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# TOWN OF BOURNE BOARD OF HEALTH

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TOWN CLERK BOURNE

## MINUTES

July 11, 2018

Members in attendance: Kathleen Peterson, Chairperson; Stanley Andrews, Vice Chairperson; Galon Barlow Jr.; Kelly Mastria, and Donald Uitti

Support Staff in attendance: Terri Guarino, Health Agent; Zackary Seabury, Health Inspector; Kayla Davis, Health Inspector; and Cassie Hammond, Secretary

### Meeting was called to order at 6:09 pm

*Ms. Peterson asked if anyone was recording at this time Beth Treffeisen and Michael Rausch acknowledged they were recording.*

The Chair stated that she received a request to be heard promptly at 6:00 PM from Attorney McMahon, whom was present representing Mr. Fantozzi. ...made a motion to move item #5 on the agenda to item #1.... Vote to move to first. Moved to review first.

#### 1. 1 Eldridge Avenue Ext-- Robert Fantozzi Jr., Owner—Update from June 13, 2018--Failure to correct violations of the State Sanitary Code, Chapter II, and Bourne Board of Health Blight Regulations.

**Discussion and possible vote to pursue any and all statutory remedies.** Mr. Robert Fantozzi Jr., property owner and Attorney James McMahon, owner's counselor, were present for this hearing. Ms. Peterson stated that previously Mr. Fantozzi requested that no pictures be taken at time of inspection, but going forward pictures can and will need to be taken. Ms. Guarino described that the condition of this property was last discussed at the Board of Health meeting on June 13, 2018. On June 25, 2018 the Falmouth district court issued an administrative search warrant. June 26, 2018 an inspection was performed in the presence of the owner with the stipulation of no photos. An order was sent via certified mail on June 27, 2018 including detailed violations and expectations. This certified mail was received on July 2, 2018. There have been several attempts by the Health Department to make contact and access the property, there has been no success. The Health Department has not been made aware of any corrections to the violations prior to this meeting. All attempts to gain access and open lines of communication have been unsuccessful. Ms. Peterson shared that the board has been ignored and has been fair with their attempts. Mr. McMahon stated that he hand delivered a letter in June which showed Mr. Fantozzi has hired a crew, and two members of that crew are present for this meeting. He said two dumpsters are currently on the property, 30 yards have been removed in 4 dumpsters total, sorting trash and scrap metal. The job is about 1/3<sup>rd</sup> done. Ms. Peterson asked if violations on the order have been taken care of within the 24hr timeframe. Attorney McMahon explained the violations could not be taken care of in that time frame. Robert Fantozzi said all the chemicals, cans of paint, cleaning products, bag of salt for snow, and pellet chemicals used for snow have all been removed. The pile of leaves blocking access to the back of the house have been removed. Ms. Peterson asked if pictures are available at this time, which Mr. Fantozzi responded that he had on his cell phone. Ms. Guarino explained it is past the date requested for this documentation and the Board cannot properly review during the meeting. It is unfortunate there are no pictures from the previous inspection to compare to. Mr. McMahon feels this has been in good faith effort, hiring crew of people to do the work and obtaining dumpsters. Mr. Andrews verified a good faith effort would have been to provide documentation and phone calls which the Health Department has not received.



Ms. Guarino reviewed the correction order sent on June 27<sup>th</sup> 2018 which specifically requests communication. Mr. McMahon asked when the Health Department would be available for an inspection. Ms. Guarino stated that June 29, 2018 would have been ideal per the letter, and reminded Mr. McMahon of the several calls placed to his office in regards to this. Mr. McMahon said with all due respect, the last time the Health Department came out for an inspection they just showed up and there are no before and after photographs, but google earth photos he will look at those. Ms. Peterson reminded Mr. McMahon that the Health Department had to get a court order to inspect the property and agreed to the owner's request to not take any photographs. Ms. Peterson also reviewed all the attempts to make contact via phone with Mr. McMahon and Mr. Fantozzi from both the Board of Health members and the Health Department going back to 2017. Mr. McMahon explained that Mr. Fantozzi has been rendered a paraplegic by his accident and has directed other people to do the work. Mr. Fantozzi said he had been in Beth Israel for 2.5 months, then transferred to Spaulding, had another neck surgery, two traumatic neck operations and did not walk for 11 days. Ms. Peterson confirmed we have that documentation and the Board has been very accommodating when Mr. Fantozzi suffered the accident. Ms. Davis or Ms. McLean would reach out to Ms. Peterson asking if Mr. Fantozzi should come in for a meeting, and Ms. Peterson felt it was not necessary due to the communication with his attorney and letters, but that stopped, and Mr. Fantozzi is now capable. Mr. Fantozzi explained that in the last 3 weeks he has hired a team and ordered dumpsters. Mr. Andrews felt we would be unable to come to any resolution other than a fine until Mr. Fantozzi can schedule an additional follow up inspection with the Health Department, which Ms. Peterson added would be expected to happen within 24 hours. Mr. Andrews asked Ms. Guarino what her availability looked like to do a follow up inspection if she were given a request. Ms. Guarino responded that she does not have calendar and suggested tomorrow is busy but could go out tomorrow with early notice. Mr. Andrews reiterated that given advance notice, Ms. Guarino could go out to inspect by Friday. Ms. Peterson corrected the statement explaining Thursday is preferred. Mr. Andrews felt he did not want to tell the office they had to go out the following day. Ms. Guarino confirmed they have already received many requests for inspections the following day and ask for at least 24hr advance notice. Mr. McMahon asked the Health Department to state when they would be available and someone would be at the property. Ms. Peterson questioned why now in front of all of the Board members it is convenient, but it was not convenient for a phone call to us or the courtesy of a return phone call. Mr. McMahon said with all due respect, he has returned phone calls, to the office, and questioned Ms. Guarino if she had received calls or messages. Ms. Guarino said she spoke with Mr. McMahon today about being first on the agenda, otherwise she replied she has spoken with his assistant. Mr. McMahon said he called this week and was told Ms. Guarino would be in the next day. Ms. Peterson asked Mr. McMahon if the proper license plates have been put on the cars, to which Mr. Mahon replied yes. Ms. Peterson asked if Chief Woodside has to sign off on this, which Mr. McMahon said no, but he brought in the certificates of registration and gave them to Mr. Laporte. Ms. Peterson said that others will need to sign off on the car registrations and the removal of the fire retardants. Ms. Peterson stated that one receipt for a dumpster today is not enough since they do not have knowledge of what is inside due to being unable to access the property. Mr. Fantozzi stated he has receipts for dumpsters and recycling, he has the list of violations and named others he has remedied. Mr. Fantozzi has renewed the registration sticker's online while in Spaulding rehab but were not on cars let. Ms. Peterson stated that she wants a letter from Zoning stating the cars are registered and have the proper plates. Mr. McMahon offered copies of these certificates of registration, Ms. Peterson said this documentation should have been submitted prior to this meeting. Ms. Mastria stated all officials should be included in the next inspection and we get satisfaction from everyone on the grounds. Mr. Fantozzi said the Fire Chief told him he had two weeks to clear out the property. Mr. Barlow stated that second hand information cannot be accepted, this has to come from the department head directly and notify the board of health. Ms. Peterson requested the Health Department to conduct another inspection as soon as possible with the homeowner. Mr. Andrews stated the Board has documented and inspection and violations dated June 27, 2018 from the Health Department, stating they cannot get access to the property to verify if the violations have been corrected at this time. Mr. Andrews reviewed the Bourne Board of Health Regulations in which Mr. Fantozzi was in violation of; Section 2: 105 CMR 410.000-Sanitary Code, Section 4: MGL Chapter 111, Section 122- Nuisance Regulation, Section 5: Bourne Board of Health Blight Regulations. Mr. Andrews stated that each day's failure to correct/ comply with an order, shall constitute a separate offense. For each of the previous three sections the fines are as follows; second offense within a 12 month period is \$100.00 and a hearing before the Board of Health, third offense in a continuous 12 month period is \$200.00 and a hearing before the Board of Health, subsequent offenses within a continuous 12



month period are a \$300.00 fine and a hearing before the Bourne Board of Health. **Mr. Andrews made a motion to issue fines for violation of all three sections, stating with the first offense on July 3, 2018 in accordance of the Bourne Board of Health Regulations, State Sanitary Code, and General Laws, each day's failure to correct shall constitute a separate offense. The owner is ordered to contact the Health Department to allow access to the property for the purpose of a re-inspection within no more than 48hrs. Being of first offense on July 3, 2018 for section 2, 4, and 5 there will be zero dollar fine. Second offense of July 4, 2018 section 2, 4, and 5 \$100.00 each. Thursday July 5, 2018 for sections 2, 4, and 5 being the third offense, \$200.00 for each. Friday July 6, 2018, Saturday July 7, 2018, Sunday July 8, 2018, Monday July 9, 2018, Tuesday July 10, 2018 and Wednesday July 11, 2018; \$300.00 each day for violation of each section 2, 4, and 5. Each violation totaling fines through July 11, 2018 of \$2,100 for each section. For a grand total of \$6,300 as of July 11, 2018. Ms. Mastria seconded the motion. All members voted in favor, and the motion passed unanimously.** Ms. Peterson added that Mr. Fantozzi has 24 hours to comply and the fines of \$6,300 will increase by \$900.00 per day. Tomorrow will be up to \$7,000. Mr. Andrews said that when the corrections are completed they do have the right to come back before the board to ask for relief. Ms. Guarino corrected Mr. Andrews that she will be issuing citation tickets for noncriminal disposition and the fines can be contested in court. Ms. Peterson concurred and explained the court has already been involved.

2. **111 Valley Bars Road—Peter McEntee on behalf of Sharon Murphy--Local upgrade approval is requested for reduction in setback distances, and variances from Title 5 of the State Environmental Code and Bourne Board of Health 150' Setback Regulations for installation of an upgraded septic system.** Mr. Peter McEntee, P.E. was present representing the owner, Sharon Murphy. Ms. Peterson requested proof of certified mail green cards and if they have been put in. Mr. McEntee shared he does not have the green cards with him but does have copies of the proof of mailings. Ms. Guarino concurred and added that the Board of Health office received the certified mail receipts well in advance, and confirmed that this was completed. Ms. Peterson asked Ms. Guarino if she had spoken to the Conservation Agent, which she replied yes. Mr. McEntee supplied revised plans which were stamped in. Mr. McEntee said he filed the septic upgrade plans simultaneously with the Conservation Commission. A wetland specialist went down and flagged site lines as they should, but Bourne has more stringent lines per local bylaw. Mr. McEntee clarified that in Bourne a jurisdictional boundary line has been updated and one wetland flag has been moved on the revised plans. He is looking for 72 foot setback from the wetland both state and local, 1ft variance to maximum 4 foot cover over a gravity system, and no change to leaching area. Mr. Andrews noticed inconsistency throughout documentation submitted in regards to stating what town it was submitted to. Mr. Barlow suggested that we cross out inaccurate information and update the town office copy. Ms. Peterson asked Ms. Guarino if the Conservation Agent had comments. Ms. Guarino said the plans have already been updated to show the local bylaw Town of Bourne jurisdictional line. The Conservation Agent has no issues with the septic location, it did affect the setback distance slightly, but this is maximum feasible compliance and the soil absorption system is as far away from the resource as possible and it is a significant improvement to the site. As noted on the plan it will be H2O and vented. Ms. Peterson asked if anyone is in audience for this. There was no public comment. Ms. Peterson asked Mr. McEntee if there is a bedroom count deed restriction in place, to which Mr. McEntee responded not at this time. **Mr. Andrews made the motion to grant following variances: a 1ft variance 3ft maximum for 4ft of cover because of H2O structure that were recommended. Also a 78ft variance from the soil absorption system to the wetland boundary for a setback of 72ft, contingent that they file a 3 bedroom deed restriction on the property prior to insurance of a permit.** Mr. Uitti seconded the motion. All in favor, the vote was unanimous.
3. **Marijuana Regulations--The Cannabis Working Group has requested to be placed on the Board of Health agenda for discussion on the following topics: Number of establishments/Licenses, Public Consumption (Marijuana, Tobacco and Alcohol), Age restrictions on consuming Cannabis, and Fines.** Dominique Rapoza, Chair of the working group will be the speaker for the group. Ms. Rapoza had questions in regards to the Town of Bourne's regulations, specifically where it states that you can have no more than 6 licenses to be issued even though the cannabis commission has it as no less than 20% of all off premise liquor establishments, which would be calculated at 1.8. Ms. Rapoza stated they are wondering if that was how they were going to keep it or if the planning board came up with a different number would the Board of Health be willing to make an amendment. Ms.



Peterson said they would take it under advisement as it is important that all the departments work together. Mr. Bill Grant, a member of the working group and planning board, stated they are suggesting 3 retail marijuana establishments, and no limitation on the number of other types of establishments. Ms. Peterson stated that is a fair request but cannot vote on it tonight due to it not being written up or advertised. Mr. Andrews explained that the process to have another meeting to review and possibly vote to change the number of establishments can be an easy process. Mr. Andrews stated potential businesses may feel can be limited by the choice to only allow 3 retail and 6 total. Mr. Barlow suggested maybe no more than 6 and no more than 3 retail up to 6 of everything, although the Board of Health is flexible and willing to adjust. Mr. Grant requested to have no numerical limit on licenses. Ms. Peterson stated that just because you apply doesn't mean you will get it, must prove to the Board of Health you can handle it. Mr. Glenn Cannon questioned if someone comes in with a facility and they are doing retail, cultivation, and manufacturing is that one license issued by the Board of Health or three. Ms. Peterson responded that it would be one. Mr. Barlow said we need regulations in front of them along with what the Cannabis working group would/could like the Board of Health to amend. Mr. Robert Wheeler asked if could a copy of the regulations be provided to the working group, Ms. Peterson distributed them along with an application. They are also on the website. Ms. Rapoza asked if there are any age restrictions for cannabis consumption, other towns have moved the age for Tobacco purchase to 21. Ms. Peterson explained that tobacco and alcohol age limits are completely separate from cannabis. Mr. Andrews stated tobacco is not cannabis so it will be separate, the age for adult use cannabis consumption is 21. Ms. Peterson stated that a separate license displayed is required for each marijuana retail establishment or dispensary selling marijuana and/or marijuana products for each location not being the same address as the retail establishment or dispensary where the owner is approved by the state to cultivate dispensary marijuana or MIP's. Ms. Peterson stated that the problem is there are so many types of marijuana establishments you can have, one is a dispensary, one is a medical dispensary, one is a retail dispensary where anyone can walk in and buy marijuana with proper age, license, security, whatever, and then you have a growing facility that is separate, they may not be able to hold a license for one and a license for the other at the same location. Ms. Peterson said that you can be medical dispensary but not retail at the same time at the same location. Ms. Guarino stated that her interpretation is slightly different, she goes on to reference page 4 section D number 5, it is her interpretation that at a different address you would have a different license and it may be the same owner. There are separate requirements for medical vs. adult use sales. Ms. Peterson asked if both cannot be at the same address, to which Board members replied it can be. Mr. Grant stated under cannabis control commission regulations it can and is a trio. At Tripe M dispensary they have all of the cultivation, the medical, and have applied for and are about to receive their retail approval. When you walk in door, you go right for retail and left for medical, cultivation is in back and the manufacturing is in the back, and they share one large building with a shared parking lot but separate access to each of the various locations. They all have to be licensed by the state. Ms. Peterson added that they all have to be licensed by the Bourne Board of Health too. Ms. Mastria asked for clarification if they are all allowed at the same address. Ms. Peterson said for the matter of this evening we can say ok, but technically she does not believe that is the case in Bourne and will have to read the minutes. Mr. Grant asked to about tobacco sales age and fines for violations. Mr. Andrews and Ms. Peterson did not want to get into too much detail as that was not specifically on the Agenda. The minimum sales age for tobacco products is currently 18, consistent with the state. Mr. Grant said the working group wrestled with this and looked up the bylaws in the town and noticed differences with the fines from the marijuana regulations. Mr. Grant questioned whether that is deliberate or desirable. Ms. Guarino clarified that their fines are the same in the Board of Health Regulations for both tobacco and marijuana, \$300, \$300, \$300, which is the maximum for non-criminal disposition. Ms. Peterson added if you get caught selling to underage the first time is \$300, the second time is \$300 and you can lose your license for up to 14 days, if you are caught a third time it is \$300 and you should just bring in your license and you can lose it up to 30 consecutive days. Ms. Guarino said the Town of Bourne Bylaws may be significantly outdated. Our Health Regulations have been updated frequently. Mr. Andrews said that over the last year they have spent much time rewriting and revamping and bringing them to date, and they have been advertised in the newspaper. Ms. Peterson asked what the next topic to discuss is. Ms. Rapoza replied that with public consumption one of the concerns that was brought up was Chief Woodside was not comfortable having his officers enforce certain board of health regulations since it specifically states it should be enforced by a Board of Health agent and he is not listed. Ms. Peterson replied that she felt they took care of this. Ms. Guarino said law enforcement is listed on page 7 section J1. Ms. Peterson added that the Bourne Police Department may have



authority over security and public consumption for example. Ms. Peterson added that she felt what the working group has accomplished is remarkable, and suggested some of the Board of Health members can attend one of the working group meetings and can get an idea of what they are looking to do and then present to the Board of Health. Mr. Grant asked if we would review cohabitating establishments in one address. Ms. Peterson replied they will look into this. Mr. Cannon announced the next cannabis working group meeting will be Monday, July 16<sup>th</sup> at 7pm in this room and it will be posted. Ms. Peterson asked what the general consensus on this is, as she considers it a lot like alcohol. In our regulations it says you cannot be in possession of a liquor license, or a common victualler's license or sell or serve alcohol in a licensed dispensary establishment. If you are licensed you cannot serve/sell alcohol, tobacco, or food if you hold a cannabis license at the same address. The state did not give much to work with and is changing their minds constantly. Ms. Peterson agreed to join the meeting on Monday July 16, 2018, and she offered people to join. Hopefully it does is ironed out right away and is back on the agenda, and likes when boards work together. Mr. Clegg opened an invitation to everyone to attend the planning board meeting July 12, 2018 where a major agenda item is a public listening session. We have posted a talking level draft of a proposed zoning bylaw for cannabis consumption. It is posted on the website, accessible on the home page under quick links. The meeting will begin at 7pm at the Sagamore fire station and would like to invite anyone with an opinion on anything related to marijuana and a bylaw to control it to attend. One agenda item to consider is hours of operation, if anyone has any opinions they can email Mr. Clegg through the Town of Bourne website under the planning board. Another area they are wrestling with is the buffering or separation between marijuana establishments and sensitive activities such as residential schools, daycares etc. Mr. Clegg encourages everyone to give feedback. Mr. Guarino said that the original regulations from 2017 had hours of operation 8am-8pm, but it was removed after a lot of discussion in 2018. Ms. Peterson said the establishments should come to us with a full package of what they're going to do and the Board will look at the times and discuss with the other officials. Ms. Guarino referenced the 2018 amended regulations, page 4, number 10 an "agreement that a marijuana treatment center or a marijuana establishment may be subject to business hours as determined by BOH". Mr. Clegg replied that most towns have cannabis control and attorney general approval of their zoning bylaws have business hours specified in their zoning bylaws. Mr. Clegg replied that very often it is a negative statement that says you cannot be open from 8pm-8am but you can pick your hours outside of those times. Other towns state it in a positive way. Ms. Peterson responded that the Board has not seen an application yet. Mr. Clegg said the other towns that have adopted it in their zoning bylaws haven't received applications either. Another suggestion is that it be in the host community agreement; the problem with not codifying it in some regulation is it could be at different times by different selectman, and it could be different hours for identical purposes. Ms. Peterson replied it all depends on what they're doing, if they're cultivating it may have to be a 24 hour process, if retail it would have to be within reasonable business hours such as those of a liquor store, each one will be different, but the Board will take under advisement and think about it. Mr. Clegg shared that we are moving down the avenue of probably having hours expressed in the bylaws, and if you have opinions on what those should be to please share. Ms. Peterson referenced what Ms. Guarino stated, we have to treat each applicant as their own based on what they're doing. Mr. Barlow agreed that the Board of Health has to maintain balance, and what you have to do is prepare something to bring to the town meeting. Mr. Clegg clarified what he is saying, is they are moving in the direction of having the zoning bylaw with hours prescribed to just retailers. Ms. Guarino responded that perhaps there should be consistency with other regulations and bylaws for hours of operation for tobacco and alcohol stores. There is no restriction on tobacco as far as hours of sale. Mr. Clegg felt that alcohol package stores are 11am-11pm, and on Sundays 12pm-11pm by state restriction. Ms. Guarino corrected Mr. Clegg that you can purchase alcohol before 12pm on a Sunday, but will confirm with the office of the selectmen, if need be we can certainly clarify and it is something to take into consideration. Ms. Peterson asked if anyone has anything else to discuss. Mr. Clegg requested that if the committee does not mind he will attend working session, and Ms. Peterson shared she will join as well. Mr. Cannon thanked the board and said he likes seeing boards coming together and respects all of the opinions shared this evening. Several of host communities agreements show the hours were often specified in those. Ms. Peterson responded it is unfortunate there are no other Board of Health regulations around we can compare ours to. Mr. Mulvey commented that medical marijuana is more closely related to pharmacies not liquor stores. He also asked if the state, attorney general, or cannabis commission given local boards any guidance on personal growth for that of an adult in a home. Mr. Mulvey said he has concerns if the law allows for an adult to grow in a home for personal use up to 6 plants, would it be 12 plants for 2 adults, and 18



plants for 3 adults? Ms. Peterson replied that it stops at 12 plants per household. Mr. Mulvey stated he is concerned about the health and welfare particularly with minors that may be domiciled in the same building or apartment complex, you may have high heat, high intensity lighting and high humidity, ventilation problems with the vapors that are emitted, and whether or not minors have access to these areas that the plants are grown. He again asked if the state has given any guidelines as how to protect the health and welfare particularly of minors in homes where marijuana is grown. Ms. Peterson stated that the Board would take this into consideration, it was not on the agenda this evening, but will possibly add it to the next agenda when marijuana is discussed, this question has not come up yet. Ms. Mastria reiterated that the guideline is 12 plants maximum for a household regardless of the number of adults. There was no further discussion.

4. **42 Yearling Run Road—Deborah Roberts, owner—Request additional variances from the Board of Health Stable Regulations to allow 2nd floor of existing horse stable to be used for human habitation. Proposing new Title 5 septic system to accommodate the two-bedroom in-law apartment, and using existing irrigation well as potable drinking water well. Water supply is within 100 feet of horse stable. Discussion and possible vote.** Deborah Roberts and Herb Roberts, the property owners were present. Ms. Guarino stated the variance setbacks were approved by the Board in 2015, there was an existing area that was going to be used as a craft area and was used as an apartment by the previous owners. What we have on the plan is an existing well already hooked up to that structure providing water, well is located on the completion report, and it did not check off the proposed use of the well- irrigation/domestic. We did receive lab sample in 2005 after it was installed and the Roberts have provided another dated on July 2. Ms. Peterson asked if there is something in the stable regulations about living within. Ms. Guarino responded yes, section 4- stable will not be used for human habitation dwelling, section 1-pasture not within 100 of drinking water supply well. Given the well has been existing in the pasture and there is a recent sample, perhaps approval for that can be contingent on annual testing to make sure all parameters are met. Ms. Peterson suggesting it may require a site visit. Mr. Andrews said he went last time in 2015. Mrs. Roberts described the barn layout, it has a stable underneath and apartment above. Her daughter lost her home in a foreclosure and has been seeking housing and would like to live in the apartment above the stable. Mr. Andrews asked if the horses live within the barn. Mrs. Roberts responded yes, and she is aware of another location in Bourne that has an apartment within a barn. Mr. Barlow stated the Board is unaware of this situation. Mrs. Mastria felt familiar with the location but does not know about an apartment. Ms. Peterson said it may not be a working barn anymore, it does not have horses. Ms. Peterson responded this has nothing to do with the situation. Ms. Guarino shared the new apartment would require a new septic system. The new septic needs to be installed, plans and permit application were provided. Mr. Barlow saying this came up before and the Board went to visit the site and there was no apartment. Ms. Peterson asked when the last perc was completed. Ms. Guarino replied not recently. Mr. Andrews asked why the new septic plan was designed on an old perc test. Mrs. Roberts explained the installers' intentions. Ms. Peterson stated they require a new perc test and septic plans should be drawn to new perc test. Mr. Barlow stated it is a health issue when horses and people live together, and perhaps they should move the horse to another location. Mr. Roberts stated the horse is as much family as their daughter. Ms. Peterson stated they need to draw new plans on new perc test. Ms. Guarino said the old perc test was completed on May 5 1995. Ms. Peterson suggested the Roberts withdraw this evening without prejudice and get their engineer to get a new perc test scheduled and draw the new plan. Mr. Andrews said he would like to see how the barriers are between the stable and apartment. Mr. Andrews restated the requirement of an atmospheric barrier or equivalent to separate the barn from living space. Mrs. Roberts responded they have a dropped ceiling with insulation. Mr. Andrews replied he would not be inclined to approve that. Mr. Barlow suggested you need plastic or something to stop moisture and air from moving from the barn area into the apartment, and you wouldn't want the people to make the horses sick. Mr. Andrews said you need a variance against regulation to allow something that is not allowed in regulation, he was expressing what his personal concerns are so they can be prepared before coming in front of the board again. Mrs. Roberts wasn't sure if they can fix it, they have come before the Board a number of times and they are trying to do everything right. Ms. Peterson responded that we are telling you what we need to see. Mrs. Mastria said I think they understand that there's a process that we need to go through in order to get this in front of us. Ms. Peterson agreed that we are telling them what we need. Mrs. Mastria asked if the next step for them would be to call Ms. Guarino. Ms. Peterson replied they should withdraw without prejudice, schedule a new perc test, then their engineer draw new septic, design barrier to separate the barn and apartment. Ms. Peterson



stated she remembers how much the horse is family member and that she is trying to help her daughter and granddaughter, but the fact the engineer tried to get by with a 1999 per test does not bode well for this Board, it does not make her happy he would use a perc test from 1999. Mrs. Roberts stated they didn't know that, and they just paid the money, we told him what we wanted and that's what he did. Ms. Peterson restated you need a new perc test, design system around new perc test, take into account our bylaws/regulations state you cannot house people in a barn with horses, that being said you're going to have to develop something to separate the two. Mrs. Roberts asked if plastic was suggested, multiple board members replied no and that they cannot suggest anything and the homeowners need to come up with the plan. Mr. Andrews suggested they find a way to separate the air, atmospheric barrier between the two so they become two separate entities in some way. Ms. Guarino asked if the Board have any comments on the accuracy of the water supply they are proposing. Ms. Peterson asked Ms. Guarino what issues she has with that and would like to know what they are, she just saw on the old perc that it says irrigation only for new well back in the 2000, it meets the setbacks for both of the proposed septic systems. Mr. Andrews asked if it meets the setback to paddock, Ms. Guarino said no. Mrs. Roberts stated they did a potable water test, Ms. Guarino said they have this and it meets all requirements and will continue to require those, although we do not require as much information as they provided back in 2005. Mrs. Roberts said they have no problem doing that. Ms. Guarino stated the dwelling is served by town water that water system has been hooked up for many years to that building. Mr. Andrews said he would look to guidance from Ms. Guarino on this and brought up Ms. Guarino's suggestion of testing once a year. Mr. Andrews suggested possibly more often than once a year because you have different seasons and types of percolation and runoff from the paddock, and different years have different infiltration rates into the ground- winter to rainy spring, to dry summer. Ms. Peterson said that's a loaded question, that's us telling them what they need to bring to us, we have concerns about that well and that is something to discuss with the engineer and Board of Health and put in as part of project. We know you paid your engineer, but we don't make it a habit to tell people what to do. Mrs. Roberts replied she would have liked to have known there were concerns with the well, as it was put in by the previous owner. Ms. Peterson stated there is different criteria at different times, now you're asking for a major change to your house, and the variance is incomplete right now. There are concerns that we have and they should be addressed before you reapply, you can withdraw without prejudice, and if she withdraws she does not need to notify neighbors again. Ms. Peterson asked if it is a 45 day deadline to come before the Board again. Ms. Guarino asked if there will be a meeting on August 8<sup>th</sup> if it would be added to the next meeting agenda. Ms. Peterson agreed it could be on the 8<sup>th</sup>. Mrs. Roberts said they have to go in front of the board of appeals, they received a letter and from what she understood it stated that will not happen since they have to be heard here first. Mrs. Roberts said they can only do it once and if they do not get approved, then they cannot come back for two years. Mr. Barlow clarified they may be able to reschedule but you only get one hearing. Ms. Peterson suggested the owner to express to the appeals board that you have not been through the Board of Health yet, and take yourself off that agenda, since we won't be having another meeting until August 8<sup>th</sup> 2018. Mrs. Roberts asked if there will be another meeting in the month of July, to which Ms. Peterson responded no. Ms. Peterson asked what the Roberts would like to do. Mrs. Roberts responded that it sounds like they should continue this. **Mr. Uitti made a motion to continue 42 Yearling Run Rd until our next meeting August 8<sup>th</sup> at 6:00pm. Mr. Andrews seconded the motion. All in favor and it was a unanimous vote to continue this.**

5. **Friendly's Restaurant—Robert Arruda, Owner— Non-compliance with minimum standards of food establishments, 105 CMR 590.000, and repeated violations on inspection dates 5/9/2018, 5/11/2018, 5/24/2018, 6/8/2018, 6/28/2018, and 7/5/2018. Discussion and possible vote on a conditional food permit or other penalties.** There was no one present for this hearing and Mr. Arruda notified the Health Department that he has closed his business.
6. **2 Robinson Road—Mark Flaherty, P.E. on behalf of Ann T. O'Sullivan—Request for approval of a Facilities Nitrogen Aggregation Plan to allow construction of a 3 bedroom dwelling within a Zone II, 310 CMR 15.216. Discussion and possible vote to approve 11,415 square feet of nitrogen credit land off Phillips Road Map 4.4, Parcel 132.** The Board of Health is in receipt of a request for a continuance on this matter. There was no one present for this item.

7. **Approve the Minutes**—Approve the minutes from the meetings dated June 13, 2018 and June 27, 2018. Ms. Guarino stated the June 13<sup>th</sup> minutes have not been completed, but June 27<sup>th</sup> meeting was short and was distributed for review. **Mr. Uitti made a motion to approve the meeting minutes from June 27<sup>th</sup>. Mr. Andrews seconded the motion. All in favor and the vote was unanimous.**

8. **Set tentative date for next meeting and adjourn.** August 8, 2018 at 6:00pm

**Mr. Andrews made a motion to adjourn the meeting. Mr. Uitti seconded his motion. All were in favor and the meeting adjourned at 7:37 pm.**

Taped & Typed by Cassie Hammond, Administrative Assistant  
Edited by Terri Guarino, Health Agent

Kathleen Peterson

Stanley Andrews

Galon Barlow Jr.

Don Uitti

Kelly Mastria