



**TOWN OF BOURNE
BOARD OF HEALTH**
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Cynthia A. Coffin,
Health Agent

**MINUTES
JUNE 13, 2012**

Members in attendance: Kathy Peterson, Chairman; Don Uitti; Galon Barlow

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

Meeting was called to order at 7:00 P.M.

- 1. 211 PRESIDENT'S ROAD: Re-file – Warwick & Associates for Paul Medeiros: Request waiver to continue use of existing system for proposed renovations -** Ms Frappier stated that this project has already been before the board but was continued. Ms Frappier stated that the existing system is for 5 bedrooms and the plans are for no more than 5 bedrooms. Ms. Coffin stated that on May 29, 2012 she did a site visit and met with Mr. Medeiros who took Ms. Coffin through the main house. Ms Coffin stated that the Assessor's records have four bedrooms in that dwelling. Now there are 3 bedrooms upstairs and the fourth bedroom downstairs is no longer a bedroom. It has at least a 5 foot cased.

Ms. Coffin stated that there will be 2 bedrooms in the accessory dwelling.

Ms. Coffin stated that the question as to the size of the septic system came up because in 1995 Mr. Louis Gallo presented a plan for the septic upgrade for a five bedroom septic system. Ms. Coffin stated that under the code, the maximum that was allowed was 2 feet of stone and there was actually 4 feet with 2 feet below. The proposal was for a five bedroom system, but legally she could only give them credit for four bedrooms. She did have the applicant dig up the system to verify see how much stone is really there. Ms. Coffin stated that the design capacity is indeed for a 5 bedroom septic system, even though legally they could only get credit under Title 5 for four bedrooms. The system was dry at the inspection. Ms. Peterson asked if the architectuals are on file. Ms. Frappier said that there are plans on file. Ms. Coffin stated that after doing the site visit she did verify the number of bedrooms. Mr. Barlow stated that all of the board's questions were address and answered at the last meeting. **Mr. Uitti made a motion to approve the requested waiver to use the existing system for proposed renovations. Mr. Uitti referenced the architectuals dated April 18, 2012. Mr. Barlow seconded the motion. All in favor and the request is PASSED.**

- 2. 62 Old Plymouth Road: Winokur, Serkey & Rosenberg, PC for Holly L Harrison and Michael R. Lundholm: Appeal State Sanitary Code Violation** – Ms. Peterson stated that Ms Coffin will begin with a brief summarization of the history of this item. Ms. Coffin stated that she will only speak of the new issues at this time. Ms. Coffin stated that Ms. Furtek, the Health Inspector, did an inspection at 62 Old Plymouth Road on May 10, 2012 and at the time, after some rain, there was some dampness on the floor. Ms. Coffin stated that there were different areas in the basement that were damp. Ms. Coffin stated that reviewing Ms. Furtek's report; she wrote a letter to the new owner, Ms. Harrison, on May 17, 2012. Ms. Coffin stated that Ms. Harrison then contacted Ms. Coffin by phone and asked how she would appeal the order as work by the previous owner had already been done to extend drain pipes and put in stone around the foundation to intercept rain water. Ms. Coffin stated that she gave Ms. Harrison the instructions and shortly after the office received a letter from Mr. Serkey, Ms. Harrison's Attorney, stating that the issues, as he understood, is that the Harrisons purchased the house with the intent to live in the house so he is appealing the order to have to correct the issues for the tenant because the house is now owned by Ms. Harrison to live in, not the tenant. Mr. Serkey stated that he has several background documents that he would like submitted to the Board of Health for the file. First being the Deed. Ms. Coffin stated that these documents are already on file and a copy has been given to the board for discussion at this meeting. Mr. Serkey stated that on April 2, 2012, Ms. Harrison and Mr. Lundholm filed a declaration of homestead at the registry of deeds which signified their intention to occupy the property as their home. Mr. Serkey stated that on May 11, 2012, he prepared a notice to quit to be served by constable upon the tenants, Ms. Spencer and Mr. Storer and has the return of service which shows service on May 11, 2012. Ms. Peterson asked that Mr. Serkey explain what a notice to quit is. Mr. Serkey stated that in order to begin eviction proceeding to remove a tenant, the law requires that the tenant is served with a notice prior to beginning any eviction proceeding within the court. Mr. Serkey stated that from May 15, 2012 to June 14, 2012 is the 30 day period. Mr. Serkey stated that technically speaking, the rent had not been paid from April 30, 2012 through May 15, 2012. Only one month was paid but still gave a 30 day notice instead of a 14 day notice to quit. Mr. Serkey stated that after May 11, 2012, on the day the tenants were served, Ms. Harrison received the notice from Ms. Coffin indicating that there was an inspection on May 10 which revealed signs of dampness on the basement floor. Mr. Serkey stated that on May 18, 2012 Ms. Spencer sent a notice to Ms. Harrison claiming that because these violations may impair the health or safety and well being of the occupants living in the house they are withholding their rent. Ms. Peterson stated that the Board of Health does not take into consideration any monetary problems. Mr. Barlow stated that the Board deals with health issues. Ms. Peterson instructed Ms. Coffin to stamp in the emailed document from Ms. Spencer regarding the rent withholding to become part of the file. Mr. Serkey stated that as of May 21, 2012 he has submitted these documents: a letter of appeal, a notice to quit, declaration of homestead, the deed and a request for a hearing. Mr. Serkey stated that Ms. Harrison had acquired this property in order to live here. Mr. Serkey stated he has tried to work with the current occupants and will try again after this meeting. Ms. Spencer stated that there have been issues with this house going back 2 years. Ms. Peterson stated the previous history will not be discussed. Ms. Peterson stated that all the issues have been addressed corrected and completed to

Ms. Spencer's satisfaction. Ms. Peterson stated that Ms. Spencer signed off on all the issues. Ms. Peterson stated that nothing will be discussed tonight prior to May 10, 2012. Ms. Spencer stated that on May 9, 2012 Ms. Furtek came out to the property again to see more water in the cellar. Mr. Barlow asked if Ms. Coffin was present at the inspection on May 9, 2012. Ms. Coffin stated she was not. Mr. Barlow asked if the dehumidifier and the pump system were still activated. Ms. Coffin stated that she recalls Ms. Furtek stating to her that both the dehumidifiers were not on. Mr. Barlow stated that obviously there will be a moisture problem if the dehumidifiers are not running. Ms. Spencer stated that the dehumidifiers were not turned off. Mr. Barlow stated that when he and Mr. Uitti did an inspection the dehumidifiers were on and working well and that Ms. Spencer signed off on this inspection. Mr. Barlow stated that someone shut the dehumidifiers off and he does not know who would shut them off but of course there would be a moisture build up in the cellar. Ms. Peterson asked Ms. Spencer what she would like the Board of Health to do regarding this problem because this problem has been addressed with new walls, new drainage, new electrical. Numerous items have been fixed. Ms. Peterson stated that she does not understand what Ms. Spencer is asking of the Board tonight. Ms. Spencer stated that she can only say that she still has a water problem. Ms. Peterson stated that she does not like to get involved with tenant/owner problems and does not like the board getting involved either. Ms. Spencer stated that she understands that the new owners want her out of the property but she still lives here now and right now there is still a water problem. Ms. Peterson stated that there is a dampness problem based on the letter from the Health Agent. Ms. Peterson stated that unfortunately the Health Inspector is not present at tonight's meeting to discuss the size of the pool of standing water. Ms. Coffin read from the actual inspection notes. Ms. Coffin stated that the reason this is being appealed is that it is the owners' intention to occupy the property, and if they want to live with dampness in the basement then they do not have to fix the water problem on their own property. Mr. Barlow stated that from what he observed a year ago, an adequate system was designed to handle the moisture in the cellar. Mr. Barlow stated that if that system was changed, or shut off, obviously it wouldn't work. Mr. Barlow stated that this is a stone foundation and will leak moisture without the dehumidifier operating. Ms. Spencer stated that she actually was in the basement earlier this day after some heavy rain and found the dehumidifiers are working. Ms. Peterson asked what the condition was like. Ms. Spencer stated that the cellar was damp with no pooling water. Ms. Peterson asked if Ms. Spencer is allowing the owners onto the property. Ms. Spencer stated that she would allow it, but the owners have not requested to be on the property. Ms. Peterson asked Ms. Harrison if she has requested permission to access the property. Ms. Harrison stated that, in an email, Ms. Spencer asked that she not come to the property. A copy of the email has been submitted and stamped in for the file. Ms. Peterson read from the e-mail dated May 11, 2012 which stated that the tenants are looking for a new home and in the mean time they request that the owners please stop coming to the home and interfering with their use of the property as tenants. Ms. Peterson stated that after the complaint was made on May 9 or 10th, there was no way the owner could come to the property to address the issues because of the email dated May 11, 2012. Ms. Spencer stated that the email was written because Ms. Harrison was showing up on a daily basis. Ms. Coffin stated that the reality is if it is not a rented property then the owner does not have to fix the issues. Ms. Peterson asked if that was written anywhere. Ms. Coffin

stated that she does not generally order a homeowner to fix their own property issues. Only if the owner intends on renting the property. Mr. Barlow stated that this property is over a year old and the owners before Ms. Harrison made a good faith effort to resolve the problems with the tenant and they did successfully until just recently. The Health Inspector went out on a complaint call and found the dehumidifiers not working properly which in his opinion is not a Board of Health issue. Mr. Barlow stated that Ms. Spencer and the Board were satisfied back then that the issues here had been resolved. Ms. Peterson stated that she agrees with the Health Agent, Cindy Coffin, that if the property is not for rent then the current issues are not issues the Board of Health can get involved with. Mr. Uitti asked why the owner cannot go to the property and fix it. Ms. Coffin stated that the owners don't want to fix it because they are going to live there. Mr. Serkey stated that the tenants issues are going to be resolved elsewhere and not at the Board of Health meeting. Mr. Serkey stated that he is looking for the appeal to be granted and the order issued by the Health Agent be rescinded. Mr. Serkey stated that if not, when they move to court, he is worried that this pending Board of Health matter could be used against the proceeding Ms. Harrison. Ms. Harrison is only trying to get control and occupancy of her property. Ms. Peterson stated that she understands what Mr. Serkey is looking for but the problem is she does not have anyone present telling her that Ms. Spencer has a legal right or not to make this accusation about the property because Ms. Peterson is not sure if Ms. Spencer is a legal tenant or not. Mr. Serkey stated that issue whether the tenant is there legally or not is not so much the question. Mr. Serkey stated that the question is whether or not, given the fact that the property is owned by someone who wants to move in and make it her home, and given the past history that has been recited, the order under these circumstances was proper and if not whether the appeal can be granted so that when they go to the next stage of the housing court Ms. Spencer cannot tell the judge that there is an issue with the condition of the property that should prevent Ms. Harrison from gaining occupancy to her own property. Mr. Serkey stated that this hearing is being used to set up a potential defense in an eviction case. Mr. Serkey stated that he does not want this to become an issue in the housing court. Mr. Barlow stated that as he recalls there was a significant amount of rain during the month of May. Mr. Barlow stated that maybe there was more dampness then normal but both Ms. Spencer and the board were satisfied that the dehumidifiers and the pump out system worked adequately. Mr. Barlow stated that he does not believe that the system that was approved just last year is not good. Mr. Barlow stated that he thinks the system is good and works. Mr. Barlow stated that maybe something did happen to the system which caused Ms. Furtek to go back out and do another inspection and maybe Ms. Furtek could not hear that the dehumidifiers were not working at the time of her inspection but he was not present at the inspection so he does not know. Mr. Barlow stated that he has not talked with Ms. Furtek about it. Ms. Spencer stated that she respectfully disagrees with Mr. Barlow. Ms. Peterson stated that she wants to know when the complaint was prior to this last one so she can see how long the system was working before it stopped working before she is ready to ask for a vote. Ms Peterson asked if the parties wanted to step away and come back at the end of the meeting if they feel they can come to some sort of agreement that would be ok. Mr. Serkey stated that he will try to do that but would like an answer to the question first. Mr. Barlow stated that there is an error on the Homestead Act document. Ms. Harrison stated that it has already

been corrected. Mr. Barlow stated that the document he is reading from is not correct. Ms. Harrison stated it was corrected with Dubin and Reardon. Ms. Harrison stated it was corrected yesterday (June 12, 2012). Ms. Harrison stated it will be re-filed. Mr. Serkey stated that the book and page though that is listed under A-1 which is 26209 page 73 is in fact the book and page of the deed but there is an error which has been corrected. Ms. Coffin stated that she reviewed the minutes of October 12, 2011 and October 26, 2011 which is when the Board of Health took the vote. She read from a few sections. Ms. Coffin stated that Ms. Furtek received information regarding the down spouts after the October 12, 2011 meeting. Ms. Coffin stated that as of the next meeting dated October 26, 2011 it is clear in the minutes that both the Board of Health and the Tenant, Ms. Spencer, are in agreement that all the corrections have been made. Ms. Peterson stated that she wanted a few minutes to review the minutes of October 26, 2011 before continuing. Ms. Peterson stated that she is in agreement with Mr. Barlow and everything was finished and all parties were happy. **Ms. Peterson suggested that the parties step off to try and reach an agreement to avoid having the Board of Health take a ruling. All parties are in agreement and this item is moved to the end of the meeting.**

3. **135 CIRCUIT AVE: Bracken Engineering for Norman and Katie Wagner:**
Request variance – Mr. Bracken stated that the Wagners have owned this property since 2006 and have lived here year round for the past 6 years. Mr. Bracken stated that the building was constructed in 1945 and is currently a 2 bedroom dwelling. Mr. Bracken stated that he has submitted existing floor plans and proposed floor plans. Mr. Bracken explained the different sets of plans to show an idea of the project. Mr. Bracken stated that he has highlighted the resource area on the designs. Mr. Bracken stated that Hen's Cove is the high water mark and there is also a coastal beach above the high water mark along with beach grass and dunes. Mr. Bracken stated that to the east of the property is primarily a coastal bank. Mr. Bracken stated that it is not an eroding coastal bank subject to normal wave action but a coastal bank per the Department of Environmental Protection definition. Mr. Bracken stated that there is an existing vertical concrete retaining wall that the water comes right up to. Mr. Bracken stated that there is still the existing cesspool near the existing parking lot which was probably installed back in 1945. Mr. Bracken stated that this is also in a flood zone at elevation 16. Mr. Bracken stated that it is not in a velocity zone. Mr. Bracken stated that the first mission was to get an easement for the existing septic system and for the potential upgrade of the septic system that is proposed this evening. Mr. Bracken stated that he has been through the Town Manager and the DPW who confirmed there is no conflict for the town's needs within this area. Mr. Bracken stated that this project has been to Town Meeting which was approved. Mr. Bracken stated that he is still waiting to hear about an approval from the Attorney General's Office. Mr. Bracken stated that this proposal would be contingent upon getting approval from the Attorney General's Office and having the easement rights to it. Mr. Bracken stated that the proposal is to raze the existing dwelling which is in disrepair. Mr. Bracken stated that he is also replacing the wall at the base with a sloped stone wall. Mr. Bracken stated that this will reduce the lawn area which will affect the nitrogen loading calculations. Mr. Bracken stated that knowing how sensitive the area is, the septic system design is the most high tech system that is available on the market today and is approved by the Department of Environmental Protection. Mr. Bracken stated that the

system consists of a Micro-fast, which the Board is very familiar with, going into a pump chamber which goes into a drip irrigation type system that is pressure dosed. Mr. Bracken stated that he does have a photograph that shows what the drip irrigation system looks like. Mr. Bracken stated that there are ½ inch tubes with small weep holes and the effluent builds up in the pump chamber and in this case it is approximately 40 gallons of effluent gets pumped, pressurized in the tube and the effluent weeps out into the bed. Mr. Bracken stated that there are several advantages to using the drip irrigation. Mr. Bracken stated that the biggest advantage in this case is the Department of Environmental Protection allows a 5 foot setback to a foundation. Mr. Bracken stated that this is more of a dampening of the soil and not a buildup of flow. Mr. Bracken stated that saturation does not have a chance to build up with this type of system. Mr. Bracken stated that he has added an impervious barrier to the foundation wall as added protection. Mr. Bracken stated that the other advantage is the square footage is the same as what would be required for a field under a regular Title 5 system. Mr. Bracken stated he has kept the system as small as he possibly could. Mr. Bracken stated that for remove and replace because of the unsuitable soil here, 8 or 9 feet has to be removed and replaced with sand, typically 5 feet is removed around the soil absorption system. Mr. Bracken stated that with a drip irrigation system you only have to remove below the field itself. Mr. Bracken stated that this is important in this case because it is so close to the road way. Mr. Bracken stated that another advantage to this system is the ground water separation because the system is only ½ inch deep. Mr. Bracken stated that it can be within 12 inches of grade which is what is proposed in this case so there is almost an 8 foot separation to ground water. Mr. Bracken stated that when the percolation test was done he set a monitoring well and left it in over a full moon tidal cycle so he could get the absolute maximum water elevation. Mr. Bracken stated that he took the 50% reduction which is typical for a denitrification system and the nitrogen loading calculations under the existing condition is 5.7 parts per million and under the proposed conditions it will be 3.5 parts per million which is very acceptable. Mr. Bracken stated that he used an area which is approximately 17,000 square feet from the high water mark up to the edge of the pavement. Mr. Bracken stated that he chose that area because the septic system is within this area and there is a lot of lawn area. Mr. Bracken stated that typically he stops at the property line so this is applicable to use this area in this case. Ms. Coffin stated that she has visited this property numerous times in the past and can say that as you step out the front door you are at town road layout. Ms. Coffin stated that this is an older house and something needs to be done. Ms. Coffin stated that years ago nothing could get done in the road layout because of all the work being done on the drainage systems near Conservation Pond. Ms. Coffin stated that everything that is going to be done with the drainage has been done, so Mr. Tellier at the DPW said he had no problems with anyone doing anything here. Ms. Peterson asked if there is a letter from the DPW stating that it is ok with Mr. Tellier to work here. Mr. Bracken stated that he does have correspondence from DPW and will have it provided to the Board of Health. Ms. Peterson stated that the easement needs to be recorded at the registry of deeds along with the vote from Town Meeting. Mr. Bracken stated he is aware of all of that. Mr. Bracken stated that this should all be in compliance sometime in July. Mr. Bracken stated that the foundation footprint has slightly decreased a little bit from 1198 square feet to 1177 square feet. Mr. Bracken stated that overall there is an increase because of the proposed second floor

addition. Mr. Bracken stated that the first floor will be open and have a kitchen, great room, office area and bathroom and the second floor will have the 2 bedrooms and a game room completely open to the stairway. Mr. Bracken stated that the numbers broken down between habitable and non-habitable is a 19% increase in habitable and 158% increase in non-habitable; total combined is an average of a 112% increase. Ms Coffin stated that the space is now called bedroom and non-bedroom space for future filings which is exactly the same as habitable and non-habitable but the board recognizes bedroom and non-bedroom space. Mr. Bracken stated the variances he is looking for is an 81 foot variance from the 150 foot setback to mean high water which obviously is the resource area that we are all trying to protect. Mr. Bracken stated that he is requesting a 135 foot variance which results in a 15 foot setback to the coastal bank off the south west corner of the system to the bank that comes up along the west side of the house. Mr. Bracken stated that he feels the variances are justified because of the reduction in nitrogen loading and because of the type of the system being proposed and the reduction of the lawn area. Mr. Bracken stated that this property has been used as a year round residence for the past 6 years and will continue to be used as a year round residence. Mr. Bracken stated that the structure will now conform to flood plain requirements. Mr. Bracken stated that this is safer for the abutting properties and for the environment. Mr. Barlow asked if the town has ever approved this type of drip system. Ms. Coffin stated there is another one out in Gray Gables but it did not need to come before the board for approval. Ms. Coffin stated it is a pretty interesting installation. Ms. Coffin stated that the added benefit is the nitrogen uptake from the upper horizon which may even get more of a nitrogen reduction than what is already stated. Ms. Coffin stated that there is still pressure dosing so you will still get the virus attenuation. Mr. Bracken stated that he has designed and installed 4 systems already; one of which has been working for 2 years and has been fine. Mr. Barlow stated that this location is a great place to put one so that the board can watch it through the years. Ms. Peterson stated that she has no questions but is looking for a 2 bedroom deed restriction and the alternative testing procedure to be put into place. **Mr. Barlow made a motion to grant the variances requested for 135 Circuit Ave because this is a good location for the system. Mr. Barlow stated that this is a little bit more of a variance that the board grants which is usually 75 feet from mean high water. Mr. Barlow stated that this is an 81 foot variance so the reduction in setback from the distance from the proposed soil absorption system to the mean high water mark at Hen's Cove from 150 feet to 69 feet. Mr. Barlow stated that he is in favor because the distance to ground water is over 4 feet. Mr. Barlow stated that the reduction in the setback from the propose soil absorption system to a wetland resource the coastal bank, is from 150 feet to 15 feet which is a 135 foot variance. Mr. Barlow referenced the plans received May 31, 2012 by the Board of Health for architecturals and the engineered plans were dated May 30, 2012 with a received date of May 31, 2012. Mr. Barlow added a 2 bedroom deed restriction to the motion and also the alternative testing requirements imposed on this micro-fast system. Mr. Uitti seconded the motion. All in favor and the motion PASSES.**

4. **Ms. Peterson stated that that board will hear item #4, John Gavin. Mr. Gavin stated he did not mind waiting until the end of the meeting to be heard. Ms. Peterson called Item #2, 62 Old Plymouth Road to continue to be heard.**

62 OLD PLYMOUTH ROAD – CONTINUED – Ms. Peterson asked if an agreement had been met. Mr. Serkey stated there was not. Mr. Serkey stated he drafted the following proposal for the board's consideration. Mr. Serkey read the draft proposal to the board. The appeal granted and ordered May 17, 2012 is rescinded due to two factors. One--, documentation dated October 26, 2011 showing that all issues pertaining to the condition of the premises had been satisfactorily addressed to the tenants' satisfaction, including the placement of dehumidifiers in the basement. Two-- acquisition by landlord of property on March 30, 2012 and declaration of Homestead by landlord on April 2, 2012 evidencing landlord's intention to occupy the property as a domicile. Mr. Serkey stated those are the two main points that were made. Mr. Barlow noted that the Homestead is for 62 and not 26 Old Plymouth Road. Ms. Peterson stated it does not matter because the Homestead law is very complicated and refers to the book and page numbers that are stated. **Mr. Barlow made a motion to grant the appeal to the Board of Health order issued May 17, 2012. That order is hereby rescinded due to documentation dated October 26, 2011 showing that all issues pertaining to the condition of the premises had been satisfactorily addressed to the tenants' satisfaction, including the placement of dehumidifiers and a pump in the basement; and the acquisition by the landlord of the property on March 30, 2012, Declaration of Homestead by the landlord on April 2, 2012 evidencing landlords intention to occupy the property as a domicile. Mr. Uitti seconded the motion. All in favor and the motion PASSES.** Mr. Peterson added that very explicit records are kept regarding 62 Old Plymouth Road because of the long drawn out process. Ms. Peterson added the board went through numerous meetings. Mr. Serkey added that he will eventually need copies of the files. Ms. Peterson stated that the board did organize the file for the record. Mr. Serkey stated he would like to request the copies now. Ms. Coffin informed Mr. Serkey that a request for copies must be put in writing.

5. **JOHN GAVIN – Per request of Health Agent, Cynthia Coffin, discuss and possible vote regarding unpermitted Title 5 septic system installation at 67 Depot Road. (Hearing on possible suspension or revocation of installers permit pursuant to Title 5, 310 CMR 15.019):** Mr. Gavin stated that he has some information he would like to submit to the board. The board members read over what has been submitted. Ms. Coffin stated that Mr. Gavin came into the office to take out the septic permit when he stated that the system has already been installed. Ms. Coffin stated that this totally falls in the face of anything that the board has ever allowed. Ms. Coffin stated that in her twenty-six years she has only had one other person install without a proper septic permit. Ms. Coffin stated that the situation gets worse because she learned that the system was installed before any engineered plans were drawn. Ms. Coffin stated that Mr. Gavin told her he was pressured but Ms. Coffin said it would have only taken a phone call if there was a real issue that the deal was going to fall through. Ms. Coffin stated that she has even gone out on weekends if there was a closing. Ms.

Coffin feels there is a huge issue with a flagrant disregard to the rules of Title 5 and the Town of Bourne rules and could not just look the other way. Ms. Coffin stated that Mr. Gavin called in for an inspection before he back filled and there were some issues, i.e. the vent was not put on, the sand was not around the contactors. Ms. Coffin stated she feels the project was a mess from start to finish. Ms. Coffin stated she contacted the engineering firm and was told they too were called out after the system was already in the ground. Ms. Coffin stated this should not have happened. Ms. Peterson stated she has a problem with the owners. Ms. Peterson stated they pressured Mr. Gavin from the beginning. Ms. Peterson stated she does not like the letter submitted by the owners. Ms. Peterson stated that ultimately this is the owners' fault. Ms. Peterson stated she disagrees, which is her own personal opinion. Ms. Coffin feels an installer knows what Title 5 is; they know what legally they should or should not do. Ms. Coffin stated if Mr. Gavin felt as though he was being pressured he still should not have done anything without a plan and should not have gone beyond that without a permit. Ms. Coffin stated she may be simplifying things but feels this is not the homeowners' issue. It is the issue of the installer. Ms. Peterson stated that she feels the whole thing was a mess from the beginning and just snowballed. Mr. Gavin stated that unfortunately for him there is a good chance that he may be asked to pay the \$30,000.00 or \$40,000.00 deposit that the owners put down to buy this property and with this delay from the beginning he absolutely can't stand this and this will not happen again. Ms. Peterson stated that she just does not understand, knowing how much and how long Mr. Gavin has been at this, that he just went ahead. Ms. Peterson stated she knows Mr. Gavin said he felt pressured. Ms. Peterson stated that she understands pressure. Mr. Gavin stated that it was not just the pressure. It had to pay legal fees on top of that and pay for a lost deposit because he did not get the job done. Mr. Gavin stated that he didn't get the job done because the engineer that he normally uses had a knee replacement and did not inform Mr. Gavin that he could not get to it until 10 days had gone by. Mr. Gavin stated that this engineer's father-in-law just passed away and he just started working with Chris Costa's firm. Mr. Gavin stated that Mr. Costa has fired him. Mr. Gavin stated that in the future he will not be responsible for the engineering; he will only be responsible for his own work. Mr. Gavin stated that all the jobs that he does, he also does the engineering. Mr. Gavin stated that he does not accept engineered plans unless it is paid for by someone else. Mr. Gavin stated that there have been too many problems over the years with him not being involved in what is being quoted to put in the ground on a piece of property. Mr. Gavin stated that he has done several systems over the years. Ms. Peterson stated that her problem with this is if the board lets this go by then anyone will think they can put a system in without plans and claim that the Board of Health won't care. The Board also needs to back the Health Agent. Ms. Peterson stated that she does not know what the protocol is regarding a situation like this. Ms. Coffin stated that according to Title 5 regulations, the board would need to bring the installer to court in order to enforce a fine. Ms. Coffin stated that she is not sure what the answer is. Ms. Coffin stated that the board could revoke Mr. Gavin's installer's license or suspend the license for a month. Ms. Coffin stated that she

does not want this taken lightly. Ms. Coffin stated that she is really bothered by this situation because Mr. Gavin always states he goes by the book and tends to criticize other installers' but then he went and installed the system with a plan or approval. Mr. Gavin stated that this was not his choice to do this. Mr. Gavin stated that he was forced into a monumental squeeze. Mr. Gavin stated that this has never happened before and it will never happen again. Ms. Coffin stated that an installer should not bid on a job until there are a set of engineered plans to look at. Mr. Gavin stated that was not true. Mr. Gavin stated that he has drawn his own plans for years. Ms. Coffin stated that an installer cannot do work in this town without a set of engineered plans. Mr. Barlow stated that it seems that Mr. Gavin bid on the job before he saw the engineered plans with a reasonable idea of what the system would be designed for. Mr. Barlow made it clear to Mr. Gavin that this cannot ever happen again. Mr. Barlow stated that something does need to be done because the Board does not want other installers to claim that Mr. Gavin got away with this so they may also try it. Mr. Barlow suggested suspending his installer's license for a time. Ms. Coffin stated that maybe a month would be sufficient. Mr. Gavin stated that he has a contract in the Town of Bourne on Old North Road to upgrade a septic system. Mr. Barlow asked when Mr. Gavin is scheduled to start this other job. Mr. Gavin stated once he is finished with this current job. Mr. Barlow stated the Board really needs to suspend his license for a time so maybe in September he would be eligible to get his license back. Mr. Barlow stated that this is a first offense and the board could set precedence. Ms. Peterson suggested putting the installer on probation for 1 year. Mr. Peterson stated Mr. Gavin can still keep his permit and his license and continue to work in the Town of Bourne but if there are any infractions during that year, the board has the right to go back and revoke the license. **Mr. Uitti made a motion to put Mr. Gavin on probation for one year. Mr. Uitti stated that Mr. Gavin can keep his installer's license but if Mr. Gavin does anything wrong within the year the license can be revoked.** Mr. Gavin stated that he needs to be able to give the homeowner a certificate of compliance. Ms. Coffin stated that once Mr. Gavin submits an as-built she can sign the certificate of compliance since the board voted on a form of discipline. **Mr. Barlow seconded the motion. The motion passes with the understanding that if there is another infraction then Mr. Gavin loses his installers license from the Town of Bourne.**

- 6. Approval of the Minutes dated May 23, 2012 – Mr. Uitti made a motion to approve the minutes dated May 23, 2012. Mr. Barlow seconded the motion. All in favor and the motion PASSES.**

Mr. Uitti moved to adjourn the meeting. Mr. Barlow seconded the motion. The meeting was adjourned at 8:25 pm.

Respectfully taped and typed by,

Lisa M. Collett
Secretary

Reviewed and approved by

Cynthia A. Coffin
Health Agent

Kathleen Peterson_____

Stanley Andrews_____

Galon Barlow_____

Don Uitti_____

Carol Tinkham_____

cc Board of Selectmen/Town Clerk