuire – Requesting multiple variances to State and local Board of Health regulations in order to install a septic system for a home located at 52 Savary Ave. Variances requested include a 3.3 foot reduction in the required 10 foot setback from the septic tank to the basement wall. A 15 foot reduction in the required 20 foot setback from the SAS to the basement wall. A 4.6 foot reduction in the 10 foot required setback from the SAS to the property line and a 1 foot increase from the required maximum 3 foot depth of a system below finished grade.** Mr. Breivogal was present to explain the project to the Board. Revised plans were distributed to the Board for review. Ms. Peterson asked why the revised plans were just submitted at the meeting. Mr. Breivogal replied that the office got a call on either February 11th or 12th and were told that the plans needed to be revised. Miss Guarino stated that this was not the case and that an email was sent out on Monday February 10th at 12:00 pm to inform them that the plans needed to be revised. Ms. Peterson stated that in the future revised plans need to be made available before the meeting so that the Board has time to review the revisions provided. Mr. Breivogal explained the project to the Board. Ms. Peterson asked if anyone on the Board or in the audience had questions or concerns in regards to the project. There was no one in the audience on behalf of the project and there was no public comment in regards to the project. Mr. Glenn Cannon, Assistant Town Administrator thanked the Board of Health for all of their assistance with the Savary Avenue projects **Mr. Andrews made a motion to grant the variances requested for 52 Savary Ave. Sheet 1 on plans dated 1/20/2020 received on February 4th and revised sheet 2 received on February 12, 2020. 3.3 ft. reduction required in the 10ft setback distance from proposed tank to basement wall. A 15 foot reduction with a 40 mil poly liner is required in the 20 ft. setback distance from the SAS to the basement wall. A 4.6 ft. reduction in the required 10 ft. setback from SAS to property line. A 1 ft. increase in the top of the SAS with H2O loading materials and a vent max 3 ft. setback from finish grade. These variances are granted when the owner calls the office to speak to Miss Guarino and adds that a licensed installer reports to the office by Tuesday February 25th to sign the septic permit. Mr. Uitti seconded the motion. Roll call vote to approve. Mr. Barlow...yes. Mr. Uitti... yes, Ms. Peterson...yes and Mrs. Mastria...yes. All were in favor and the motion passed unanimously.**
4. **9 Captains Row – Zachary Basinski P.E. of Bracken Engineering, Inc. on behalf of owners Marjory Baruch and & Wu-The Hsiang- Requesting a variance to locate a proposed SAS on an abutting facility located at 28 Captains Row (owned by BAG Realty Trust, James Gonet and Larry Bruch, Trustees) pursuant to an easement.** Mrs. Mastria recused herself from the agenda item. Robert Dewar of Bracken Engineering, Inc was present to explain the project to the Board. Ms. Peterson asked if this has been heard by Conservation. Mr. Dewar stated that it had been approved by Conservation and Appeals. Mr. Peterson inquired to why this matter had gone to the Appeals Board before it had been brought to the Board of Health. Mr. David McLain, who is the architect for the project apologized for the incorrect order and stated that there was a provision in the conditions that this matter had to be approved by the Board of Health for final approval. Mr. Dewar continued with the explanation of the septic system to the Board stating that placing the SAS across the street on 28 Captains Row would remove the existing failed cesspool from within the 100 buffer zone to the coastal bank, moves it 150 foot away from the coastal bank. Mr. Andrews asked about the over dig. Mr. Dewar replied that there was no horizontal over dig for this project. Ms. Peterson asked whether a lawyer had looked over the easement document. Mr. Dewar stated that Mr. Kevin Klauer of Ament Klauer LLP of Falmouth, MA had drafted the easement document for the BAG Realty Trust and the Mashnee Association. Miss Guarino asked for clarification on the easement document noting that the document provided is shorter than the standard MA Title 5 document that is usually provided. Ms. Peterson asked why the Mashnee Association was involved in the easement document. Mr. DEWAR stated that while the property that the SAS is going on is owned by the BAG Realty Trust the road which the piping needs to go across belongs to the Mashnee Association and that was why their signature was also needed on the document. Mr. Barlow stated that his only concern was that the easement document does not include the language in perpetuity. So if the property is

sold in the future the language may not be clear enough for the new owner. Ms. Peterson asked Miss Guarino if she had anything to add. Miss Guarino replied that the only thing that she would like to see is the Nitrogen Loading Calculations. She would like to review them so that she can discern the impact to both the environment and abutting residences taking into consideration that the proposed system is not a nitrogen removal system. She added that this system is a significant upgrade to the existing system which is a cesspool that is less the 100 foot within the buffer zone of a coastal bank but would like to review the calculations to be sure. Ms. Peterson stated that she would also like to review the calculations and the proper easement document before a decision was made regarding this project. **Mr. Andrews made a motion to continue this agenda item until the next meeting so that the requested documents can be submitted for review. Mr. Uitti seconded the motion. Roll call vote to approve, Mr. Barlow...yes, Mr. Uitti...yes, Mr. Andrews...yes, Ms. Peterson...yes. All were in favor and the motion passed unanimously.**

5. **15 Trowbridge Rd – Caribbean Realty, Inc. - Non-compliance with order dated February 7, 2020 for violations of State Sanitary code 105 CMR 410.000 within a multi-family dwelling.** Attorney Jerry Phelps representing George Eli owner of Caribbean Realty, Inc. Ms. Peterson asked Miss Guarino to update the Board on the issues concerning Unit B at this address. Miss Guarino stated there was an inquiry at the Health Department by the tenant as to if the apartment was adequately de-leaded. The Health Department conducted an inspection and found that there were multiple violations within this occupied unit. Miss Guarino continued to explain the violations to the Board. At the time of the Board of Health meeting the office was informed that the hot water and heat issue had been fixed but the Health Department was not sure if was turned on by National Grid. Mr. Andrews asked what timeline the state gives to correct this issue. Miss Guarino replied that the state provided time limit was 24 hours to have that violation corrected. Mr. Phelps stated that his client was paying for relocation of the tenant and that he did not believe that the apartment was occupied at that time. Ms. Peterson asked from what date the apartment was not occupied. Mr. Phelps stated that he was not sure but he believed it was ever since the apartment de-leading had started. Ms. Peterson stated that she did not believe this was the case. Mr. Phelps stated that since he was just engaged on February 11th that he was not positive on the details but he was sure that the apartment was not occupied as of February 12th. Ms. Peterson asked where the tenant was relocated. Mr. Phelps replied that he was not sure where the tenant was staying but that he knew the owner was paying for a hotel for the tenant. Ms. Peterson stated that the Board would need to see proof in the form of receipts for payment of these accommodations. Mr. Phelps stated that receipts would be given to the Health Department as soon as they were made available. Ms. Peterson read the list of violations. These violations include not maintaining an average temperature of 68 degrees in the front bedroom, the living room smoke detector was not connected to the rest of the smoke detectors in the building. Miss Guarino noted that the Bourne Fire Department conducted an inspection at the location and found that there were some issues throughout the building. Mr. Phelps asked for clarification on the fire violations. Miss Guarino stated that he would have to contact the Bourne Fire Department in regards to their findings. Ms. Peterson continued with the violations stating that there was evidence of harborage of pests and potential rodent issues in the building and that pest remediation was needed. Miss Guarino stated that there was an inspection and an estimate made for remediation but she did not think that any remediation was conducted at that time. Ms. Peterson continued with the violations stating that the second story egress stairs were not safe. Mr. Phelps noted that that apartment was not occupied at that time. Miss Guarino stated that an order to repair or replace that staircase was issued on September 10, 2019. Miss Guarino added that she did know that plumbing permit had been pulled to fix the heat and hot water issues but there was no building permit filed to fix the staircase. Ms. Peterson asked if the de-leading in the apartments had been completed. Mr. Phelps provided a document to the Board that was provided to the Commonwealth of Massachusetts as evidence of the de-leading that took place in the building. Mr. Phelps was asked by Mr. Andrews if he had a copy of the violations. Mr. Phelps replied that he did in fact have a copy of the violations that was received by the owner on the afternoon of February 7, 2020. When asked by Ms. Peterson when the violations were going to be fixed, Mr. Phelps replied that he was not sure when they were going to be fixed and was also unsure that they were in fact violations because the apartment was not occupied at the time. Miss Guarino stated that the apartment was in fact occupied during the violations because she was let in by the tenant at the time of the inspection. Mr. Phelps asked what they could do to rectify the situation, Ms. Peterson replied that the violations needed to be fixed and were overdue seeing the State of Massachusetts mandates that these items are to be fixed within 24 hours of being reported. Mr. Andrews asked Mr. Phelps again when the violations were going to be fixed. Mr. Phelps replied that he would have to confer with his client on the timeline of the work being done. Mr. Phelps then asked whether the second floor staircase was a violation that needed to be completed within a 24 hour time period seeing there was no one residing in the

apartment at the time. Miss Guarino replied that the staircase was a hazard to emergency personnel and that the owner, Caribbean Realty has known about the hazardous condition since it was first ordered to be repaired back on September 10, 2019. Further adding that the violation was not due within the 24 hour period but that it was extremely overdue seeing it was first ordered to be repaired on September 10, 2019. Mr. Phelps stated that he was not sure that any of the violations were due within the 24 hour period because there was no one occupying the building at the time. Mr. Andrews reiterated that the tenant occupied the space when the violations were written and that the tenant was present at the time that the plumbing inspector arrived to conduct an inspection today (February 12th) which makes the building occupied. **Mr. Andrews motioned to levy fines for not correcting violations at the multi-family dwelling on 15 Trowbridge Rd within the 24 hour time period stated in order letter dated February 7, 2020. The Board of Health has the ability to fine the owner 300 dollars a day per violation which is not corrected within 24 hours. Violations include 7 items at \$300 per violation per day starting February 8, 2020. That equals \$2100 per day starting February 8, 2020 until documentation that the order items have been corrected is provided to the office. As far as the violation items listed that were supposed to be under contract within 5 days, contracts and permits for past and present work must be provided to the office by February 13, 2020. If that documentation is not provided to the office in time an additional fine of \$300 day will be imposed until those documents are provided to the Health Department. Mr. Andrews included in his motion that he would like proof of vacancy, proof of appropriate housing for the tenant with a food voucher or appropriate facilities to cook and proof that the gas has been turned on from National Grid. Mr. Barlow seconded the motion. Roll call vote to approve. Mr. Barlow yes, Mr. Andrews...yes, Mrs. Mastria...yes, Mr. Uitti...yes & Ms. Peterson...yes. All were in favor and the motion passed unanimously.**

6. **9 Fabyan Way – Earl Lantery P.E. on behalf of owners Mr. & Mrs. Daniel Chauvin- Requesting a 55' variance from Title 5 and Bourne Board of Health regulations for installation of a new denitrification septic system within 150' from a coastal bank.** Owner, Dan Chauvin was present on behalf of the project. Mr. Chauvin apologized to the Board for being late. He stated that he purchased his home for his family and plans on staying in Bourne indefinitely. He would like to upgrade the system not because it is in failure but because it is better for the environment. Miss Guarino explained to the Board the details of the proposed innovative alternative system. Ms. Peterson asked if there were any questions or comments from the Board or the public. There was no comment. **Mr. Andrews motioned to grant the 55' variance from Title 5 and Bourne Board of Health regulations for the installation of a new denitrification septic system within 150' from a coastal bank based on plans received by the office on January 24, 2020. Mr. Barlow seconded the motion. Roll call vote to approve. Mrs. Mastria...yes, Mr. Barlow...yes, Mr. Uitti...yes, Mr. Andrews...yes, Ms. Peterson...yes. All were in favor and the motion passed unanimously.**
7. **Rental Property Regulations— Continued from January 8, 2020 - In accordance with M.G.L. c. 111, §131, discussion and possible vote to promulgate regulations relative to the registration and inspection of various types of rental properties used for human habitation. Establish fees for registration and inspection, approve forms and procedures.** Mr. Andrews made a motion to continue the Rental Property Regulations until the next meeting. Mr. Barlow seconded the motion. Roll call vote to approve. Mrs. Mastria...yes, Mr. Barlow...yes, Mr. Uitti...yes, Mr. Andrews...yes, Ms. Peterson...yes. All were in favor and the motion passed unanimously.
8. **Approve the Minutes— Approve the minutes from the previous meeting dated December 11, 2019 and January 8, 2020.** Mr. Andrews made a motion to continue the minutes until the next meeting. Mr. Barlow seconded the motion. Roll call vote to approve. Mrs. Mastria...yes, Mr. Barlow...yes, Mr. Uitti...yes, Mr. Andrews...yes, Ms. Peterson...yes. All were in favor and the motion passed unanimously.
9. **Set tentative date for next meeting and adjourn.** Tentative meeting dates are scheduled for February 26th and March 4th.

Mr. Andrews made a motion to adjourn the meeting. Mr. Barlow seconded the motion. Roll call vote to approve. Mrs. Mastria...yes, Mr. Uitti...yes, Mr. Barlow...yes, Mr. Andrews...yes, Ms. Peterson...yes. All were in favor and the meeting was adjourned at 7:45 pm

Taped by Terri Guarino, Health Agent
Typed by Syreeta Amaral, Administrative Assistant

Kathleen Peterson _____

Stanley Andrews _____

Galon Barlow Jr. _____

Don Uitti _____

Kelly Mastria _____