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TOWN OF BOURNE BOARD OF HEALTH

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

Support Staff in attendance: Kayla Davis, Heath Inspector; and Cassie Hammond, Administrative Assistant.

Meeting was called to order at 5:30 pm

Ms. Peterson asked if anyone was recording at this time, no one from the audience indicated they were recording.

Ms. Peterson stated that Kelly Mastria and Don Uitti will be participating remotely this evening. Mr. Andrews, in favor; Mr. Barlow, yes; and Ms. Peterson, in favor of remote participation. Items on the Agenda were taken out of order at the discretion of the Chair.

1. **Moved to item number 1. Review and discuss Town Counsel memorandum dated February 5, 2019 relative to the Savery Avenue Septic System.** Ms. Peterson confirmed that all members of The Board of Health have read the document. Mrs. Mastria commented that it is a complicated venture and should be explained further. Mr. Andrews suggested to have Town Counsel explain the memo in full. Ms. Peterson agreed it would be a good idea. Mrs. Mastria agreed with this. **Mr. Barlow made a motion to have Health Agent Ms. Guarino contact Town Counsel and have him explain how to perceive his memo and opinion. Mr. Andrews second the motion. Roll call vote to approve: Mrs. Mastria, yes; Mr. Uitti, yes; Ms. Peterson, yes; Mr. Barlow, yes; and Mr. Andrews, yes. All in favor.**
2. **Moved to item number 2. All Cape Well Drilling— discussion and possible vote for violation of Board of Health well regulations for commencing construction of a well at 1 Lighthouse Lane without proper permits.** Mary and Shaun Harrington are present as well as the owners and operators at All Cape Well Drilling. Mr. Harrington explained they never drilled, and their intention was to set up the old well. Mrs. Harrington confirmed they never put anything in the ground, and never took well stock off the truck. Mrs. Harrington stated they set up the machine to develop the first well and this is when the Health Inspector, Kayla Davis, arrived. Mrs. Harrington reviewed the conversation between All Cape Well Drilling and the Health Inspector, Ms. Davis, who had requested All Cape Well Drilling to cease any work until a permit is obtained. Mr. Harrington explained he and his wife came into the Health Department, completed the application, and the Health Agent informed them they needed to present a certified plan. Mr. and Mrs. Harrington contacted Bracken Engineering. Ms. Peterson explained that any well permit needs to be submitted 30 days in advance. The Harrington's both said they were unaware of this timeframe and questioned this in regards to an emergency for drinking water. Ms. Peterson explained emergencies are handled on a case by case basis and it expected, in all normal circumstances, to apply for a permit 30 days in advance. Mr. Barlow reviewed that this is not a location specific requirement, but a town wide regulation. Mr. Andrews stated that it is the Health Departments decision if it is considered an emergency. Ms. Peterson explained that completion reports, pumping records and lab analysis are required to be submitted to the Health Department within no more than 5 days after completion. Mr. Harrington acknowledged he was unaware, but has found an

issue with the county turning around a water sample in under 2 weeks. Mrs. Harrington suggested they could charge higher in the Town of Bourne to cover the cost of expedited reports. Mr. Harrington stated that as far as the completion reports go, The Board of Health is welcome to contact the state as they keep shutting them down. Mr. Harrington agreed to adhere to the guidelines set forth and agreed they were remiss but will strive to improve this. Ms. Peterson reviewed that if this happens a second time, All Cape Well Drilling will be asked to go in front of The Board of Health, which may or may not result in loss of license to well drill in the Town of Bourne. The Harrington's both agreed. Mr. Harrington stated this was an oversight on their end and they did not install a well. Ms. Peterson agreed they had not installed a well but indicated they had drilled. Mr. and Mrs. Harrington both denied drilling and explained they had not put anything into the ground. Mrs. Mastria asked why they are in front of the board and to define the violation. Ms. Peterson replied that the violation is they started without proper permits. Ms. Peterson further explained that the Harrington's are saying they set up without a permit but when the Health Inspector arrived they stopped. Mrs. Harrington clarified they had never commenced the work. They had gone out to the location to develop the old well first which requires the rig, but never put anything in the ground. Mr. Harrington reviewed that as soon as the Health Inspector Ms. Davis came to the location they stopped and did not continue. Mr. Harrington reviewed that they removed the equipment from the site the next day and contacted Bracken Engineering. Mrs. Harrington stated there seems to be some confusion with what happened. Mr. Andrews agreed that there had been a lack of communication. Mr. Andrews recommended that if The Harrington's are doing work on a well and they run into trouble to check in with the Health Department prior to initiating. **Ms. Peterson made a motion to take no action at this time, she requested a copy of the well regulation signed by both Mr. and Mrs. Harrington acknowledging they understand the regulations, and this will be considered if this were to happen again. Mr. Andrews second. Roll call vote to approve: Mr. Barlow, yes; Mr. Uitti, yes; and Mrs. Mastria, yes. All in favor.**

3. **Moved to item number 3. 32 Buzzards Bay Avenue—Owner Thomas Gagne requesting hearing before Board of Health to discuss inspection on January 23, 2019 and Housing Code violations pursuant to 105 CMR 410.850. Discussion and possible vote. No action and moved to next meeting at request of Owner.**
4. **Moved to item number 4. 60 Kenwood Rd—Zachary Basinski, P.E. of Bracken Engineering, Inc. on behalf of Thomas and Susan Curry-- Requesting a waiver from Board of Health regulations to continue to use the existing septic system along with proposed renovations to dwelling—from December 12, 2018.** Zachary Basinski, P.E. of Bracken Engineering, was present along with the home owners. Mr. Basinski reviewed the homeowners desire to complete some renovations to their home, and the requests made by The Board of Health; including an inspection of the system, ground water elevations. He and the Health Agent, Terri Guarino, completed a Title 5 inspection of this system, and it was determined it was in compliance. Mr. Basinski had set a monitoring well and the results have been submitted, confirming the existing elevations that were on the plot plan, and there is over 4ft separation to the ground water. Mr. Andrews asked if he had caught a moon tide. Mr. Basinski confirmed this. Mr. Basinski explained that he and the Health Agent, Ms. Guarino, had looked this over, and found it to be very consistent with the ground water in the area. Ms. Peterson asked if they would start construction right away. Mr. Basinski said the homeowners would be sending this out to bid for contractors. Ms. Peterson asked the homeowners if they would like to comment on anything. Mr. and Mrs. Curry, homeowners, explained that it is just repairs they are asking to do on the house. Mrs. Curry explained that her father built the house when she was 2 years old and although he had limited finances, he installed a Title 5 compliant system with the understanding there would be no a red stamp. Mrs. Peterson responded that the rules have changed over the years. There were no further questions from The Board of Health members. **Mr. Andrews made a motion to approve plans valid for one year. Mr. Uitti second the motion. Roll call vote to approve: Mrs. Mastria, yes; Mr. Andrews, yes; Mr. Barlow, yes; Mr. Uitti, yes; and Ms. Peterson, yes. All in favor.**
5. **Moved to item number 5. 81 Phillips Road—Continued from January 9, 2019—Brad Bertolo of JC Engineering, Inc. on behalf of owners, Darrell and Joanne McLaughlin. Requesting variances from the Bourne Board of Health 150 Foot Setback Regulations for the proposed leaching facility within 109.2' of the Bordering Vegetated Wetlands and 91.4' from the Coastal Dune. A MicroFAST 0.5 unit has been added**

to the revised septic plans dated January 23, 2019. Mr. Andrews will be sitting off out of necessity and will not be commenting or engaging in any way. Brad Bertolo of J.C. Engineering, was present, representing the home owners. Mr. Bertolo explained the current septic system is in need of repair due to the upcoming sale of the property. He proposed a new MicroFAST system, with new leaching field. He reviewed the proximity to coastal dune and vegetated wetlands and the variances requested. Mr. Bertolo explained the history of having withdrawn his previously application and reapplied with the advanced technology. Mr. Barlow asked if the project has been through conservation, Mr. Bertolo confirmed that it had. Ms. Peterson reviewed that the septic application is missing an installer's signature. Mr. Bertolo explained the project has to go out to bid then the permit will be signed. Ms. Peterson requested an I.A. disclosure and contract prior to issuing a permit, to which Mr. Bertolo agreed. Ms. Peterson questioned the number of bedrooms, Mr. Bertolo stated it is a 3 bedroom dwelling at this time. Mr. Barlow suggested a deed restriction be included in the approval. Mrs. Mastria asked if Ms. Davis, Health Inspector; is weighing in for Ms. Guarino, the Health Agent and their approval of this. Ms. Peterson confirmed that Ms. Davis and Ms. Guarino are in support. **Mr. Barlow made a motion to approve the variances requested, 150 Foot Setback Regulations for the proposed leaching facility within 109.2' of the Bordering Vegetated Wetlands and 91.4' from the Coastal Dune. Ms. Petterson requested a 3 bedroom deed restriction, IA disclosure, and signature on permit prior to issuing the permit. Mr. Barlow amended his motion to include Ms. Peterson's requests. Mr. Utti second the motion. Roll call vote to approve: Mr. Utti, yes; Mrs. Mastria, yes; Mr. Barlow, yes; Ms. Peterson, yes. All in favor.**

6. **Moved to item number 6. 15 Sanderling Rd—Lorena Carlozzi, Owner-- Hearing to determine whether the dwelling or portion thereof is unfit for human habitation, and whether an order to secure and vacate should be issued. Discussion and possible vote on violations of State Sanitary Code, 105 CMR 410.00.** Mr. Andrews stepped back on the Board of Health for this item. Pipi Webb Sawyer, niece of the homeowner; was present and represented the home owner. Mrs. Webb Sawyer read the letter prepared by Lorena Carlozzi, home owner. This letter detailed the history of owning this property, tenants, evictions, and Mrs. Carlozzi's desire to live at her property with her family. Ms. Peterson said she understands the history and stressed the need to focus on the issues indicated in the housing inspection. Mrs. Webb Sawyer continued reading the letter, reviewing complaints Mrs. Carlozzi had received in regards to the property. Mr. Barlow explained the board cannot get into the issues outside of the items on the agenda and referenced the violations that need immediate attention. Ms. Peterson asked what has been done since this inspection. Ms. Peterson quoted the items that needed to be done within 24hrs as indicated on the housing inspection form: upstairs bathroom shower tub, toilet seat in disrepair. Mrs. Mastria interrupted asking what has been done. Mrs. Webb Sawyer said the fire code item had been done. Ms. Peterson asked if the leaking oil tank had been fixed. Mrs. Webb Sawyer replied that it has not been scheduled. Ms. Peterson reviewed that The Board of Health cannot have people occupying the dwelling with these current violations. Ms. Peterson asked if the occupants were present at the meeting. Jessica St. Lawrence, an occupant, was present for this meeting. Ms. Petterson asked if Ms. St. Lawrence had been contacted and if she had denied access. Ms. St. Lawrence said she had not been contacted nor denied access. Ms. Peterson reviewed the need for the occupants to allow workers into the dwelling to address the violations. Ms. St. Lawrence agreed, and stated she has not been contacted. Ms. Petterson stated that the home owner will have to rehome the occupants until the items of most importance are completed as shown on the housing inspection form as needing attention either ASAP or within 24hrs. Ms. St. Lawrence said she had purchased 2 toilet seats, carbon monoxide detectors, fire detectors, and lightbulbs for fixtures. Mr. Andrews asked if the access to the doors and windows had been made clear of debris. Ms. St. Lawrence stated she had removed large amounts of trash from the property. Ms. Peterson asked if the leaking oil tank had been fixed. Mrs. Webb Sawyer said the handy man was unable to fix it at this time. Ms. Peterson questioned if the dropped ceiling, egress, shower temperature and fixtures, and toilet seats had all have been fixed. Ms. St. Lawrence said the toilet seats, carbon monoxide detectors, fire detectors, and fixtures on lamps in front bedroom had been fixed and all debris has been moved from in front of the boiler. Ms. Peterson asked when a plumber could be contracted. Ms. Peterson also reviewed that the dryer is not vented and this needs to be remedied. Mrs. Webb Sawyer replied that they had unplugged the dryer. Mr. Andrews said this has to be addressed, not just unplugged. Ms. Peterson explained that if the homeowner cannot get someone

there to fix the violations within 24hrs, the homeowner will have to relocate the occupants indicated on the lease to a hotel at the cost to the homeowner. Mrs. Webb Sawyer questioned the need to do this if the homeowner is in the process of evicting the tenants. Ms. Peterson reviewed that The Board of Health is not housing court and would not be discussing such issues. Mrs. Mastria explained The Board of Health's role as to uphold the standards of human habitation in The Town of Bourne. Mrs. Webb Sawyer discussed concerns with the tenants relating to rent payments and the disrepair of the dwelling. Ms. Peterson again reviewed that The Board of Health will only discuss items indicated on the agenda and urged Mrs. Webb Sawyer to not bring up topics of payments and rent. Mr. Andrews reviewed the violations that have to be fixed within 24hrs, and the process of contacting the Health Department when complete as to schedule a time to re-inspect. Ms. Peterson asked the Health Inspector, Ms. Davis, if the dwelling is fit for human habitation, which Ms. Davis confirmed. Ms. Peterson suggested to put in the motion to rehouse the occupants, indicated on the lease only, to a hotel at the owners' expense, including all children. Ms. St Lawrence stated she has permission in text showing she can sublet and left to go get the documentation from her car. (Mrs. Mastria disconnected from remote participation at 6:09 PM.—three members present and one via remote participation) Mrs. Webb Sawyer asked questions about the process of eviction. Ms. Peterson asked her not to bring up these topics again as they do not pertain to the agenda. Mr. Barlow and Mr. Andrews explained how The Board of Health can only review the current complaints indicated on the housing inspection form. Ms. Davis explained to Mrs. Webb Sawyer that the faster she and the homeowner can get someone in to do repairs, the earlier The Health Department will be able to re-inspect the dwelling and allow the tenants to move back. Ms. Peterson said they will need to rehouse the tenants starting this evening and reviewed the expectation for the homeowner or Mrs. Webb Sawyer to contact someone to make repairs within 24hrs and to contact The Health Department with this information. Ms. St. Lawrence returned to the meeting with the documents, but did not produce the documentation on subletting approval. Ms. Peterson asked that Ms. St. Lawrence and Mrs. Webb Sawyer step out of the meeting to work together to locate a hotel for the tenants and return with a reservation. Ms. Peterson reviewed a timeline for the evening, instructing the owners of the property to obtain items within thirty minutes from the end of the meeting, and to relocate the children and all tenants as the property will be deemed unfit for human habitation. **Ms. Peterson made a motion to move the occupants shown on the lease, including all children, to a hotel at the owners' expense until the violations requiring immediate repair are complete. After the meeting Ms. St. Lawrence and Mrs. Webb Sawyer will inform the Board of Health of the location of the hotel they have made the reservation with. Mr. Andrews second the motion. Roll call vote to approve: Mr. Uitti, yes; Mr. Barlow, yes; Ms. Peterson, yes; and Mr. Andrews, yes. All members in favor and the motion passed unanimously.**

7. Moved to item number 7. 1 Lighthouse Lane—Zachary Basinski, P.E. of Bracken Engineering, on behalf of Lighthouse Realty Trust—Requesting relief from the Bourne Board of Health Well Regulations for the repair of an existing potable drinking water well at the site. Zachary Basinski, P.E. of Bracken Engineering, was present along with the home owners. Mr. Andrews identified many wells on the site plan and requested Mr. Basinski indicate the well they are referencing in this project, Mr. Basinski located the well in discussion. Mr. Basinski reviewed the variances requested and identified them on the site plan. Mr. Andrews discussed the sewer line shown on the site plan, Mr. Basinski reviewed that it is approved and will be double sleeved when installed. Mr. Andrews reviewed a previous approval and Mr. Basinski identified it is in Land Court and will be coming back to the Board of Health to request additional variances. Ms. Peterson asked Mr. Basinski was aware there is a buried propane tank on a neighboring property. Mr. Basinski replied that he was unaware. Mr. Harrington, a member of the audience and the well driller for this project, asked if it is on the property next door as there is a tank partially visible. Mr. Barlow asked Mr. Harrington to point it out on the site plan. Mr. Harrington identified the proposed location of this propane tank on the site plan as 5 Lighthouse Ln. Mr. Andrews requested the propane tank and all utilities laid out on the plan including that propane tank, Mr. Basinski agreed to this request. Mr. Uitti had no questions. Mr. Stan Budryk, a member of the audience requested to speak, he stated he is an abutter to an abutter. Mr. Budryk asked the location of the existing well on the plan. Mr. Basinski identified this on the site plan. Mr. Budryk shared that he remembers Mr. Harrington being in this same location last year stating he was putting in a pump on the well in discussion. Mr. Budryk stated he called The Board of Health asking if this required a permit,

which he was told it did not since it was considered a repair. Mr. Budryk then asked why they are installing an additional well in this same area if it had been repaired. Ms. Peterson explained they are replacing the existing well that is in failure. Mr. Budryk stated there are people staying at the lighthouse on the property. Ms. Peterson said that is not on the agenda and The Board of Health will only discuss items listed on the current agenda. Mr. Budryk explained he measured the distance where All Cape Drilling had set up their big rig and has concerns about the setback distances. Mr. Andrews again stated no drilling had taken place. Mr. Barlow reviewed they were testing an existing well, not drilling a new well. Ms. Peterson reviewed that Mr. Basinski states the well is in need of repair, and The Board of Health has already requested additional information to be added to the plan. Mr. Budryk again began to explain his findings when he measured, Ms. Peterson reviewed that this information is considered hearsay. Mr. Budryk said 4 trucks had showed up with a big rig. Ms. Peterson confirmed this information. Mr. Budryk then reported he called The Board of Health to inquire if a permit had been pulled and he was told there was not. Ms. Peterson confirmed this and said The Health Inspector then went to the location prior to any drilling commencing. Mr. Budryk said the big rig was drilling. Mrs. Harrington said they had not drilled. Mr. Budryk said he could hear and see the big rig drilling, and that Mr. Harrington started swearing at Mrs. Budryk. Ms. Peterson said we need to stick to facts and the items listed on the agenda. Mr. Budryk said the distance between where the big rig was located and the S.A.S. is less than 100ft. Mr. Barlow explained that everyone in that location has private wells, and over time these wells will fail, and they will need to be replaced as the properties need water, and stressed the need to supply water to homes. Ms. Peterson reviewed a previous agenda in regards to bedroom counts on Lighthouse Ln and stressed the need to be consistent, and how he cannot compare his measurements to Bracken Engineers; but offered Mr. Budryk to contract his own engineer. Mr. Budryk asked Ms. Davis if she had been out there and asked if she had seen the sand around the big rig and indicated the sand was proof they were drilling. This was not confirmed or denied. Mr. Barlow asked Mr. Basinski what reliefs he is requesting. Mr. Basinski stated the variances being requested at this time as the following; 19ft variance to the property line, 19ft variance to the private way, 41ft variance to the double sleeve sewer line, and a 2ft variance to the existing dwelling. **Mr. Barlow made a motion to approve the variances stated by Mr. Basinski requested for in this meeting. Mr. Budryk questioned the tank. Ms. Peterson asked Mr. Basinski to locate the well and let the Board of Health know what variances are required for the well, which Mr. Basinski agreed to. Ms. Peterson and Mr. Andrews clarified this agenda item may have to be continued until the next meeting only to approve variances for an underground tank. Mr. Barlow made a motion to amend his motion to including continuing this item until the next meeting for a variance for an underground tank. Mr. Andrews second the motion.** Ms. Peterson clarified again that 1 Lighthouse Lane will only be on the agenda for the variance required for the underground tank. Mr. Budryk said at the last hearing about two years ago that he asked that the board grants variances on a routine variances and feels this is a large waste of time and there is two structures on their property. Ms. Peterson said that is for zoning board of appeals. Mr. Andrews said the well that services this property has failed and they need to replace it, without water the house is uninhabitable. Mr. Andrews continued that since the homeowners have an opportunity to replace that well The Board of Health have to grant the variances required for that due to the special circumstances needed for that. The home owners had a well there and it had all the same variances and it needs repair and the installer, Mr. Harrington of All Cape Well Drilling; says he needs to drive a new well because Mr. Harrington tried to recondition that well already and was unsuccessful. Ms. Peterson stated that the well needs repair. Mr. Harrington stated he had never swore at Mr. Budryk wife. Mr. Andrews replied that is not relevant to this agenda item. Ms. Peterson reviewed the reprimand given to Mr. Harrington including the signed copy of well regulations for the Town of Bourne. Mr. Budryk said he had already reported Mr. Harrington to the DEP. Ms. Peterson said the Board of Health would not discuss that issue. Mr. Andrews reviewed that The Board of Health cannot deviate from the agenda item. **Ms. Peterson and Mr. Andrews clarified that Mr. Andrews had seconded the amended motion made by Mr. Barlow. Roll call vote to approve: Mr. Uitti, yes; Mr. Barlow, yes, and Ms. Peterson, yes. All in favor.¹**

8. **Approve the Minutes— Approve the minutes from the previous meeting dated January 9, 2019. Mr. Andrews made a motion to approve the minutes. Mr. Barlow second the motion. Roll call vote to approve: Mr. Uitti, yes; Mr. Barlow, yes; Mr. Andrews, yes; and Ms. Peterson, yes. All in favor.**

¹ Discussion and clarification of meeting vote also took place during March 6, 2019 Board of Health Meeting.

9. Set tentative date for next meeting and adjourn. February 28, 2019 at 6:00pm.

Mr. Andrews made a motion to adjourn the meeting. Ms. Peterson seconded his motion. Roll call vote to adjourn: Mr. Barlow, yes; Mr. Andrews, yes; Ms. Peterson, yes; and Mr. Uitti, yes. All were in favor and the meeting adjourned at 6:33pm.

Taped & Typed by Cassie Hammond, Administrative Assistant

Kathleen Peterson

Stanley Andrews

Galon Barlow Jr.

Don Uitti

Kelly Mastria

VIA remote vote