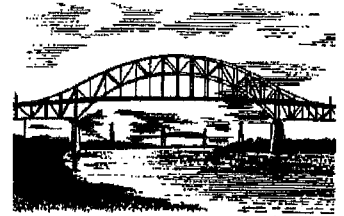


Terri A. Guarino
Health Agent

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



MINUTES July 24, 2019

Members in attendance: Kathleen Peterson, Chairperson; Stanley Andrews, Vice Chairperson; Galon Barlow, Jr.; and Donald Uitti.

Support Staff in attendance: Terri Guarino, Health Agent; Kayla Davis, Health Inspector; and Carly Cote, Health Inspector.

Meeting was called to order at 6:01 pm

Michael Rausch and Beth Teffeisen acknowledged that they were recording audio.

- Savary Avenue Community Disposal System—Zachary L. Basinski, P.E. of Bracken Engineering on behalf of the Town of Bourne—Request for relief from Bourne Board of Health Regulations and Title 5 of the State Environmental Code for the upgrade of the community sewage disposal system off Savary Avenue. System is owned and operated by the Town of Bourne.** Mr. Zachary L. Basinski, P.E. of Bracken Engineering presented on behalf of the Town of Bourne. The upgraded community disposal system will be the same design flow as before, 4,290 gallons per day. There are 10 original dwellings which will be connected and 1 additional dwelling, for 11 total dwellings and 39 bedrooms. The plan is to maintain the existing 9,000 gallon septic tank plus add a new 4,000 gallon tank and a Presby enviro-septic leaching system. Mr. Basinski also stated that they are applying for a temporary license under the Army Corp of Engineers to install the system. Ms. Peterson mentioned concerns with the covenant where the Board of Health is the local approving authority, not the Board of Sewer Commissioners. Miss Guarino asked if the Director of the Department of Public Works/ Sewer Department is aware that Town Counsel has drafted an easement to grant permission to allow access for maintenance and inspection of components of the building sewer which were previously maintained by the individual homeowners and if he concurs with this position. The application states that these components will be owned by the Town upon recording. Mr. Basinski agreed that there needs to be clarification on that. Ms. Peterson discussed that she would like to entertain a motion for each board member to submit to the Board of Health office their red-lined changes, for the office to compile this list, and for the applicant to make these changes prior to the next meeting, provided that Mr. Basinski agrees. Mr. Barlow would like to see the project be heard and approved by the Conservation Commission prior to the Board of Health. Mr. Andrews pointed out a typographic error related to the variance requests. He asked for justification as to why and I/A system was not feasible. Mr. Glenn Cannon, Asst. Town Administrator, entered the meeting. Ms. Peterson explained that the application submitted was confusing as there were multiple deed recording templates submitted which all are not intended for use, no Conservation Commission approval, questionable changes to the Title 5 standard documents, and that this discussion could continue for at least three hours. A special meeting date of August 21, 2019 was suggested to address these questions and concerns and allow time for amendments to the application. Mr. Cannon concurred. **Mr. Barlow made a motion to continue this matter to August 21st. Mr. Andrews seconded the motion and opened for discussion.** Ms. Stephanie McCormick of 39 Savary Avenue asked about the deed recordings. Ms. Peterson shared concerns about homeowners having to do this on their own. There was discussion of a future meeting. Mr. Cannon agreed

- to this idea. No additional comment or discussion. **All members in favor of the motion to continue, and the motion passed unanimously.**
2. **Bourne Recreation Authority—Request for letter of support to be included as part of the filing for the 2019 MassWorks Infrastructure Program grant to upgrade the sewage disposal system at the Bourne Scenic Park.** Miss Guarino described the project to the Board members. Ms. Peterson made a motion to approve sending the drafted letter of support. Mr. Barlow seconded the motion, all in favor, and the motion passed unanimously. See Exhibit 1.
 3. **388 County Road--Owners Jennifer and Manuel Chaves requesting new horse stable license in accordance with Bourne Board of Health Regulations.** Mrs. Chaves presented her application for constructing a 8'x6'x8' tall enclosure for her daughter's miniature horse. All regulations outlined in the Bourne Board of Health Stable Regulations are being met. Health Agent, Terri Guarino was in support of the application and would inspect once constructed. Mr. Stanley Andrews stated that he would like a specific minimum time to be determined for manure removal. Mrs. Chaves agreed to remove manure at a bi-weekly minimum. Miss Guarino agreed that this plan should be more than adequate. Ms. Peterson invited anyone in the audience who was here for this agenda item to speak. Mr. Stephen Johnson of 392 County Road asked if the Chaves own the home and if they have had horses before. They purchased the property in May and have had horses in the past and are familiar with the upkeep. Mr. Johnson said he is not in favor of this and mentioned the former owner's property was a mess and thinks a horse would devalue his property that he wants to sell. Mr. Johnson also stated that the property is not meant for farm animals. Mrs. Chaves stated that she is rehabbing the property and wants to make it a beautiful home. Mr. Johnson expressed concerns about possible smells. Miss Guarino stated that she does not believe that the horse will cause a nuisance. Abutter, Leslie O'Brien viewed the plot plan. She stated that she was okay with the project and the horse, she just wanted to see what the plan was. Ms. Peterson stated that everyone should be given a chance in town. Mr. Andrews stated that the Board of Health has regulations for a reason. **Mr. Andrews made a motion to grant permission for a horse stable license in accordance with the Bourne Board of Health regulations with one modification that the manure disposal be at a two-week maximum. Mr. Uitti seconded, and Ms. Peterson requested to add that since there were abutters present with concerns, that if they were to get another horse, it be brought back to the board for discussion. All parties agreed. All in favor, and the motion passed unanimously.**
 4. **1184 County Rd—Raul Lizardi-Rivera, P.E. of Cape and Islands Engineering representing the homeowner John A. Latawiec—Variance request for 150ft setback from the Wetland Resource areas to leaching facility.** Mr. Andrews recused himself from this agenda item. Relief from local 150 setback regulation was being requested by Mr. Lizardi-Rivera of Cape and Islands Engineering for a septic upgrade. The upgraded system needs a 49.5 foot variance from the setback of the leaching to the wetland resource area. There will be no increase in flow. This has not gone through the Conservation Commission but does not need to because it is outside of the 100 ft buffer. This was talked about with the Conservation Agent and there is an e-mail attached to application. The existing leaching pit is currently within 90 feet of the wetland and will be replaced with the field. During installation, the septic tank will be inspected and be replaced with 1500 gal Title 5 compliant tank if needed. System follows Title 5 regulations, just does not meet 150 foot setback from the local regulations. Mr. Barlow questioned why they would not just upgrade tank. Mr. Lizardi-Rivera explained that they did not want to cut down any large trees surrounding the tank. A Title 5 inspector will determine the health of the septic tank. Ms. Peterson would like this inspection to be witnessed by the office. Health Agent, Terri Guarino said that they do not have any records on the tank and because there are unknown variables she suggests to replace the tank, it could be more than 45 years old. Mr. Barlow thinks that if the design engineer is okay with that, then they would make a motion to include that. Ms. Peterson advised to follow agent's suggestion. Miss Guarino clarified loading rate of the new tank, Mr. Lizardi-Rivera is planning to replace with H-20 loading because of the proximity to drive way. **Mr. Uitti motioned to amend the plans submitted on July 11, 2019 to include installing a new 1500 gallon H-20 loading tank and to approve the 49.5 foot variance from the leaching to the wetland resource. The motion was seconded by Mr. Barlow. All in favor, and the motion passed unanimously.**

5. **Vela Juice Bar—89 Main Street—Ana Walsh and Daniel Anthony—Requesting approval of a new food service establishment permit in accordance with 105 CMR 590.015(B). Permit shall be contingent upon pre-operational inspection and compliance with all laws and other Town approvals.** Mr. Andrews recused himself. Mr. Barlow stated that he will abstain from voting. Ms. Peterson asked the owners to introduce themselves. Ms. Walsh said she would like to keep all lines of communication open with the Board of Health and thinks that the construction will be wrapped up in the middle-end of August. Ms. Walsh said she is thrilled to be part of the Main Street revitalization project. She also stated that she has another juice bar in Plymouth that has been in operation for four and a half years. Ms. Cote conducted a preliminary inspection on July 17, 2019. Ms. Cote stated that the juice bar is certainly under construction, they have two ADA restrooms, are in the works of making significant improvements. Ms. Cote said that the owners seem meticulous and amendable, and cooperative. Ms. Peterson said that the Board of Health is thrilled to have Vela Juice Bar come to Bourne. Ms. Peterson also stated that the Health Department is here to work with the owners. **Ms. Peterson made a motion to approve Vela Juice Bar, located at 89 Main Street, and grant Vela Juice Bar a food permit contingent on a pre-operational inspection. Mr. Uitti seconded the motion. Mr. Barlow abstained and the motion passed.**
6. **Cape Cod Cannolis—Lilly Ferreira—Hearing in accordance with 105 CMR 590.015(B), to discuss and possibly vote on the non-renewal of a mobile food permit on the grounds of 105 CMR 590.014(B)(1)(b).** Mr. Barlow recused himself. Mr. Andrews re-entered the meeting, three members present. Owner, Lilly Ferreira, was also present. Miss Guarino described the agenda item and asked for the Board of Health's consideration of two letters, one submitted by the applicant, and the other by the inspector who was present during the inspection. After reading the letters, Ms. Kathy Peterson stated that it is against the law to interfere with a health inspection. Ms. Cote recalled several events that occurred during the inspection. Ms. Cote had asked that the cannoli shells be taken off the floor of the truck during the inspection, and said Mr. Ferreira responded that "all health departments do is harass people." Following that, the husband and wife began to yell at each other. "At that point I felt uncomfortable and removed myself from the situation and returned to town hall," Ms. Cote said. Ms. Ferreira said her husband has a hearing problem, and that's why it seemed like she was yelling. In addition, the cannolis were on the floor in the sealed containers because when the truck is moving they would just fall onto the floor. The regulation for food storage is to maintain 6 inches between the food and the floor, Mr. Andrews said. A regulation is a regulation and you must adhere to it during transport. There are ways of solving this problem with fasteners and other equipment, Ms. Peterson said, adding that the inspection was not unannounced. You were actually able to drive up to the building and know you were getting inspected and yet you did not have functional hot water and found the time to make the inspector very uncomfortable, Ms. Peterson said. These are grounds to not issue a food permit. **Ms. Peterson made a motion to not approve the mobile food permit for Cape Cod Cannolis. Mr. Andrews seconded the motion. All in were favor and the motion passed unanimously.**
7. **41 Meetinghouse Lane—Ron Bello of Forty One Meetinghouse LLC, Owner-- Septic certification conducted on July 16, 2019 determined the system in failure. Discussion and possible vote to execute an enforceable agreement for the upgrade of the sewage disposal system.** Mr. Barlow re-entered the meeting. Miss Guarino stated that a percolation test and septic certification inspection was conducted on July 16, 2019 which determined that the existing sewage disposal system is in hydraulic failure. It was requested that the septic tank be pumped out immediately, to which Mr. Bello provided a receipt. The owner has already agreed to upgrade the sewage disposal system and has contract JC Engineering who had requested 120 days to produce the design. In the interim, Miss Guarino stated that the system needs to be pumped out on a regular basis and is willing to prepare an agreement. Ms. Peterson stated that adding a new food establishment would increase the flow into the septic system. Mr. Andrews inquired about the frequency of the pump outs. Ms. Peterson, Miss Guarino, and Mr. Bello agreed that the system would be monitored weekly by a licensed septic hauler and pumped out accordingly. Mr. Bello stated that the system is at maximum capacity right now, due to the busy summer season. Ms. Peterson said that she would like to see the upgrade of the system proposal complete and approved within 6 months. **Mr. Andrews made a motion to have the upgrade plans completed and approved in no more than 6-months, and during such time he shall engage a licensed septage hauler/ inspector to do weekly inspections and if**

the Agent feels the flow has been reduced that this can be brought back to the Board. Mr. Uitti seconded the motion, all in favor, and the motion passed unanimously.

8. **Bourne App'etite—41 Meetinghouse Lane, Suite B—Judy Comeau—Discussion and possible vote to approve plans and permit for new 8 seat food establishment in accordance with 105 CMR 590.015(B). Permit shall be contingent upon compliance with all laws and other Town approvals.** Ms. Peterson welcomed Ms. Comeau to the Town of Bourne. Ms. Comeau stated that Bourne App'etit will be preparing daily soups, small salads like edamame, quinoa, desserts similar to her bakery in Shirely, MA, daily specials, paninis, and prepared meals to go. She said she will also be selling a lot of frozen meals as well for people to take to go. Everything will be all natural, made daily, pot pies, prepared meals to-go. Ms. Cote stated that she had conducted a pre-operational inspection of Bourne App'etite on July 16, 2019. Most of the violations found were corrected since and Ms. Comeau has been very friendly and hardworking. Ms. Peterson stated that the office is here to help you with any questions you may have and that we do take cleanliness of our food establishments extremely seriously. There have been drastic changes to the Food Code that we encourage you to learn about. **Ms. Peterson motioned to approve the new food establishment, Bourne App'etite located at 41 Meetinghouse Lane Suite B, and granted the establishment a food permit contingent on the correction of any violations found during pre-operational inspection. Mr. Uitti seconded the motion, all in favor, and the vote was unanimous.**
9. **119 Cranberry Highway—Violation of Retail Food Code 105 CMR 590.00 for the operation of a food establishment without a permit:**
 - a. **6A Brewery—6A Brewing Company, LLC— Non-compliance with signed food permit exemption for hiring food vendor without obtaining prior permits.** Mr. John Downes was present on behalf of his brother, Sean Downes, who is the owner of 6A Brewery. He stated that the Town Planner said he doesn't need a special permit if they only hire mobile food vendors twice or less per week. Mr. Downes submitted an e-mail from the Town Planner. Ms. Peterson read into the record the retail food establishment exemption disclosure that was signed by the owner/ operator on February 5, 2019 stating that they would not be selling TCS food. Miss Guarino explained that 6A Brewery was not selling food, therefore, the exemption disclosure was still being followed. Mr. Andrews asked Health Agent, Terri Guarino if the previous food establishment which was there for 8 years had any issues. **Miss Guarino replied, no, to which Mr. Andrews made a motion to issue a stern warning. Ms. Peterson seconded the motion. All were in favor and the motion to issue 6A Brewery a stern warning only passed.**
 - b. **Wolf Pizza—Joshua Dahl— Operation of a mobile food truck without a permit. Discussion and possible vote for issuance or refusal in accordance with 105 CMR 590.015(B). Permit shall be contingent upon pre-operational inspection and compliance with all laws and other Town approvals.** David Hadda was present for Wolf Pizza. Ms. Cote explained that she got called out the 6A Brewery on July 10, 2019 because Wolf Pizza was operating without a food permit. Ms. Cote said that Wolf Pizza was extremely apologetic and voluntarily left the premises. Ms. Hadda stated that they were confused and perhaps ignorant about the procedures in the Town of Bourne. Mr. Andrews stated to make sure that, in the future, they are aware of different Town's procedures and ask questions while applying. Ms. Peterson said that she would like to give them a second chance. Mr. Hadda was grateful and stated that he "learned from Cape Cod Cannoli what not to do." **Ms. Peterson made a motion to approve the mobile food permit and to get in touch with the office as to when they are going to operate. The motion was seconded by Mr. Andrews. All in favor and the vote was unanimous.**
10. **1 Maple Avenue—Thomas Bunker, PLS; of BSS Design, Inc. on behalf of owner Tara R. Greco, Trustee of the Dante R. Greco revocable Trust—Continued from May 22, 2019—Variance request to install a BioMicrobics, Inc. MicroFAST system and pressure distribution Soil Absorption System to service the proposed house at 1 Maple Avenue. System design for a 2 bedroom dwelling.** Mr. Tom Bunker, Attorney Ben Lossordo, and Owner, Tara Greco, were present in support of this item. The project was issued an Order of Conditions by the Conservation Commission. An overview of the plans was provided, from the meeting on June 12, 2019 there were no further amendments, but now have been endorsed by the Conservation Commission. Mr.

Andrews asked for clarification on the setbacks. Atty. Lossordo submitted an excerpt from Title 5 for the Board member's consideration. Mr. Bill Fallen of Grasslands Lane thanked the Board of Health for their consideration and efforts to protect the harbor and wanted to know what impact this new septic system will have on the harbor, and if the leaching will be under water at high tide. Mr. Bunker explained the I/A technology and 2-bedroom design may have the least impact to the harbor than surrounding dwellings. Miss Guarino explained the percolation test was conducted at high tide, and there was a monitoring well which was set over a new moon tidal cycle to establish the estimated high ground water elevation which should compensate for seasonal variations. The leaching as designed is separated by 5.4' from this high groundwater elevation. Mr. Bob Bishop of 7 Maple Avenue agrees that it may have the lowest discharge of any other surrounding houses, but feels it is still a new house and is increasing on to what is there, and may be an added risk to the harbor being polluted. Ms. Greco responded that she is a long-standing owner, is hoping to retire there, is environmentally conscious, and has agreed to the alternative system and town board requirements to protect the resources. **Made a motion to approve a 48 foot variance from the Bourne Board of Health 150' Setback Regulations for the setback of the soil absorption system (primary & reserve) from the salt marsh. A two-bedroom deed restriction will be filed on the property prior to the board of health issuing the permit per board policy. Additionally the I/A testing and monitoring shall apply. Mr. Uitti seconded the motion. All in favor, and the motion to approve passed unanimously.**

11. **Title 5 Inspection at 25 Phillips Rd—25 Phillips Road Realty Trust—Further evaluation needed to determine if three cesspools in proximity to resource areas pass or fail inspection from May 8, 2019.** Health Agent, Terri Guarino described the three Title 5 Inspection reports which were witnessed. Unfortunately all efforts to contact the owner's of the property have been unsuccessful. These are nonconforming systems which are in extremely close proximity to resource areas. **Mr. Andrews made a motion to consider the three separate cesspools a failure due to the proximity to the coastal bank. Mr. Uitti seconded the motion. All in favor, and the motion passed unanimously.** Mr. Andrews added that if the owner's are aggrieved by this decision they have the right to appeal.
12. **141 Williams Avenue—Owner Paula Hoffman—Continued from June 26, 2019--Discussion and possible vote regarding failure to correct violations of the State Sanitary Code, 105 CMR 410.000, and noncompliance with the orders dated April 18, 2019, and June 12, 2019.** Mr. John Hogan was present on behalf of the property owner as the contractor who has been working on the property. Health Inspector, Miss Kayla Davis added that the occupant, Mr. Jamie Peterson was in the audience during the meeting with his children but had to leave. Ms. Peterson asked Mr. Hogan how long Mr. Hogan needs and thinks 7 days is the maximum. Fines have accrued to \$29,400.00 in fines as this has dragged on for months and nothing is working. **Mr. Andrews made a motion to continue 141 Williams Avenue to the next day and that all repairs should be completed within seven days. Ms. Peterson seconded the motion. All in favor and the motion passed unanimously.**
13. **Approve the Minutes— Approve the minutes from the previous meetings. Mr. Andrews abstained from voting to approve the meeting minutes from June 12, 2019. It was a unanimous vote to approve the meeting minutes from June 26, 2019.**
14. **Set tentative date for next meeting and adjourn. The next regular meeting will be set for August 21, 2019. Mr. Andrews made a motion to adjourn the meeting at 8:35pm. Mr. Uitti seconded. All were in favor and the meeting adjourned.**

Kathleen Peterson _____
Stanley Andrews _____
Galon Barlow Jr. _____
Don Uitti _____
Kelly Mastria _____