

Terri Guarino
Health Agent

TOWN OF BOURNE BOARD OF HEALTH

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MINUTES
October 28, 2015



Members in attendance: Kathy Peterson, Chairman; Stanley Andrews, Vice Chairman; Donald Uitti, Secretary, Galon Barlow and Kelly Mastria

Support Staff in attendance: Terri Guarino, Health Agent, Jamie Butler, Health Inspector and Lisa Collett, Secretary

Anthony Tenzar – Video and audio recorded this meeting.

- 1. 4 MASSASOIT AVE – CONTINUED from September 23, 2015 – Jamie Bissonnette of Prime engineering, Inc. for Julie Vecchio – Request variances from the property line and a wetland resource area – Discussion and possible vote –** Mr. Bissonnette stated that since the last time he was before the board on this item, he has been through the Conservation Commission. There is a small end of the lawn area that is considered part of the marsh. The placement of the septic is in the most ideal area on the property as possible. Ms. Guarino stated that this system is a significant improvement to what is on site and is the best possible solution to wastewater on this site. Mr. Andrew asked for Mr. Bissonnette to describe the type of system being proposed. Mr. Bissonnette stated the system is called a bottomless sand filter which is for the leaching component of the system. Essentially a bottomless sand filter is a pressure dosed sand bed. The main component of the system is the treatment. In this case he is using an AdvanTex AX20-RT Treatment Unit which will provide a 70% reduction in the total nitrogen. Ms. Guarino stated that this system is a new technology and generally used when there is high groundwater. This system is very effective for nitrogen removal. Mr. Andrews stated that there is a testing and maintenance policy that the applicant will need to uphold. Mr. Bissonnette stated that once the system is installed, it is assigned an operator who will be responsible for the testing and the maintenance of the system. Mr. Andrews asked how many bedrooms will there be. Mr. Bissonnette stated that there will be only 2 bedrooms. **Mr. Andrews made a motion to approve the variances request for 4 Massasoit rd. for Julie Vecchio. Letter dated October 12, 2015 by Jamie Bissonnette of Prime Engineering receive by the Health office on October 14, 2015. Variances 1 through 9:**

1. A variance from the 10 foot setback to a property line to 2 feet.
2. A variance from the 25 foot setback of a septic tank to a salt marsh to 10 feet.
3. A variance from the 50 foot setback of a soil absorption system to a salt marsh to 4 feet.
4. A variance to request a sieve analysis in place of the percolation test.
5. A variance to request a single deep hole in place of the 2 deep holes required.
6. A variance which requires that the treatment unit/pump chamber inlet and outlet invert elevations be at least 12" above the high ground water elevation. A reduction from 12" above to below the water table is requested.
7. A variance from the septic tank inlet and outlet invert elevations to be at least 12" above the high ground water elevation. A reduction from 12" above to below the water table is requested.
8. A variance from the 150 foot setback from a leaching field to a salt marsh wetland resource area. A reduction from 150 feet to 9 feet is requested.
9. A variance for a hydrogeology study for all leaching facilities within 100 feet of a salt marsh wetland.

Added to the motion that the applicant adhere to the Board of Health testing and maintenance policy along with a 2 bedroom deed restriction to be recorded at the Registry of Deeds in Barnstable. Mr. Uitti seconded the motion. It was unanimous.

2. **FUTURE GENERATION WIND – Attorney Fitch from Future Generation Wind to discuss wind turbine project** - Mr. Fitch stated that as of last month's hearing which the board requested that a filing be made for a variance, he has decided that Future Generation Wind is not subject to the Bourne Board of Health jurisdiction. Mr. Fitch stated that as of today he has not heard from Bob Troy who is the attorney for the Town of Bourne. Ms. Peterson stated that she has already been told by Mr. Troy that Bourne does have jurisdiction and that this project will be affecting the residents of Bourne. The Board of Health has regulations that protect the citizens of Bourne. Ms. Peterson stated that she does not understand why Mr. Fitch has not yet requested a variance and help give the citizens of Bourne peace of mind. Mr. Fitch stated that he agrees that he cannot take action that directly effects the residents of the Town of Bourne negatively. His client as assured Mr. Fitch that this project will not negatively affect any residents in the Town of Bourne. The question is whether or not the Bourne Board of Health regulations apply. Mr. Fitch stated that he has done some research and looked as some very clear cases that Bourne does not have any jurisdiction. If Mr. Troy has a theory and a reason, he would like to hear it to help change his mind. Ms. Peterson stated that it has been proven that there are health consequences from wind turbines and the Town of Bourne has a regulation against this. The project meets the State of Massachusetts guidelines but it does not meet the Town of Bourne guidelines. Mr. Fitch stated that he does not want

to subject his client to a variance that the Board of Health will likely deny. Mr. Andrews stated that it has already been documented by the previous owner that there will be shadow flicker and this will affect the residents of Bourne. Mr. Fitch stated that he has forwarded some information to the board through email and in this information there is no mention of shadow flicker. Mr. Fitch stated that he has read the law and has also received a second opinion has been received that says once the wind turbines become operational and create a nuisance then that is a different story but in advance of being operational, there is nothing to apply for in the Town of Bourne. Mr. Fitch stated that based on the analysis his client has done and the second opinion he has received, he will not be applying for a variance. Mr. Fitch stated that his client is informing him that this project will not create a nuisance. Mr. Andrews stated that during the hearings for the regulation it was determined that shadow flicker will create a nuisance so there can't be any shadow flicker. Mr. Fitch stated that there are other standards that say otherwise. Just because there are regulations, does not equate them to a nuisance. Ms. Peterson stated that Mr. Fitch's client is only trying to meet the state standards and not the Board of Health standards. Mr. Fitch stated that he has not changed his opinion on this and in fact it has been reinforced. The only thing that has changed is that Robert Troy has waded in with the Chair for the Board of Health. He will not change his opinion unless and until Mr. Troy provides him with documentation that the Bourne Board of Health does in fact has jurisdiction regarding this property. Ms. Peterson stated that the nuisance regulations in the state and across the country are very clear and Mr. Fitch should know that. You can't put something up to a boarder that may cause a nuisance. Mr. Fitch stated that he is not in disagreement but the added factor is that his client insists these turbines will not create a nuisance. Ms. Peterson stated that the people of Bourne deserve due diligence and protection on this matter. Mr. Fitch stated he understands this and respects this but he is obliged to look at the law and advise his client on the way he sees it. Ms. Peterson stated that there are reasons for regulations and these are to protect the people of this town. A variance request is required to propose how your client will mitigate a nuisance situation. The residents get to hear what is being said and voice any concerns they still may have then the board makes a decision on whether to grant the variance or not. Mr. Fitch stated that the wind turbines being built is not creating a nuisance. Once they are built and operational, if a nuisance arises then his client will be subject to the Bourne of Health remedies. Mr. Fitch stated that he will talk with his client again regarding the variances but he has nothing to file tonight. Mr. Giard stated that he feels that Mr. Fitch and his clients are not being good neighbors as they stated they would. Mr. Kapsambelis stated he has an objection of the two lawyers speaking with other behind closed doors and not during an open meeting. Ms. Peterson stated that whatever is discussed between the two lawyers is pending a vote by the Board of Health. Mr. Kapsambelis stated that these turbines will release emissions in the form of sound and radiation in the form of sonic waves as the law defines as air contaminants that have the potential to cause nuisance and to be injurious. Mr. Kapsambelis urges the board to consult with the DEP and possible file for an injunction to remove the turbine closest to the Bourne boarder

or at least move it further away. Ms. Gibides reads from a document she submitted to the Board of Health. This Document expresses her concerns regarding the wind turbines being installed very close to her property. Ms. Gibides stated that she is respectfully requesting that the Board of Health suggest to the Selectmen to rescind their permit to transport using Bourne roads until a variance is applied for. Ms. Sherman asked the board if they will deliberate on the documents received regarding the wind turbines. Ms. Peterson answered, the board will not be deliberating on the documents until there is a variance hearing. Mr. Burke stated he is the last house in Plymouth before you enter Bourne. He would like to thank the Board of Health for looking out for the safety of the public. Mr. Burke expressed a concern regarding the height of the turbines stating they will become lighting rods. These will take lighting strikes even if they are grounded. The blades are also a concern. Should one break off, it can travel 3600 feet at minimum. He is also concerned about the water. There are 6 lakes that are connected to Bourne's drinking water. If the turbines leak and get into the aqua filters, the town will not have safe drinking water. Ms. Giard stated that she actually saw the blades being delivered and they are huge. It will most definitely cause health problems to residents of Bourne. Ms. Levesque stated that she is very involved with wind energy in her town of Duxbury. Ms. Levesque urges Mr. Fitch and his clients to look into the adverse impact on the residents of Bourne. Ms. Levesque stated that the Bourne Board of Health is the only board within the State of Massachusetts that has taken the impacts of wind turbines and health issues seriously. Ms. Hebb asked why the Board of Selectmen gave the ok for Future Wind Generation to use the roads to transport the wind turbine equipment knowing how hard the Board of Health has worked to get the wind turbine regulation in place. Ms. Peterson stated that the Board of Health does not have any jurisdiction over traveling over the roads. Ms. Hebb stated that the Board of Selectmen should have been more concerned with the residents of Bourne instead of whatever deal was made to allow the equipment through. Now the equipment is being delivered and the turbines could actually get built before the Board of Health has a chance to stop them. Ms. Peterson stated that she hopes that does not happen. Ms. Hebb stated that maybe those concerned should actually sit down with the Selectmen and ask these important questions. Lastly, Ms. Hebb stated that she finds this whole project extremely offensive. Ms. Gibides stated that the Selectmen have stated that they are always available for questions and concerns regarding this project that they would cease and suspend the permit until the issue is resolved. There seems to be an issue that is concrete and maybe the Selectmen can be influenced to suspend the permit. Ms. Peterson stated that she can't answer for the Board of Selectmen. Ms. Gibides asked if the Board of Health would be willing to have a discussion regarding this. Mr. Barlow stated that all the people here tonight are registered voters and members of the community so the Board of Selectmen would be more than willing to listen to their concerns. The best way to contact the Selectmen is through the website. Their contact information is listed for each member. **No action was taken at this time.**

3. **13A River Rd – Zac Basinski of Bracken Engineering for property owner Debra Robbins – Request extension/modification for variances already granted on May 28, 2014** – Mr. Basinski stated he is requesting another extension on this variance. The property has been sold to Debra Robbins – The exact same variances are being requested. The only change is the design from a Ruck system to a Fast system. This will provide pressure distribution. A 3 bedroom deed restriction would be welcomed. Mr. Andrews asked how much changed between the soil absorption systems. Mr. Basinski stated original proposal was a 500 gallon chambers to be placed under the driveway. He is switching to a stone leaching trench system. It is all within the same footprint as before. Ms. Guarino stated that it is certainly an improvement to add the pressure distribution. Ms. Olsen, who is an abutter to this property, asked if will be any issues with noise or anything when it is tested. Mr. Basinski stated that there will be no noise. The system will be located closer to the marsh and there is no blower or anything to cause noise. **Mr. Andrews made a motion to grant the variance extension and modification request for 13A River Road. The variances will remain the same. 59 foot variance which is a 91 foot setback from the leaching system to the coastal bank on the west. 47' variance which is a 103 foot setback from the leaching system to the top of the coastal bank north. Including the change to a Micro Fast system from a Ruck. A 3 bedroom deed restriction be filed prior to the issuance of the septic permit. Mr. Uitti seconded. It was unanimous.**
4. **71-73 MAIN STREET, BUZZARDS BAY – Terri Guarino – Update board – Discussion and possible vote** – Mr. Andrews as stepped off of this item. Ms. Kimberly Bielan was present for this hearing. Ms. Guarino stated that on October 16, 2015 there was a significant thunder storm with heavy rainfall. The Fire Department was called and because the occupants of the building felt the building move as if they were in an earthquake. A portion of the building did get struck by lightning. The building was ordered to be evacuated by the Fire Department. Ms. Guarino had a joint onsite visit with the Building Inspector, the Fire Department, and the Police Department. The building was deemed unsafe by the Building Inspector. This building has been unoccupied since that time. Due to the size of the building, it is required to have a structural engineer to evaluate the integrity of the building. Ms. Bielan stated that she was before the board approximately one month ago. The buildings are actually 69 – 73 Main St. At that time her client applied for a demolition permit with the Building Department. The permit was approved and the building known as 69 Main Street will be demolished in the immediate future. Since that time, 71-73 Mail St. was in fact effected by the severe thunderstorm as previously stated. Her client hired a consulting firm called Noblin Associates who visited the site on October 21, 2015. A copy of the contract showing this firm has been retained was submitted for the file. Ms. Bielan stated that the repairs to the building could become substantial. Once the report comes back from Noblin Associates, her client will decide whether or not to repair the buildings or demolish the buildings. Ms. Peterson asked how long it will take to come to a decision. Ms. Bielan stated it all depends on when Noblin

Associates can send back the report. Ms. Peterson stated that she would like that in writing with an accurate timeline and dates. **Ms. Peterson made a motion to put this item back on the agenda for the next meeting dated November 18, 2015. Mr. Uitti seconded the motion. It was unanimous.** Ms. Peterson stated that the reason a fine is not being issued at this time is due to the fact that the owners did come forward with a building permit but the delay to issue the permit was held in the building department so there is no wrong doing on the owner's part. Ms. Peterson feels the owners are taking this very seriously. Mr. Andrews stepped back on.

5. **85-93 MAIN STREET, BUZZARDS BAY – Terri Guarino – Update board – Discussion and possible vote** – Mr. MacDonald stated he has submitted a narrative for what is being proposed to be done. Documents were submitted during the hearing. Three proposed contracts and document explaining what has already been completed. Mr. MacDonald stated that he will be meeting with Coastal Engineering on October 29, 2015. Ryan Construction has been hired to fix the roof. Building permits will be pulled on October 29, 2015. As far as he is concerned, he is addressing the problems and moving forward. Ms. MacDonald stated that 85 Main St, all the contents of the basement have been removed. The roof has been repaired. October 29, 2015 they have a meeting with Coastal Engineering which is a structural engineering firm. They will review and provide an assessment structural repairs that may need to be made. The back glass door has been replaced. The top transient glass on the front door will be replaced on November 8, 2015. Scotts Glass will be replacing that glass. The locks have been changed and the building has been secured. 93 Main St, all contents have been removed. There is a contract in place with Ryan Construction to repair the roof. The basement cleanout is complete. 91 Main St, the tiles have been replaced. The building will remain closed at the Deputy Chief's request. The building permit will be approved by October 29, 2015. The push bar has been installed along with a new exit sign in the back. Pole and wires will be removed by November 5, 2015. The dumpsters in the rear of the building will be removed from the property on October 29, 2015. Mr. Andrews asked if Ms. Guarino has been out to verify any of the corrections that have been done. Mr. MacDonald stated he has spoken with Mr. Laporte, the Building Inspector, and at least 85% of the work has been corrected and approved by the Building Department. Ms. Peterson requested that the applicants not refer to conversations with other departments because there is no one here to confirm. Ms. Peterson stated the applicants continuously submit documents of things that have been completed but the Agent has not been given sufficient time to do an inspection therefore not able to report to the board the night of the meetings. Ms. Peterson wants the applicants to call into the office, schedule an appointment for an inspection and have Ms. Guarino sign off that things have been corrected before the board meets. Once Ms. Guarino is able to confirm the corrections, the board will look favorably that the applicants are moving in the right direction in getting this building cleaned up. As far as the fines go, it will be put back on the agenda for further discussion.

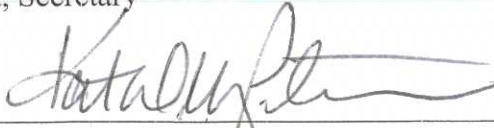
Mr. Andrews made a motion to continue this item until the next meeting dated November 18, 2015. Mr. Uitti seconded the motion. It was unanimous.

- 6. INCREASE IN ALL BOURNE BOARD OF HEALTH FEES – CONTINUED from October 14, 2015 – Terri Guarino – Discussion and possible vote.** – Mr. Uitti read through the increase of fees and finds no problem. Seems in line with other Cape towns. Ms. Peterson stated that there are Medical Marijuana facilities being proposed for the first of the year. She would like permit fees put into effect. A regulation will need to be adopted for medical marijuana sales. Ms. Guarino stated that the state did provide a draft regulation and she has brought copies for the board members to review. Ms. Peterson stated that it can't be discussed tonight but to put it on the agenda for the meeting. Mr. Andrews suggested a Food Prep License and a Retail Food License format for Medical Marijuana. Ms. Peterson stated that the inspections and general work involved with licensing a medical marijuana facility will be pretty extensive and suggests a higher licensing rate than what is current for food and retail food licensing. Manufacturing should be \$500.00 according to square footage. Sales should be what the tobacco license is for. Mr. Barlow stated that the board should do some sort of comparison first to decide how much manufacturing should be charged and how much retail sales should be charged. This should go back on the agenda for further discussion. Mr. Mulvey commented about the edibles that may be sold. Maybe a food license should be required. Ms. Peterson stated that some states that have this already implemented have total licensing fees totaling \$3,300.00 or more. Mr. Barlow abstained from voting on any fee increases relating to food. **Mr. Uitti made a motion to approve the rate increase changes on the October 28, 2015 meeting to become effective on December 1, 2015. Mr. Andrews seconded the motion. 4 in favor and 1 abstained.**
- 7. BLIGHT REGULATION – Terri Guarino – Discuss and possible vote –** Ms. Peterson stated that she did gather some information but is not ready to continue discussions on this. She would like to continue discussions at the meeting dated November 18, 2015. **No action was taken at this time.**
- 8. APPROVE THE MINUTES from the meeting dated June 24, 2015, August 26, 2015, September 23, 2015 and October 14, 2015 -** Mr. Barlow made a motion to approve the minutes dated June 24, 2015. Mr. Uitti seconded the motion. It was unanimous. The minutes dated August 26, 2015 did not get voted on because they were not completed. No action on August 26, 2015 minutes. Two members of the board did not receive a copy of the September 23, 2015 so no action was taken at this time. Ms. Mastria made a motion to approve the minutes dated October 14, 2015. Mr. Uitti seconded the motion. It was unanimous.

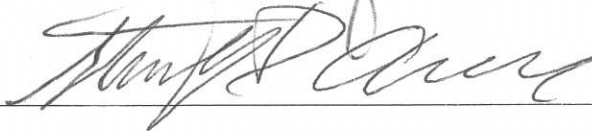
Mr. Andrews made a motion to adjourn the meeting. Mr. Uitti seconded the motion. It was a unanimous vote and the meeting adjourned at 8:48 PM.

Taped and typed by Lisa Collett, Secretary

Kathleen Peterson



Stanley Andrews



Galon Barlow



Don Uitti



Kelly Mastria -



cc Board of Selectmen/Town Clerk

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