**TOWN OF BOURNE**

**BOARD OF HEALTH**

**24 Perry Avenue**

**Buzzards Bay, MA 02532**

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**MINUTES**

**May 14, 2014**

**Members in attendance: Kathy Peterson, Chairman; Donald Uitti, Secretary;**

**Galon Barlow; and Kelly Mastria**

**Support Staff in attendance: Lisa Collett, Secretary and Terri Guarino, Health Inspector. Cynthia Coffin, Health Agent, arrived when discussion of item 4 was taking place.**

**Meeting was called to order at 7:00 P.M by Chairman Peterson.**

**1. 35 Park Street – Zachary Basinski for Jack & Ann Wood – Request extension on variances already approved on April 25, 2012** – Mr. Basinski requested a six month extension. The client is still working with the architect on the project. **Ms. Mastria made a motion to approve a six month extension on the variances originally approved on**

**April 25, 2012 for 35 Park Street for Jack and Ann Wood. Mr. Uitti seconded the motion. It was a unanimous vote to approve the request.**

**2. 13A River Road –Timothy Santos of Holmes and McGrath for Vincent Michienzi- Request variances from the 150 foot setback to the top of coastal bank -**

Michael McGrath from Holmes and McGrath stated that he was a professional engineer and professional land surveyor. The lot in question is a vacant lot on River Road that fronts on the Pocasset River and a phragmites marsh. They are proposing a Ruck system. He has included a copy of the DEP’s general use approval for this system. The system removes 80% of the total nitrogen from the septic effluent and this is guaranteed. He is asking for the Board to issue a local upgrade approval under our existing regulation. Ms. Peterson asked if there were other Ruck systems in the Town. Mr. McGrath stated that there are two older systems off of Barlows Landing Rd. Mr. Barlow asked if this system was a recirculating sand system but Mr. McGrath answered no. The type of system that the Board is talking about is a single pass through sand filter that Costa designs. This system only gets credit for 5 bedrooms per acre for their amount of nitrogen removal but the Ruck gets credit for 6 bedrooms per acre. The Ruck system gets credit for a higher nitrogen removal rate. Ms. Collett interjected that she had not had a chance to check the return receipt cards for the registered notification to the abutters. Ms. Peterson asked Mr. McGrath if he had the green cards or proof of mailing but he did not have them with him.

Ms. Peterson said that procedurally the Board has to continue this item. **Mr. Barlow made a motion to continue this item to May 28th. Mr. Uitti seconded the motion. It was a unanimous vote.**

**3. 14 Canonicus Ave – Zachary Basinski of Bracken Engineering for Richard and Janis Shepherd – Request variances from the 150 foot setback to a wetland resource area -** Mr. Basinski submitted green cards for the hearing. Ms. Peterson asked the location of Canonicus Ave and Mr. Basinski told the Board members that it was located off Circuit Ave. He stated that there is an existing single family house lot and there is a cranberry bog to the south and a coastal dune to the north. The intent is to demolish the existing structure and to rebuild a new two bedroom dwelling. The proposed system will be a Fast system with pump system to a pressure dosed Cultec disposal field. The system will be mounded to maintain the required groundwater separation and will be a walled system. He is requesting a 20 foot variance from the 150 foot setback of the leaching facility to the cranberry bog; a 130 foot setback has been provided. He is also requesting a 3 foot variance to the coastal dune to the north. The leaching is over 300 feet from Hen’s Cove. The proposed system will be an IA Nitrogen reduction system and will lower the nitrogen from 7.9 ppm to 4.7 ppm for a 40% reduction. Ms. Peterson reviewed the architecturals submitted. The filing has already been through the Conservation Commission and the wetlands line has been agreed upon. Mr. Barlow asked if the Board should restrict the house to two bedrooms and Ms. Peterson answered in the affirmative. There was no one present in the audience. **Mr. Barlow made a motion to approve the request for variances for 14 Canonicus Ave. He added that there will be a two bedroom deed restriction placed on the property. The plans were received May 1, 2014, drawn by Bracken Engineering. The architecturals were also received May 1, 2014 by Bracken. Ms. Mastria seconded the motion. It was a unanimous vote to approve the variances.**

**4. Whaleback Restaurant – Terri Guarino – Discussion and Possible vote to revoke the 2014 Food License –** The owner, Robert Lacey was present for the discussion. Ms. Peterson asked the Health Inspector, Ms. Guarino, to summarize the issues with the Whaleback Restaurant. Ms. Guarino stated that on February 26, 2014 she conducted a routine inspection of the restaurant. At that time she found a number of health and safety violations. She found a lot of structural problems with the establishment which she referred to the Building Inspector, Roger Laporte. She brought Mr. Laporte with her on an inspection on March 17th to go over some of the structural violations, such as a severe leak in the roof which appeared to have been going on for awhile, mold on the ceilings, the ceiling peeling off in the kitchen, the walls of the kitchen were peeling off and molding, the floor is peeling, the back door would not close, and the bathroom has structural issues with the floor. The Building Inspector agreed that a lot of work had to be done and stated that he had not issued a certificate of inspection for the property for 2014. On March 17th none of the violations noted from the February inspection had been addressed. Ms. Guarino stated that she went back for a third time after she had issued a written and verbal order to make the repairs/ corrections. This was on May 2nd. Ms. Guarino suggested that Mr. Lacey voluntarily close the restaurant at that time because the corrections that had been made were inadequate. The roof had been repaired but the interior needed a significant amount of work and the kitchen needed thorough cleaning. Ms. Guarino typed and issued a second written order which she issued as a final warning and asked that Mr. Lacey appear before the Board tonight. She had hoped that the violation might be corrected before the meeting but they have not. On May 12th she did her fourth inspection and there had only been minimal progress. Mr. Lacey agreed with Ms. Guarino’s statements and said that he has been working to address issues. He stated that he had scheduled workers to come in on the May 13th and put up the non-porous wall and work on the roof additionally. He said that the workers are coming through the kitchen to do the work and he can’t really run the kitchen and keep it clean. Ms. Peterson asked why Mr. Lacey did not accept the voluntary closure and make the repairs and correct the violations. Ms. Peterson said that she does not like to have business owners before the Board but he did not close to make repairs and now it is before the Board. Mr. Lacey stated that he did a lot of work on the roof. He stated that he would close early at night to make the repairs and he thought that this would be enough of a closure. Ms. Peterson discussed that it may have been better to close for a few days to get all the items addressed and the restaurant clean. The Board of Health should not have to make multiple visits to get the issues addressed. She feels that this shows a lack of cooperation with the office. Mr. Lacey restated that he thought he was doing enough at the time. He stated that every time he accomplished one thing there was something else to do. Ms. Peterson asked if Mr. Lacey was willing to give up his food license for a couple of weeks so that the work can be done. Mr. Lacey stated that the present condition of the restaurant were due to neglect. Ms. Mastria stated that Mr. Lacey should not be in the kitchen while work is being done on the roof, etc. The kitchen should be closed while the work is being conducted. Ms. Peterson agreed. Ms. Guarino also stated that Mr. Lacey did not have his ServSafe Certificate. The certificate submitted to the office is for someone who no longer works at the Whaleback. Mr. Lacey stated that he took the course last year with the County Extension Service. Ms. Peterson said that she would check with the County Extension Service tomorrow. Ms. Guarino said that she would like to see the kitchen closed until the repairs have been made. Ms. Peterson stated that the next Board’s meeting was May 28th. She would like to see the license pulled until May 28th. If the corrections are not made by then, the Board will revoke the license totally. Ms. Peterson stated that Mr. Lacey needs to prove to the Board that he does have his ServSafe certificate. Mr. Lacey said that he took the test and passed it but did not have the capability to print out the certificate. Ms. Peterson reiterated that both the Health Inspector and the Building Inspector asked Mr. Lacey to close so that the repairs could be made in a timely manner. Mr. Lacey chose not to do that. Ms. Guarino stated that she would like the Building Inspector and the Fire Department do the reinspection on the work. Ms. Peterson said that one of the problems is that not even the small things have been addressed. This would have show a good faith effort to do something. Ms. Peterson read through the listed violations. Ms. Peterson asked again if Mr. Lacey would voluntarily close his restaurant until the violations have been addressed. Mr. Lacey responded that he would. He stated that he thought that he would be able to get the work done. Ms. Peterson restated that there are serious issues. Mr. Lacey also stated that workers brought food into the kitchen in crock pots. Ms. Peterson and Ms. Guarino that this is not allowed under the code. Ms. Peterson said that Mr. Lacey stated that he needs to show proof by tomorrow that he is ServSafe certified. Mr. Lacey asked to read the violation again. Mr. Lacey stated that someone was coming to clean the hood. He said that some of the cleaning has been done. Ms. Guarino stated that she is concerned about all the paper products being stored in the kitchen. There was general discussion about all the violations. Mr. Lacey stated that Chuck Sorenti was doing all the structural work on the restaurant. Mr. Uitti stated that the area around the dumpster needs to be cleaned and the dumpster needs to be closed. Ms Peterson stated that she would like the Board to vote to close the restaurant for 7 days and that if Mr. Lacey could get the work done he can call the office for a reinspection and it might not have to be closed that long. If he completes the work by this Friday he will have to contact this office before noon on Friday and have at least 75 percent of the violations corrected. Ms. Coffin was concerned with the term 75 percent because this may not address the most critical issues. Mr. Lacey said that he thought that the roof was the most critical issue and so he addressed that first. There was discussion about the crock pot. Ms. Coffin said that no one can bring in any food made at a home unless that person has a licensed and inspected kitchen. This practice must stop. Ms. Mastria stated that Ms. Guarino had asked for the building inspector and fire department to also sign off before the restaurant to open so she does not think that notification by noon on Friday that the work is done would be enough time to get all parties to do their inspections. Mr. Lacey asked if he could serve beer. Ms. Peterson stated that if cannot serve food, he cannot serve beer. Ms. Peterson stated that Mr. Lacey has not addressed the issues that he was asked to address. Mr. Lacey said that he has tried to address some of the violations. Ms. Coffin stated that Ms. Guarino is frustrated that the violations are the same each time she does an inspection. She asked Ms. Guarino what the repeat violations were and what the priorities were. She said it might help to prioritize the issues for Mr. Lacey. Ms. Guarino stated that on Monday the material for the wall was outside of the establishment but it was not installed at the last time she was out there. The back of the kitchen in the dishwashing area still has a lot of issues. The flooring is peeling off and the walls are spattered with grease. Mr. Lacey stated that he will have that entire kitchen dishwashing area redone. Ms. Guarino requested that Mr. Lacey submit receipts for the materials that have been purchased. Ms. Coffin stated that in the past there was a restaurant that was closed voluntarily and the owners worked for three days and got the restaurant reopened and there had been serious issues in that establishment. Mr. Lacey said that he thought he had addressed the most serious issues. He stated that he has scraped the coffin refrigerator. Ms. Peterson said that all of this should have been taken care of after the Health Inspector’s first notice of violations. He also should have been keeping everything maintained and not need to have the Board of Health order him to clean the kitchen. Ms. Peterson stated that the restaurant would be closed Thursday morning. She asked Mr. Lacey how long he thought it would take him to correct the violations. Mr. Lacey said that he hopes that he can everything open in three days. Ms. Peterson said that when Mr. Lacey is ready he needs to call the office. Ms. Coffin said that even if Mr. Lacey doesn’t call the office she thinks that the Board of Health should reinspect. Ms. Peterson and the Board decided that they would like to visit the restaurant on Thursday morning and look at the violations and what has been done. Ms. Mastria said that she will come to that inspection. Ms. Guarino also stated that Mr. Lacey needs to submit his ServSafe certification. She said that she would be by the restaurant at 3:30 tomorrow (Thursday) and Ms. Coffin said that she thinks that they should reinspect on Monday as well. Mr. Uitti said that he would be present for the inspection as well. Mr. Lacey said that he understands that the Board is not happy that everything isn’t done yet but he really thought that he was trying to take care of things in order or priority. Ms. Coffin also said that it is frustrating that things have gotten to this point at all. Cleaning should be taking place constantly, not just when the Board of Health orders it. Ms. Peterson stated that she does not like to close a restaurant and have Mr. Lacey lose income, but the Board has no choice in this instance. Mr. Lacey stated that he has brought in a new partner, Stu Coggeshall, and he believes that things will get better. There was more discussion about what needed to be done to have the restaurant reopen. Ms. Peterson stated that the Health Department first documented the issues in December and things have not been addressed to date. He stated that he did not have a bartender was not able to do the work and maintain the bar operation. **Ms. Peterson made a motion to revoke the license of the Whaleback until the Board of Health and the Building Department are satisfied. This closure will take effect as of Thursday morning at 8 AM and that Mr. Lacey hopefully will voluntarily not open in the morning. The issues noted in the inspections will be corrected. She wants Mr. Lacey to know that the Board does not make this vote lightly. Ms. Mastria seconded the motion. It was a unanimous vote. Ms. Peterson said that the Whaleback is officially closed. Ms. Coffin told Mr. Lacey that if violations are corrected he needs to call the Board of Health office so that reinspections can be done. The goal is to get the restaurant reopened. Ms. Coffin reminded Mr. Lacey to get the office a copy of this ServSafe certification.**

**Mr. Barlow returned to the meeting.**

**5. Discussion and Possible Vote – Cynthia Coffin – Regarding amendment to Swimming Pool fence regulation.** Ms. Peterson stated that she did not have any changes that she thought needed to be made to the amendment. She asked the other Board members if they didn’t have any comments. Mr. Uitti asked Ms. Coffin if she had read through the Building Code materials he had submitted to her. She stated that the amendment was written based on the standards in the Building Code so she did not read through the code again. **Mr. Uitti made a motion to approve the Swimming Pool regulations amendment. Mr. Barlow seconded the motion. It was a unanimous vote to approve the amended regulation.**

**Ms. Mastria made a motion to adjourn. Mr. Uitti seconded the motion. It was a unanimous vote. The meeting adjourned at 8:08 P.M.**

Typed by Cynthia A. Coffin, Health Agent

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

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cc Board of Selectmen/Town Clerk