**TOWN OF BOURNE**

**BOARD OF HEALTH**

**24 Perry Avenue**

**Buzzards Bay, MA 02532**

Cynthia A. Coffin

Health Agent

**MINUTES**

**February 12, 2014**

**Members in attendance: Kathy Peterson, Chairperson, Stanley Andrews, Vice-Chair; Donald Uitti, Secretary, Galon Barlow and Kelly Mastria**

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

**Meeting was called to order at 7:03 P.M by Chairperson, Kathy Peterson.**

1. **10 JEFFERSON RD – Barbara Frappier for Mr. & Mrs. Poirier – Request waiver to continue use of existing septic system for proposed renovations -** Ms. Frappier stated that this is a project to do some renovations to the house. She reviewed the submitted plans with the Board. She explained that one addition was the garage going onto the house. Another addition will be a deck and there is a section of the house that is being removed. They are going to be doing interior renovations as well. In the course of those renovations, they are going to drop a bedroom in the design. They are going from 4 bedrooms to 3 bedrooms. The square footage of these bedrooms will drop by 4%. The non-bedroom space is going to increase by 10%. They are asking to be able to do these renovations and maintain the existing septic. The only aspect of the septic system that will require some attention is the fact that the tank will be too close to the slab foundation of the addition, so she is asking to replace the tank in the appropriate distance away from the slab. Mr. Andrews stated that there is a plan of the existing first floor but no proposed architecturals. Ms. Frappier stated that the first floor is not changing. Ms. Peterson asked what the condition is of the existing septic system. Ms. Frappier answered that it passed Title 5 inspection just recently when the owners bought the house, and is adequately sized for the house. Ms. Coffin asked if the 2009 inspection was the last inspection. Ms. Frappier stated yes. Ms. Coffin stated that Ms. Frappier mentioned that there is an existing tank but she does not think there is. The Title 5 report states that there is a single cesspool with a leach pit. Mr. Poirier verified that Ms. Coffin is correct. Ms. Coffin stated that a permit needs to be pulled for the installation of the tank. Ms. Mastria asked if this project should require a deed restriction. Ms. Peterson stated yes. **Mr. Uitti made a motion that the board approve the request for a waiver for the continued use of the existing septic system for proposed renovations with plans dated received January 10, 2014 and the architectuals received January 10, 2014. There is to be a recorded 3 bedroom deed restriction and a new 1500 tank will need to be installed. Mr. Andrews seconded the motion. It was unanimous.**

1. **LOBSTER TRAP – Don Bracken – Review the status of the septic system replacement –** Mr. Basinski was in for Mr. Bracken. Ms. Peterson stated that Mr. Basinski dropped off an O & M book for the office and for the Board to review. This book is filled with practically everything the board has asked for so if the board wants to review it during this discussion they are able to do so. She does not feel that board needs to go through everything in the manual this evening. Mr. Basinski stated that he has done inspections of the system. Each time he has been onsite, he checks for various things, such as checking to make sure all the grease traps and filters are working; making sure that the Microfast units are in operation and are well serviced, and that the pump chambers are in working order. There has been no hydraulic failure. Back in April there was a concern of grease carry over coming from the system because that is what failed the soil absorption system in the past. The system was upgraded and a new grease trap was installed. The old pressure dosed soil absorption system was replaced with a new Presby system. They have been testing the effluent and influent to monitor the BOD, TSS and grease amounts. There has been no grease carry over and there has been a reduction in the BOD and the TSS. Based on the testing results, the TSS and the BOD still currently fall within the required permit limits, but there has been excessive pumping of the septic tank. When the system was permitted, it was requested that the grease chamber be pumped more frequently. At the time the grease trap was pumped every week. With pumping records it has been discovered that WinWater was pumping out the septic tank as well as the grease trap, so there has been excessive pumping of the septic tanks. Mr. Andrews stated that one of his concerns was that the board wanted to see a written maintenance procedure so that the owner knew what needed to be done to maintain the system. A procedure like that would have told his pumper what to pump and what not to pump. Mr. Andrews stated that he looked through the table of contents and did not see any procedure for maintenance. Mr. Basinski stated that there is a procedure in place for the 2014 season in section II. Mr. Andrews stated that he is looking something in the manual that tells the owner what he needs to do and he doesn’t see that specifically spelled out in the manual. He is concerned that the excessive pumping of the tank that has already taken place is making the system not function as designed. Mr. Basinski stated that the system is not failing but there was excessive pumping that was not required for the tank. He said that this has been addressed in the manual and the company has been told to only pump the tank as required in the O & M. Mr. Andrews stated that he is just trying to protect Mr. Delaney. Mr. Delaney knows how to run a restaurant, but he does not know how to run the septic system. Bracken Engineering should provide the owner with that documentation because that system has been replaced 3 times in the last fifteen years. Mr. Andrews does not want to see the owner repeatedly coming back and spending a lot of money to fix the system again. Mr. Andrews stated that he is trying to find the maintenance document in the book that was given to the board for review and cannot find one. Mr. Basinski stated that he has not established a timing on the required pumping going forward, but that will be established when they due the inspections and recheck the system now that the pumping has stopped. They are now doing quarterly inspections. The only other part that is missing from the binder is the pumping maintenance agreement which will be established once they get the new testing results. Right now the test results that he has gotten are noncompliant because of the pumping. The procedure is that Bracken Engineering will be going out in March, July, October and December and will look at effluent and influent samples. Mr. Andrews stated that he would like a cover letter to simplify what is needed to maintain the system. Mr. Basinski stated that in the contract it stated that one week the tank will be pumped and the next week the grease trap will be pumped. That protocol was already established. Mr. Basinski stated that he will create a new cover letter and attach it to the front of this book so that the owner knows each month what will need to be done. Mr. Andrews stated that would be great.  **Ms. Peterson stated that no action need be taken at this time. She would like to see this back on the agenda in September unless there is a problem. Ms. Peterson stated that she appreciates Mr. Basinski creating this book for the board. Ms. Peterson stated that when Mr. Basinski creates the letter that Mr. Andrews would like to see, a copy should be given to the office so that it can be added to the office copy of the book. (\*During the discussion,Mr. Barlow stepped off this item per possible conflict of interest as he is a restaurant owner.)**

1. **40 WENAUMET BLUFF DRIVE – David R. MacLean for John and Lori Ricciuti – Request for variance from 150 foot setback regulation to install Title 5 system for demo and rebuild –** Ms. Peterson passed out some pictures that Ms. Coffin took of this property. Mr. MacLean stated that Lori Ricciuti grew up in this neighborhood and for years has wanted to purchase a house on the bluff. The existing house is in disrepair. When he assessed the situation, he realized that it had severe structural problems and the foundation was breeched and caving in. The electrical system was substandard. The house was completely filled with black mold. It turns out that the original house was built in 1890 and with all the houses on the bluff, additions have happened over the years and at some point someone put a concrete block foundation under the entire building including the porch, with a concrete floor in the basement. Every time it rained or snowed, all the water went right thru the porch, into the basement and then rolled out of the garage door. This project will be a tear down and rebuild. Mr. MacLean stated that he has been through the Conservation Commission and has a unanimous approval. Also a unanimous approval through Historic. He would have been through the board of appeals last week if there was no snow storm. Mr. MacLean stated that the new house has exactly the same spaces as the old house. It works within the zoning bylaw in terms of the maximum of square footage that he can have on the lot. The existing cottage had rooms that were really uninhabitable. The bedrooms were like closets. Everything has stayed the same except he actually dropped one of the spaces with the new house. Down stairs, with the new house, the sunroom will be a combination sunroom/bedroom. The owners want to maintain the 4 bedrooms in the new dwelling. The existing footprint is 1285 square feet and the proposed is 1284 square feet. It’s just reconfigured and pulled further away from the resource area. What was determined in Conservation is that what is considered top of bank is really the top of manmade seawall. It’s an armored bank; it really has nothing to do with vegetated wetland or endangered species. The real resource area is mean high water. Mr. MacLean stated that the applicant wants to install a new Title 5 system. The current system is a cesspool. The new leaching area will be 153 feet to mean high water. He believes that the leaching is outside of the 150 foot setback. The leaching was designed 5 feet to the street property line. Mr. MacLean stated that he has spoken with Ms. Coffin about it already. The impact of the new building will be less than the impact of the existing dwelling relative to the proximity to the resource. He has also redesigned the northwest corner of the house to move it further from the property line because the existing house was 2.5 feet from the property line so now it will be 6.5 feet. Ms. Coffin stated that originally she thought this lot would require an alternative septic system but in looking at the seawall and the actual resource it can be seen that the wall is the resource barrier with regard to the houses to the right side of the property, but that the beach and mean high water appears to be the regulated area at the house and to houses to the left. She and the engineer David Martin spoke about this at the time of the percolation test. She added that if the board feels that the actual resource is further away which seems like it is based on the pictures, then the board would just have to make a statement to that effect. Ms. Coffin stated that her only concern is that this is such a large variance from the wall, but she knows the board will probably do a deed restriction anyway, so the whole thing is the board needs to be comfortable with the fact that the resource is far enough away from the actual resource. This project is definitely over our 50%/25% increase in square footage guideline. Ms. Peterson asked what the board usually does in this area. Mr. Barlow said that he is concerned about setting a precedence in this area so near the water. He said that this request will probably be the first of many in the area. Mr. MacLean stated that regarding the beach situation, if you look at the seawall, the seawall is the actual top of bank only way over to the west. He also took pictures and at low tide he could only get over so far because the water meets the seawall to the west, but at the Ricciuti property the beach juts out into the bay, so there mean high water ends up being further away here and the actually receptor. Mr. Barlow stated again that this is going to be the first house in this neighborhood so it is very likely that within 10 years there will be significantly more of them done. Further down the road, across from Kenwood, the board is requiring those people to put in raised systems because of groundwater issues. This is a little bit higher but the board will be setting a precedence if the board allows one person to continue to use the existing system. Ms. Coffin stated that this will have a new system. Mr. Barlow feels that the Board should require an alternative here. Mr. MacLean stated that he can get 150 feet away so an alternative is not required. Ms. Coffin stated that she is on the fence because she does not know when that beach was created, or if that beach has always been like this. Ms. Coffin stated that if she were to go out and look at this property right now, the resource is 150 feet away. Mr. Barlow stated that the beach has not changed in 50 years. Mr. Andrews asked if the Conservation Commission put that the wall is an armored bank in their record. Mr. MacLean stated that he did not have a copy of the approval with him. Ms. Coffin stated that an armored bank just means that it is not a natural bank. Mr. Andrews asked if the Conservation Commission determined where the resource area was. Mr. MacLean answered they determined the resource was mean high water. Mr. Barlow asked if Ms Coffin would have liked to see a fast system or maybe a pressure dosed system. Ms. Coffin stated that pressure distribution would have been nice. She never thought of that at the time because she thought the board would approve this as a regular title 5 if the resource was determined to be mean high water. Mr. Barlow stated that the pressure dosed system would be a compromise. It is not as expensive as an alternative system. Ms. Coffin stated that she would also have liked a reduction in the number of bedrooms from 4 to 3. Ms. Peterson asked what Mr. MacLean’s thoughts are on pressure dosing. Mr. MacLean stated that they want to do whatever the board wants them to do. They really want to get the house built. Mr. MacLean stated that he feels a traditional system would certainly be adequate here because of the distance he is able to get from the resource area. When the board talks about precedence, it’s hard for him to say that everyone would need an alternative system because of the variation in the receptors. He feels that the receptor varies drastically as you walk down the beach, but that this is only his opinion. Mr. Barlow stated that he is looking at it from a different perspective. This is a neighborhood that is primarily summer residences and they are going to change into year round residences. Right now most of those houses are empty but when someone comes in and upgrades a house and makes it a year round house with insulation and heating, and built to today’s code, that changes the whole amount of use and the amount of septic that is going to be in this area. If the board asks for something, not necessarily a fast system but just pressure dosing or something moving in a protective direction, it gives the board something. The board can say this was done here but more may need to be done somewhere else. Ms. Mastria stated that this is a soup to nuts renovation. Even if the Board approves this project, something more could be required for some other project. Each decision will be made on a case by case basis. Mr. MacLean stated that isn’t it really the location of the receptor rather than scale of construction. Mr. Barlow stated that he disagrees. Mean high water means average. It does not mean maximum. Ms. Coffin stated that with pressure distribution, she feels if she only would require a 2 foot strip out, then they could do a pressure distribution field. It would not be able to be done with a 5 foot strip out but sometime the board allows 2 feet with new construction also. Mr. Andrews stated that this really isn’t new construction. Ms. Coffin stated when you demo and rebuild, it is new construction. Mr. Barlow stated that his only concern is that they are setting themselves up for the whole neighborhood. This is kind of a precedence setting situation. Ms. Peterson asked if the board would like to do a site visit. Mr. Andrews stated that depends on what the board wants to look at. Does the board want to use mean high water as the resource? If so, there would be a 153 feet setback from the mean high water to the leaching facility. Mr. Barlow stated that nothing has to be re-written and the board does have the right to ask for pressure dosing as opposed to a standard system. In some places, the board has asked for a lot more. If that wall was not there, the erosion would have been a lot more. Mr. MacLean stated that he does have some earlier photos of that area and the bank was right up at the houses and it’s been filled in overtime and then they constructed this armor bank. Ms Coffin asked if the beach has always been the same or has sand been deposited over the years. Mr. MacLean stated that the only change that there’s been is when there are storms. Mr. Barlow stated that whatever the board does here, every engineer is going to know what the board did and they will come in and say if this was done here, why can’t you do this for me. Mr. MacLean stated that the board looks at every situation individually. He just stated his case and whatever decision is made he was hoping he could do it at this hearing. Ms. Peterson stated that she is torn on this one. She really doesn’t want to set a precedence but she does understand that this is further away. Mr. Andrews stated that there are other places that an alternative system was required and the house next door isn’t. Mr. MacLean stated that is his argument. Mr. Andrews stated that then again this is close. It is right on the edge. The reason you are getting the 153 feet is because you are going closest to the road as you can. Ms. Mastria said the argument could be made that they are further than 150 feet. Anyone else going forward would have to prove that they can obtain the 150 feet. Mr. Andrews asked what the variances are. Ms. Coffin stated that Mr. MacLean is not asking for any. Legally, they are asking for a 5 foot variance to the street. She told them to try and get the system as far away from the wetland as they can. Mr. Andrews stated that there is a water main out in the street that is abutting very close which will need to be sleeved. Ms. Coffin stated that they are 10 feet from the water main right now. Mr. Andrews stated that the water main is approximate. It has not been field located. Mr. Barlow stated that the reason he was uncomfortable is because Ms. Coffin is uncomfortable and he considers her to be the expert. Ms. Coffin stated that she didn’t say she was uncomfortable. The key to this whole thing is that the board needs to agree that the resource, which is what the board is trying to protect, is the mean high water. She is telling them one way or the other because if you ask her honestly, she is kind of torn. She would probably approve it because she thinks if you take away the wall and everything just sloped to the ocean then mean high water would not be an issue because it would make the 150 feet. That seawall created a problem in a way. Mr. MacLean stated that Ms. Ricciuti grew up in this neighborhood and remembers this always being the beach for Wenaumet Bluffs, even as a child, this was the beach and where she swam. Mr. Barlow stated that Wenaumet Bluffs was there even before any of those roads and those smaller houses. Wenaumet Bluffs has been here all along with that seawall since the 1800’s. They were serviced by a little wind water tower that was all of Wings Neck Rd and it hasn’t changed since 1890. That beach has not changed. The seawall was put there then. It does not get washed away. Mr. Andrews asked Ms Coffin if there was any way they can find out the exact location of the water main in the street. Ms. Coffin stated that she did not know. **Mr. Andrews made a motion to grant a 5 foot variance from the strip out from the soil absorption system to the property line on Wenaumet Bluff Rd. Mr. Andrews changed his motion to grant a 5’ variance from the leaching facility to the street line and that the water line be confirmed to be a minimum of 10 feet away from the leaching. There is also to be deed restriction being applied to the property for 4 bedrooms. This system is laid out at 153 feet from mean high water. That is why the board is not requiring an alternative type system. Plans received by the office on February 6, 2014 dated January 27, 2014 and architectural received February 6, 2014 and dated December 18, 2013. Mr. Barlow seconded the motion. It was unanimous.**

1. **DISCUSS AND VOTE TO SEND FORMAL LETTER OF INQUIRY TO TOWN ADMINISTRATOR REGARDING DELAY IN HARVEST POWER NEGOTIATIONS –** Ms. Peterson stated that there is a letter that she would like the board members to review and make any changes they might want. If no one had any changes then they should just email Ms. Coffin and tell her that they are ok with it. When that happens then Ms. Coffin will let her know. Ms. Mastria stated that the agenda says to discuss and vote. Ms. Peterson stated that the agenda needs to say discuss and vote on everything. Ms. Mastria stated that she realizes that but if everyone agrees with the letter as is can they just take a vote to send it. Ms. Peterson stated that the board does not have to take votes to send letters. Mr. Andrews stated that it might be multiple people putting their input into this and if they have this communication on line it is not in an open forum. Ms. Peterson stated that this is why she just wants people to send their comments to Ms. Coffin. She stated that she talked to Barry and the board does not have to take votes to send letters, but for discussion on anything it was decided to put “discuss and possible vote” in front of everything that goes on the agenda and that way if by chance something requires a vote then the board does not have a problem. Mr. Mulvey stated that if a discussion letter goes out without a vote it could always be questioned whether the content of that was the will of the committee. Ms. Peterson stated that the board members are going to email Ms. Coffin that they agree with the letter. **No action need be taken at this time.**
2. **APPROVE THE MINUTES FROM THE MEETING DATED**

**DECEMBER 11, 2013 – Ms. Mastria made a motion to approve the minutes dated December 11, 2013. Mr. Andrews seconded the motion. It was unanimous.**

1. **APPROVE THE MINUTES FROM THE MEETING DATED**

**JANUARY 8, 2014 –** Ms. Mastria stated that she has just one thing on that. It was in regards to 55 Head of the Bay Road. The request for the reduction of maintenance inspections for the alternative septic system from quarterly to annually. At the last meeting, Ms. Peterson had requested that there be a discussion regarding the approval of request for maintenance reduction at one of the Board’s future meetings. This should get on the agenda sometime soon. Ms Coffin asked if Ms. Mastria was questioning the minutes. Ms Mastria stated no, she just wants to remind everyone about this item. Ms. Peterson stated that the board wants to review the policy for reducing maintenance on nitrogen removal systems. Ms. Peterson stated that we should do that soon because with summer coming up, people are going to start coming in. Mr. Andrews stated that it would be nice to have everything that the board has done for people that have already come before the Board so that the Board members will be able to refer back and keep things consistent. Ms. Coffin stated that she will have to read through all of the agendas as she does not remember who has come in. Mr. Andrews stated that the board has done several and as long as we know what we did and why we did it, it will help the Board develop a policy. Mr. Peterson said that people ask for the variance, they get the variance, this is what you have to do to get the variance and we are not going to change our minds. We should put this back on the agenda before the board gets involved with Harvest. **Ms. Mastria made a motion to approve the minutes dated January 8, 2014. Mr. Andrews seconded the motion. It was unanimous.**

**Ms. Peterson made a motion to adjourn. Mr. Andrews seconded the motion. It was unanimous and the meeting adjourned at 7:58 P.M.**

Respectfully taped and typed by

Lisa Collett

Secretary

Reviewed and approved by

Cynthia A. Coffin

Health Agent

Kathleen Peterson \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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cc Board of Selectmen/Town Clerk