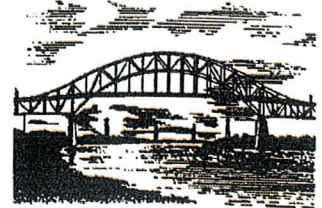


Terri A. Guarino
Health Agent

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 23, 2022

RECEIVED
2022 MAY 19 PM 4:22
TOWN CLERK BOURNE

Meeting was called to order at 05:30pm

Mackenzie Ryan, of the Bourne Enterprise, acknowledged they were recording.

- Attendance.** – Members in attendance: William Meier, Barbara Princiotta, Don Uitti, and Stanley Andrews. Support Staff in attendance: Terri Guarino, Health Agent; and Kaitlyn Shea, Assistant Health Agent.
A request by one of the Board members to take agenda item 12, 60 Arlington, out of order as he may have to leave early. Mr. Meier, Mr. Uitti and Mr. Andrews are all in favor of the change of order.
- 60 Arlington Dr - Zachary Basinski P.E. of Bracken Engineering on behalf of owners Edward & Peri Jacobs – CONTINUED from October 13, 2021 & January 12, 2022.** Requesting relief from Local Board of Health setback requirements including a 10± foot reduction from the required 150 foot setback from the proposed S.A.S. to Mean High Water (Buttermilk Bay), and a 72± foot reduction from the required 150 foot setback from a S.A.S. to the top of a Coastal Bank. – Ms. Princiotta excused herself for this agenda item and left the room. Zac Basinski of Bracken Engineering in attendance to represent this agenda item. Mr. Andrews alerted the applicant that the Board received a request to continue the hearing from an attorney for the abutter, Kevin Geaney. Mr. Geaney presented his request for continuance, on behalf of Barbara Princiotta, citing the 66 page supplement the applicant submitted to the Health Department last Thursday as the reasoning. He stated that the continuance would give the abutter sufficient time to fully review the material submitted, and would be consistent with Barnstable County Health Department standards for abutter continuance requests. Mr. Andrews opened up discussion to the Board. He stated that just recently the Board themselves had sizable submissions with similar, if not smaller, timeframes that were able to be reviewed for their Landfill Site Assignment hearings. Mr. Meier expressed his desire for this project to be heard and asked Mr. Geaney how long he thinks would be needed to fully review. Mr. Geaney says that the next meeting date would be sufficient. Mr. Uitti felt that the Board should continue with the hearing. Mr. Uitti wondered how long this has been postponed for, and Mr. Andrews stated that it was first presented to the Board in October of 2021 with multiple continuances from all sides, including the Board itself. Miss Guarino stated that this was first before the Board on October 13th, 2021 and that the applicants did waive the timeframe for the decision on October 28th due time constraints with winter storms. Mr. Meier asked Mr. Geaney and Mr. Basinski if they would be prepared for a hearing tonight. Mr. Geaney stated that he and his client had reviewed the material but not sufficiently. Mr. Basinski said he is prepared for the hearing tonight. Mr. Meier felt that the Board should continue with the hearing tonight and Mr. Uitti agreed. Mr. Andrews asked for a vote to deny or grant the continuance. **Mr. Meier made a motion to grant the continuance only one last time to allow the abutter and her representation the time they requested to review the material. Mr. Uitti seconded the motion.** Mr. Andrews opened up further discussion. Miss Guarino wondered what the particular prejudice is and what would be prepared for any differently or submitted to the Board with this extra time, how this extra time will benefit Mr. Geaney and his client. She expressed concern that this would lead to additional submissions that would then require further deliberation from the other party. Mr. Geaney stated he did not anticipated submitting any

further written documents or testimony. The applicant, Peri Jacobs, explained the 66 page submission and the fact that it was only submitted in response to a late submission by Attn. Geaney that was allowed. She asked the Board to reconsider and let this agenda item be heard tonight as there is nothing in the documentation that Attn. Geaney and Ms. Princiotta have not seen. **Roll call vote to approve. Mr. Meier... yes, Mr. Uitti...yes, Mr. Andrews...no. 2 to 1, continuance granted.** The Board and the Health Agent agreed to discuss a date certain tomorrow morning, both parties would be alerted once a date is decided upon.

3. **Terri Guarino, Health Agent to provide information and updates. The Board of Health to discuss and possibly vote.** – Ms. Princiotta rejoined the meeting. Miss Guarino started by explaining that Bourne's 14 Day active case load is now under 20. These cases contain any pcr/antigen testing done at a testing facility but does not incorporate any at home tests. This week's Percent Positivity for Bourne is **2.0%**, and the total number of tests on these weekly reports suggests that testing has **not** decreased but positive cases have, which is great news. Schools have been going "mask-less" since our last meeting and no outbreaks or large case numbers at any of the Bourne schools have been reported to the Health Department. There are no questions from the Board related to COVID-19. Miss Guarino continued with an update for the Board regarding the Title Transfer Regulation changes, that were voted upon by them, have been published and distributed to many of our known Title 5 inspectors and anyone who calls in requesting septic information for a title 5 inspection. Mr. Andrews asked how this has been received so far. Miss Guarino stated that it has been received well, in regards to cesspools being deemed failing system it has been a long time coming. No questions from the Board or the public. Miss Guarino stated that in the next coming meetings the office would like to bring forward updates to several Board of Health Regulations, Ms. Shea has prepared quite drafts so far that she would like to send out to the Board soon. Other updates Miss Guarino would like to make are to application forms for Board of Health meetings. There were no regulations in particular any Board members wished to see, Mr. Andrews stated he would sit down with Miss Guarino to figure out the best route to take in this process. There were no questions from the Board.
4. **50 Tahanto Rd – Darren Meyer R.S. OF Meyer and Sons, Inc on behalf of owners Harvey Family Revocable Trust – Requesting relief from State and Local Board of Health Title 5 Regulations. Variances requested include a 9 foot reduction from the required 20 foot setback from the foundation to the leaching facility with a liner installed. A 3 foot reduction in the required 10 foot setback from the leaching facility to the property line. A 3 foot reduction in the required 10 foot setback from the septic tank to the foundation and a 4 foot reduction from the required 10 foot setback from the septic tank to the property line.** – Mr. Meyer emailed the Health Department earlier in the day to request a continuance as this project had not yet been heard before the Conservation Committee. **Mr. Andrews requested that the office contact Mr. Meyer and have him fill out a continuance request form and submit to the office before noon on March 24th.**
5. **82 Captains Row – Peter McEntee P.E. of Engineering Works, Inc on behalf of owner William Moore – Requesting relief from state and local Board of Health Title 5 Regulations. Variances requested include a 5 foot reduction from the required 10 foot setback from the S.A.S. to the front property line. A 13 foot reduction in the required 20 foot setback from the S.A.S. to the cellar wall. A 4 foot reduction from the state regulation requiring 50 feet from a coastal bank. A 104 foot reduction from the Bourne Board of Health regulation requiring a 150 foot setback from a S.A.S. to a coastal bank and a 27% area reduction to the calculated S.A.S. area for the design flow of 330 gpd.** – Mr. McEntee of Engineering Works represented this agenda item on behalf of his clients, the Moore's. Mr. McEntee began his presentation by stating the property is located out on the bluff of Mashnee Island with a cesspool in failure located between the house and Buzzards Bay. Mr. McEntee explained he is proposing to upgrade the system with maximum feasible compliance, which will include an H2O MicroFAST pretreatment unit in the driveway with gravity flow to one leaching chamber. Mr. Andrews stated that the lots out on Mashnee Island are very tight lots. Mr. McEntee noted that there is 16 feet from mean high water. Miss Guarino explained that as proposed this system would decrease the total nitrogen on the site and it is maximum feasible compliance for this lot. She further noted that this is a substantial improvement as it would be replacing the current failing cesspool is right on the cusp of the coastal bank. And that the requested leaching area reduction is allowable under local upgrade approvals and with this MicroFAST technology. Mr. Andrews asked Miss Guarino about the bedrooms in the basement. Miss Guarino explained that there are two

additional rooms in the lower level that are for storage and utilities, so she suggested a three bedroom deed restriction for the property as there are already three rooms labeled as bedrooms per the architectural provided by the applicant. Mr. McEntee noted that the system proposed would have adequate leaching capacity for a four bedroom home. Mr. Andrews asked if the owners would be against a bedroom restriction for this property. Mr. Moore explained that he and his wife are full time residents at this property. He further explained that the home has always been a three bedroom home and that they have no intentions of changing that, so he would not be opposed to a three bedroom deed restriction. There were no questions from the Board or the public. **Ms. Princiotta made a motion to approve the variances requested including a 5 foot reduction from the required 10 foot setback from the S.A.S. to the front property line, a 13 foot reduction in the required 20 foot setback from the S.A.S. to the cellar wall, a 4 foot reduction from the state regulation requiring 50 feet from a coastal bank, a 104 foot reduction from the Bourne Board of Health regulation requiring a 150 foot setback from a S.A.S. to a coastal bank, and a 27% area reduction to the calculated S.A.S. area for the design flow of 330 gpd, with the changes of all paperwork to include that the components are to be H2O. This approval is contingent upon the required BOH testing policy and a 3 bedroom deed restriction filed with the Registry of Deeds. Mr. Meier seconded the motion. All were in favor, the motion passed.**

6. **819 Head of the Bay Rd - Christopher Gilbert, Project Manager of Farland Corp on behalf of owners 819 Bourne Realty Trust – Requesting renewal of variances granted by the Board of Health on 9-28-18 which expired on 9-28-2020. Variances requested include a reduction of \pm 46' from the required 150' set back from the proposed S.A.S to a coastal bank for new construction. – Chris Gilbert was present to represent the agenda item. Mr. Gilbert explained the system being proposed and the variance from a coastal bank that was approved back in 2018, the system includes a MicroFAST system and Cultec chambers. Mr. Andrews stated that he remember this project well, and that the applicant was taking the permit tolling from the COVID-19 pandemic to ask for an extension of the variance approved. Miss Guarino asked for confirmation that this is just for one of the two lots at 819 Health of the Bay Road. Mr. Gilbert explained that he is here on behalf of just lot 2. Miss Guarino added to the record that this request is just for lot 2. Miss Guarino recommended that an approval tonight would be subject to the same conditions and provisions as the original approval, Mr. Andrews agreed. Mr. Andrews asked how Miss Guarino felt about a 12 month extension. She explained that a permit would have to be applied for and issued before that timeframe or the extension would expire. Ms. Princiotta asked for clarification that the extension would be form today, Mr. Andrews confirmed this. There were no further questions from the Board or the public. **Ms. Princiotta made a motion to grant a 12 month extension from today, 3/23/2022, of the variance approval for 819 Head of the Bay Road Lot 2 with the same provisions and conditions as the original approval on 9/28/2018, provided a permit is issued by the Health Agent within that 12 month timeframe. Mr. Uitti seconded the motion. All were in favor, the motion passed.****

7. **126 Tahanto Rd – Jason Youngquist of Outback Engineering on behalf of owner Chris Timson – Requesting relief from Bourne Board of Health Title 5 Regulations. Variances requested include a 30' foot reduction from the required 150' setback from a leaching field and the approval of the installation of sewage disposal system within an AE Flood Zone. – Jeff Youngquist of Outback engineering represented this agenda item. He began by stating that this is a 4 bedroom home septic repair using an advanced Presby system that just received Conservation Commission approval. He further explained the request for a 30 foot setback, explaining that this as far as the system could be placed away without needing additional variances. Mr. Andrews expressed his understanding of the tight quarters of that neighborhood and asked what the separation from groundwater was. Mr. Youngquist confirmed that there was a 6.75 foot separation from groundwater noted at the perc test. Miss Guarino explained that there are two proposed additions to sides of the existing home as well as a detached office/studio. Miss Guarino confirmed Mr. Andrews's statement that there were no floorplans submitted. Miss Guarino expressed concern that the detached office/ studio likely meets the Board of Health definition for an additional bedroom to the property. If so, the Board may request the Nitrogen Loading worksheet and Percentage Increase Worksheet to see if the increases to the property trigger additional Nitrogen removal. Mr. Andrews stated he would like to see the worksheets and architectural. There were no further questions from the Board. Mr. Andrews recommended that the applicant get the architectural to the office so they can decide if further**

worksheets and documents will be required. Mr. Andrews informed the applicant that a vote could take place tonight, the applicant could withdraw without prejudice, or he could request a continuance. Mr. Youngquist requested a continuance of this agenda item, a request form was filled out on site. **Mr. Meier made a motion to grant a continuance for this agenda item to the next meeting date. Mr. Uitti seconded the motion. All were in favor, the motion passed.**

8. **Municipality Statement of Commitment for Public Health Excellence Grant Program for Shared Services (RFR #214333) through Barnstable County Department of Health and Environment and Mass DPH Office of Local and Regional Health** – Miss Guarino started off by addressing that just this evening more information about this program started to come through. She expressed concern that it is not known specifically what would be required of the towns to participate in this grant and what Bourne would receive with these “shared services.” It had been confirmed by the County that the Summer Sanitarian and Beach Sampler are services that are protected and not a part of this grant. At this time Miss Guarino is not comfortable with taking part in the grant with what is known so far. Mr. Andrews expressed concern about what Bourne may be losing out on if they choose to take part in the grant program, as the county would have to cover the costs related to the grant. He also expressed concerns about the Health Department already being understaffed for what Bourne's needs currently are, adding to that workload is concerning to him. Miss Guarino explained that the purpose of the grant is for cross jurisdictional services, meaning it is not for individual communities but rather for two or more communities to share a public health service. Mr. Andrews wondered if the grant is through Barnstable County does that mean it would limit Bourne partnering with other neighboring communities like Wareham or Plymouth. Miss Guarino said she could reach out to find out these answers, Mr. Andrews also suggested any questions from the Town Administrator should also be brought to the County for clarification. Miss Guarino stated this has not been presented to the current Town Administrator yet, and would prefer the Board decide if they support it before bringing it to the Town Administrator. Mr. Meier wondered if part of this “sharing” would include the use of the Board. The Board agreed that the description of the services and requirements are unclear. Miss Guarino stated that with the current timeframe that it is unlikely the Board will receive the answers they are looking for in time, as this is going before the County Commissioners on March 30th. Mr. Andrews suggested that if Miss Guarino gets more information and feels it is a good idea she can bring it to the Town Administrator and take part in the grant, and then update the Board on her decision. Ms. Princiotta agreed that Miss Guarino could make this decision as she would be most affected by the services. Mr. Meier and Mr. Uitti were also in agreement to support Miss Guarino decision. **Ms. Princiotta made a motion to grant the Health Agent, Terri Guarino, administrative approval for the Municipality Statement of Commitment for Public Health Excellence Grant Program for Shared Services (RFR #214333) through Barnstable County Department of Health and Environment and Mass DPH Office of Local and Regional Health. Mr. Uitti seconded the motion. All were in favor, the motion passed.**
9. **From Papi's Kitchen – JoAnne Papi-Franco-Discussion and possible vote on violations of State Sanitary Code, Chapter X: 105 CMR 590.000 for operating a catering business out of a residential kitchen at 15 Luigi Ave, Sagamore, without authorization to do so.** – There was no one in attendance to represent or discuss this agenda item. Miss Guarino began by alerting the Board that they have been supplied an updated timeline of the issue. She explained that in November of 2020 the Health Department received notice of advertising of unpermitted catering business out of an unlicensed kitchen by the previous Chairwoman of the Board of Health, this went back to August of 2020 that the Health Department could confirm unpermitted catering was occurring. A follow up inspection in response to the complaint was conducted in November of 2020, where frozen food intended for sale to the public was found on site. At this time Mrs. Papi-Franco was informed of the Food Code requirements and that she lacked license and certification prerequisites for operating a food establishment. The business owner was made aware that it is not permitted to sell/prepare TCS foods from a Residential Kitchen, they are limited to non-TCS foods such as baked goods. Miss Guarino explained that at this time the Health Department worked with the Mrs. Papi-Franco to come into compliance, such as with food labeling issues and getting herself certified in food management courses. It was understood in December of 2020 that Mrs. Papi-Franco had ceased and desisted operating until everything was brought into compliance, and looked into possible commercial kitchens she could work with as allowed under the Food Code. No permits were ever submitted in regards to these commercial kitchen agreements. At one point an application was started which was never paid for, it was the wrong application

for the proposed operation. Further discussions in June of 2021 about the process. Miss Guarino explained that throughout the very long list of communications there was continued advertising for catering. Miss Guarino addressed that there was no one present for this, but reminded that Board that within the correspondence supplied it was stated by the Resident that they would not be attending any Board of Health meeting about this issue, so Miss Guarino informed them that they would continue with the discussion and hearing regardless since this has been dragged on since 2020. Miss Guarino further elaborated that if this had not been brought to the Board's attention in 2020/2021 during the peak of the pandemic this meeting would have happened a lot sooner, but instead the Health Department tried to work with Mrs. Papi-Franco. In 2022 there was also advertising for catering, which was the last straw for Miss Guarino. In some of the most recent correspondence Mrs. Papi-Franco indicated that she would not be operating any longer, which is what Miss Guarino was looking for for some time in writing from her. Mr. Uitti asked for clarification that she is currently not operating. Miss Guarino stated that to her knowledge she is not operating and has, in writing, stated she has ceased and desisted. Miss Guarino expressed concern however, since she has stated this to the Health Department for some time but yet every holiday new advertising occurs, and Mrs. Papi-Franco has admitted to catering events over this time. Mr. Andrews stated that the office has documented this well over the last few years and this is a violation. He felt that she was allotted a lot more time than should be allotted but because of a pandemic it was put off. He also noted that this was sent off to the Selectmen for relief by Mrs. Papi-Franco, they were not able to do so. Each offense constitutes a new violation, with a daily fine. Mr. Andrews noted that this would be tens of thousands of dollars' worth of fines. Mr. Andrews wished Mrs. Papi-Franco was in attendance so they could discuss the issues and the liability she has opened herself up to as well. Mr. Andrews explained that when people make agreements with caterers they assume that person is doing business the right way, that they are permitted and inspected and safe, which is why these regulations exist. He feels it is indisputable that she is guilty and has committed these violations and would like to come to a finding that Mrs. Papi-Franco violated the Food Code, with no monetary fines, but no permits under the Board of Health's purview are to be issued until she comes before the Board of Health at a public meeting as part of the education of this resident. Mr. Uitti agrees. Ms. Princiotta wondered if issuing a fine that will be waived would motivate Mrs. Papi-Franco to come before the Board. Mr. Andrews doesn't believe a fine would motivate her. Miss Guarino stated she doesn't think Mrs. Papi-Franco would be in disagreement of the finding of her operating without a permit since 2022, since she herself has admitted to it. Miss Guarino felt that this is an extremely rare case, for food establishments to operate without permits in Bourne, and that many inspectors and Board members have tried to work with her. So based on the lack of cooperation thus far, Miss Guarino felt that a monetary fine would not accomplish anything. There is further discussion by the Board about remedies they could take for this issue. Miss Guarino stated that with the written testimony that the operation has ceased and desisted, if further advertising occurs this can be brought straight to the courts, Mr. Andrews followed this by stating if the Board finds her in violation now that will give further evidence for Miss Guarino if that were to occur. **Mr. Andrews made a motion to find Joanne Papi in violation of the Food Code on more than three occasions, with no monetary fines but not permits or inspections or applications are to be accepted by the Board of Health until that time that she comes before the Board of Health at a public meeting. Mr. Uitti seconded the motion. There was no further discussion. All were in favor, the motion passed.**

- 10. Sharks Bite Tattoo – Dan Baker, Owner – Discussion and possible vote on violations from operation of a Body Art Establishment without a permit and Operation as a Body Art Practitioner without a license. –** No one present to represent this agenda item. Miss Guarino began by addressing that the health department has received numerous complaints over the years regarding this establishment, the most recent being that the owner of the establishment resides in the unit. There have been joint inspections conducted of the unit. For the purpose of this evening Miss Guarino focused on permit expirations for Mr. Baker, his establishment and practitioner permits. She explained that he has been operating here for many years so he is very aware of the permitting process and requirements here in Bourne. She referenced the timeline provided to the Board, in January 27th of 2021 the Board received updates on permit renewals and Mr. Baker was not in compliance at this time so a follow-up letter was sent out the next day on the 28th. Ms. Shea clarified that by the end of March 2021 Mr. Baker had paid all required fees for his permits but no inspection was ever conducted, so a permit was never issued for his establishment in 2021. In recent complaints, Miss Guarino informed the Board that building managers have really provided evidence that he has been continuing to operate out of his establishment despite not being permitted and

made fully aware of this. On two occasions while Ms. Shea visited the establishment people were approaching for an appointment with Mr. Baker to get a tattoo. Miss Guarino stated that this happened again on March 4th, 2022 and at that time the building was placarded by Miss Guarino and Ms. Shea and posted closed. Mr. Andrews asked if that sign was still in place, Ms. Shea confirmed that this morning she drove by and it was still there. Miss Guarino stated that there have been several odor complaints from neighboring businesses as well. Mr. Andrews asked what legal avenue can be taken regarding residing in a commercial building and operating without a license. Miss Guarino stated that if there is a finding we could take every legal remedy available to the Board to resolve the issue. Mr. Meier and Mr. Uitti were in agreement, Mr. Andrews requested that the Board be kept up to date as this continues on. There were no further comments or questions from the Board. **Ms. Princiotta made a motion to find both Shark Bite Tattoo and the operator, Daniel Baker to be in violation of the Body Art Regulations more than three times and that the office is able to use every legal avenue to rectify the situation. Mr. Meier seconded the motion. No further discussion. All were in favor, the motion passed.** There were no comments from the public.

11. **Approve the Minutes— Approve the minutes from the previous meetings dated December 13, 2021, March 8, 2022 and March 14, 2022.** The minutes had not been completed yet.
12. **Set tentative date for next meeting.** – Mr. Andrews asked Miss Guarino to look over the calendar tomorrow to schedule the next meeting date. There will be scheduling issues in April as the Chair and the Health Agent will both be taking time off during that month.
13. **Adjourn.** – Ms. Princiotta made a motion to adjourn. Mr. Uitti seconded the motion. All were in favor, the meeting adjourned at 6:57pm.

Taped by: Terri Guarino, Health Agent
Typed by: Kaitlyn Shea, Assistant Health Agent