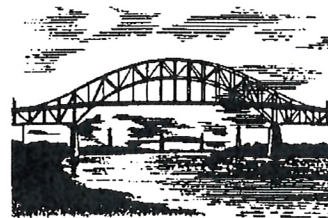


Terri A. Guarino
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TOWN OF BOURNE BOARD OF HEALTH

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MINUTES September 22, 2021

Meeting was called to order at 05:30pm
Items on the agenda were taken out of order.

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1. **Members in attendance:** Stanley Andrews, Chairman; William Meier, Clerk; and Barbara Princiotta. **Support Staff in attendance:** Terri Guarino, Health Agent; Kaitlyn Shea, Health Inspector; and Stephanie Fitch, Health Inspector.
2. **Terri Guarino, Health Agent to provide information and updates. The Board of Health to discuss and possibly vote.** – MDPH has identified seven WNV human cases in Bristol, Essex and Middlesex Counties. Additionally, MDPH has identified 120 West Nile virus positive mosquito samples collected in Barnstable, Berkshire, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Plymouth and Suffolk Counties. We have not identified any WNV positive samples in Bourne so far this year. The populations of mosquito vectors that transmit WNV and EEE are elevated due to intense regional precipitation events and average temperatures. Avoid mosquito bites by using EPA approved repellents, appropriate clothing and avoiding peak mosquito activity between dusk and dawn. Remove standing water by emptying containers and tarps around your home. There are less than 50 active COVID-19 cases, and the Town of Bourne currently has a 2.9 percent positivity. There was no public comment.
3. **AMEND TITLE TRANSFER INSPECTION REGULATIONS – Discussion and vote to amend Title Transfer Inspection Regulations pursuant to M.G.L. c. 111 § 31. Amendments may include the automatic failure of nonconforming systems i.e. cesspools, and clarification of the existing requirements of a four-foot vertical separation from the bottom of the soil absorption system to high groundwater elevation and ‘grandfathering’ of systems.** – Mr. Andrews requested to move this agenda item to the end of the meeting so as to not hold up any of the people on the agenda tonight.
4. **4 Fabyan Way- Bradley Bertolo P.E. of J.C. Engineering on behalf of owners Cologero and Orietta Cimino- Continued from Board of Health meeting on September 8, 2021. Requesting relief from State and Local Board of Health Title 5 Regulations. Variances requested include a 36.7 foot reduction from the leaching facility to the edge of a Salt Marsh. A 57.3 foot reduction from the leaching facility to a Coastal Bank and 4.5 foot reduction from the leaching facility to the front property line.** -- Mr. Andrews recused himself for this item. Mr. Meier acting as Chairman. Mr. Bertolo explained that he changed the design to include alternative treatment for nitrogen removal. There are no changes to the setback variances requested. Mr. Meier asked Miss Guarino if she had any comments. Miss Guarino stated that the proposed I/A technology unit is approved for nitrogen removal and is a huge improvement to this location. Ms. Princiotta said she is happy to see that the plans have been revised to include the I/A technology for nitrogen removal. There was no public comment. **Ms. Princiotta made a motion to approve the variances requested including a 36.7 foot reduction from the leaching facility to the edge of a Salt Marsh, a 57.3 foot reduction from the leaching facility to a Coastal Bank, and a 4.5 foot reduction from the leaching facility to the front property line with the required I/A disclosure notice and a three-bedroom deed restriction. This is based on the revised plans dated September 10, 2021. Mr. Uitti seconded the motion. All in favor and the motion passed**
5. **Brows Boutique and Spa – Owner Weldia Bowers to propose a new spa with cosmetic tattooing at 45 Main Street in Buzzards Bay.** – Mr. Andrews steps back in as chair of the meeting. Mrs. Bowers explains her dream to own her own business and her previous experience in the field. Ms. Fitch said that the owner has been in great communication with the office with their plans and has been prompt with all required permitting. Ms. Fitch explains that lip and eyebrow pigmentation

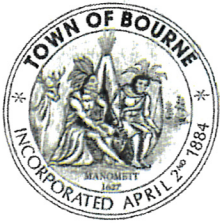
fall under the Board of Health Body Art Regulations as cosmetic tattooing. Mrs. Bowers passed her pre-operational inspection and is well informed on all Bourne Regulations related to her business. Mr. Andrews thanks Mrs. Bowers for her presentation and welcomes her to Bourne. **Mr. Uitti moves to approve the new cosmetic tattooing salon, Brows Boutique and Spa, at 45 Main Street. Mr. Meier seconds the motion. All were in favor and the motion passed.**

6. **Cape Cod Inked – Owner Tyler Bolton to propose a new body art establishment at 4 Barlows Landing Rd in Bourne.** - Mr. Bolton was present for the meeting. Miss Shea explained that she conducted an inspection of the facility and everything looked fantastic. Mr. Bolton had all required permit applications completed and is well informed on the local Body Art Regulations. Mr. Bolton states there will be no body piercing at his establishment. Mr. Meier asks how long Mr. Bolton has been in the field, to which Mr. Bolton announced that he has been in for 5 years. **Ms. Princiotta made a motion to approve Cape Cod Inked, a new Body Art Establishment, at 4 Barlows Landing Rd... Mr. Uitti seconded the motion. All were in favor and the motion passed unanimously.**
7. **AMEND TITLE TRANSFER INSPECTION REGULATIONS – Discussion and vote to amend Title Transfer Inspection Regulations pursuant to M.G.L. c. 111 § 31. Amendments may include the automatic failure of nonconforming systems i.e. cesspools, and clarification of the existing requirements of a four-foot vertical separation from the bottom of the soil absorption system to high groundwater elevation and ‘grandfathering’ of systems.** – Mr. Andrews said that this is something that has been on the agenda for the Board for several years on the back burner and it is time to move this forward. We have always tried to be extremely protective of our resources in Town. He read the recent reports of the USGS (see exhibit A) regarding how quickly soils in our area allow for discharge to flow, especially near coastal areas **(Add attachment)**... Miss Guarino mentioned that she publicized the possibility of amendments to the regulation (see exhibit B) in the Cape Cod Times for 3 weeks, to get the word out. She explained that the last time these regulations were updated was back in 2016, and the proposed amendments would bring Bourne up to speed with many neighboring towns with similar soils and resources areas we are looking to protect. Miss Guarino began explaining the proposed changes to the document, starting with item number 6, which will replace the word “cesspool” with “leach pit.” Item number 12 would be a new item that would address issues with changes of use of buildings without septic upgrades in the past or illegal addition of bedrooms to homes that exceed the septic capacity the system was built for. Mr. Andrews has seen this in other sectors of government, and in those sectors the State is coming down on all the trades of construction for unpermitted work that has been down. He felt that this amendment would bring the Board of Health up to speed with other trades. Miss Guarino felt that it would be good to add an additional sentence to this item “the systems will be considered failed systems until rectified,” so that the inspectors know how to properly fill out the front of the Title 5 inspection report. Mr. Meier asked for verification that this section would only be caught by inspection, and Mr. Andrews confirmed this. Item number 13 would be a new section, Miss Guarino copied the definition of a cesspool from the Massachusetts State Environmental Code, see exhibit B. Cesspools are pre Title 5 systems that can be made of various materials that are not permitted today and many have structural integrity issues. Miss Guarino also noted that cesspools also lack any sort of treatment, which is why the State had chosen to adopt Title 5 for treatment of wastewater. It is acknowledged that most surrounding towns already consider cesspool automatic failure. Miss Guarino wanted to emphasize this has been brought up back in 2016, and is now asking the Board to really consider adopting these changes and consider cesspools failed upon inspection. Mr. Meier had questions about cesspools that had leaching pits added to them as overflow over the years. Miss Guarino explained that pre-cast leach pits are title 5 compliant and if this was uncovered at an inspection, the non-conforming part would have to be replaced with a pre-cast tank but a passing leach pit could remain. Ms. Princiotta felt that “upon inspection” wording could be limiting on the Board’s authority since there are some title transfers that do not require inspections. Miss Guarino agreed that that wording could be removed from items 12 and 13, but explained that there are other instances besides title transfers that could trigger an inspection, for example with building permits. The board moved on to proposed item 14, and Miss Guarino stated that this section is very similar to that of the Truro Board of Health, she believes it will be helpful in continuing to enforce the Board’s existing 150 setback regulation. Title 5 states that a cesspool within 50 ft of a resource area it requires further evaluation by the Board of Health, to verify vertical separation to groundwater, the Bourne Board of Health has a 150ft setback regulation to resource areas and adding item 14 would help enforce that regulation by making any non-conforming septic system within that buffer will be considered failed and require an upgrade to meet the requirements of the Board of Health within a period of time. Mr. Andrews recalled talking about this in 2016 and that no time limit was suggested, but he feels that a time frame adds to the section and that 2 years would be a sufficient time frame. He noted that financing, engineering, and construction all take time and two years feels like a fair amount. Miss Guarino mentioned that nitrogen sensitive areas can mean other protective buffers besides resource areas, such as parcels of land or setback radiuses of public or private water supplies, as seen in Zone 1s Zone 2s and Interim Wellhead Protection Areas (IWPA’s). Miss Guarino asked the Board if using the term “Nitrogen Sensitive Area” is confusing or if it would be better to use “within Zone 1, Zone 2, or IWPA...”. Mr. Andrews felt that the terms “wetland” and “nitrogen sensitive area” cover what they are trying to protect. There is further discussion about this potential change and the Board’s current well regulations and possibly revisiting those. Both Mr. Andrews and Ms. Princiotta

like the way the proposed regulation amendments are written and feel 2 years from the effective date of the regulation is a sufficient time frame. Mr. Bertolo of JC Engineering wanted to know what the Board would be using as the definition of a nonconforming system. Miss Guarino clarified that a nonconforming system is any system that is not in full compliance with the standards and requirements of 310 CMR 15 for which a local variance request has not been obtained; such as cesspools, privies, failed systems and systems with a design system above 10,000 gallons per day. Miss Guarino also stated that systems that fall under the 1978 code could be considered in compliance upon inspection if appropriately sized. Mr. Bertolo also requested the definition of a nitrogen sensitive area. Mr. Andrews asked if it would be appropriate for the Board to include the Title 5 definitions in the regulation. Ms. Princiotta suggested that "as per 310 CMR definitions currently in place" to add more clarification and to keep the regulation current if Title 5 is amended in the next few years. Mr. Andrews stated that the definitions needed are "nitrogen sensitive area," "wetland," and "nonconforming system." Mr. Bertolo was looking for clarification on the wording of the section related to the buffer zone and the word "within." Mr. Andrews read the section as there is an additional 150ft buffer outside of the current defined zones. Miss Guarino expressed she is concerned about the private water supply wells when speaking about the nitrogen sensitive areas as there isn't currently a specific protective radius like the state has defined for the public water supplies. She suggested adding in wording to specify around wells. Discussion about what would trigger these notifications of noncompliant systems without homeowners getting Title 5 inspections. Mr. Bertolo suggested limiting just cesspools, in which case he stated item number 14 (see exhibit B) would not be necessary. Further discussion on how nonconforming systems will be found/determined between the Board and the public. Mr. Andrews stated that the Town of Bourne actually has a CWMP being done in town currently, in which consultants are evaluating all our resource areas, which means this regulation could already be triggered in areas containing cesspools. Mr. Andrews thanks Mr. Bertolo for his participation in this discussion. Ms. Fitch wanted to confirm the wording used for the buffer zone mentioned in item number 14. Mr. Andrews stated that the Board is very concerned about these nitrogen sensitive areas and therefore the buffer zone should be 150ft around the already defined zones. There was no further public comment. Discussion among the Board and Miss Guarino to clarify the edits that need to be made. Mr. Andrews asked the office to send the new edits out to the Board ahead of the next meeting for review. Mr. Bertolo would also like to see the edits as well. **Ms. Princiotta made a motion to continue this agenda item to October 27th, 2021. Mr. Uitti seconded the motion. All in favor and the motion passed unanimously.**

8. **Approve minutes— Mr. Uitti made a motion to approve the minutes from the previous meeting dated September 8, 2021. Mr. Meier seconds the motion. All were in favor, the motion passed unanimously.**
9. **Set tentative date for next meeting and adjourn— The next meeting will tentatively be scheduled for October 13th, 2021 at 5:30pm. Ms. Princiotta made a motion to adjourn the meeting. Mr. Meier seconded the motion. All in favor and the meeting adjourned at 6:40 PM.**

Taped & Typed by Terri Guarino, Health Agent
Edited by Kaitlyn Shea, Health Inspector



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TITLE TRANSFER SEPTIC SYSTEM INSPECTION REGULATION

Supplements to Title 5

Effective Date _____

Pursuant to Chapter 111, Section 31 of Massachusetts General Laws, the Bourne Board of Health, at its regular meeting on **September 22, 2021**, voted to amend its existing regulation from May 26, 2004, last updated October 26, 2016 relative to additional requirements for Title 5 Title transfer inspections with the following:

In order to protect public health and the environment; and to ensure proper enforcement of the Bourne Board of Health's existing regulation, the Board of Health hereby adopts the following:

1. The Bourne Board of Health reserves the right to witness any Title transfer inspection prior to the issuance of the title transfer report.
2. The Bourne Board of Health will require that all Title 5 inspectors notify the Board of Health seventy-two business hours prior to conducting any Title transfer inspections in the Town of Bourne.
3. The Board of Health will be given a list of any pending inspections and will review the current septic system data for that property and will determine whether or not the Board of Health needs to witness that specific inspection. It is the intent of the Board of Health to concentrate on those inspections where separation to groundwater may be an issue, on those systems installed prior to 1978, or where previous inspections have indicated that the systems are close to meeting failure criteria.
4. The Board of Health will maintain a list of proposed inspections, with the inspector's name and date of phone call. The inspectors will either be given a verbal waiver on the requirement for the witnessing of the inspection, or will be advised that the Board of Health will need to be present at the inspection. Scheduling of these appointments will be done within seventy-two business hours by the Board of Health.
5. The Bourne Board of Health requires a filing fee of \$40.00 for each official Title 5 Inspection Report submitted. Pursuant to Title 5, 310 CMR 15.301(10), all Title transfer reports will be submitted to the Board of Health within 30 days of the inspection.
6. As per existing policy, leaching systems will continue to be reviewed by the inspectors under the same criteria as would be used for **leach pits**, i.e. 6" of leaching capacity or half days flow present in order to pass the inspection. The 6 inches of leaching capacity must be evidence by clean sidewall and no presence of sludge or staining. Block, stone, or brick risers on **pits** will not be included as part of sidewall leaching area, nor will any riser material be considered as part of the sidewall leaching area or the capacity of a leaching system.

7. Inspectors must clearly indicate on the inspection form the level of standing liquid in any leaching component, the level of staining in any leaching component, and the presence, or lack thereof, of both sanitary tees in any inspected tank. In the case of missing sanitary tees, no passing report shall be issued unless there is proof of the correction of said deficiency.

8. If one or more system components need to be repaired or replaced as described in the Conditional Pass section, the Bourne Health Agent must be notified by the Inspector within twenty-four hours. Any such work will require a valid disposal works construction permit and inspection by the Board of Health. A Certificate of Compliance will be issued following the inspection of the repaired or replaced components.

9. If conditions exist which require Further Evaluation by the Board of Health in order to determine if the system is failing to protect public health, safety, or the environment, the Health Agent must be notified by the Inspector within twenty-four hours. The Inspector must submit a report to the Board of Health **which** clearly demonstrates the conditions which were discovered at the time of inspection, and provides the Board of Health with the property owner's contact information. In many cases, public hearings of the Board of Health will be held to discuss and vote on such a determination. Monitoring wells, laboratory sampling, and additional testing may be required.

10. All systems are required to have a minimum of a four foot vertical separation between the bottom of the soil absorption system and the high groundwater elevation in order to pass inspection in the Town of Bourne. Inspectors must clearly demonstrate how they employed the methods described in 310 CMR 15.000 to make the determination of high groundwater elevation. Additional paperwork including the USGS Adjustment calculations and monitoring well data may be required. Inspectors must notify the Health Agent within twenty-four hours to discuss systems which may not meet this vertical separation to discuss on a case by case basis. In some instances, properties which received variances and/ or local upgrade approvals by the Bourne Board of Health may be grandfathered.

11. Pursuant to 310 CMR 15.303(2), any system shall be upgraded upon the order of the Bourne Board of Health if determined that a specific circumstance exists by which any system threatens public health, safety, welfare or the environment, causes or threatens to cause damage to property or creates a public health nuisance.

12. Upon inspection, upgrades may be required for septic systems which were not constructed in accordance with the approved plans, or if the soil absorption system is not designed to meet the design flow of the facility it serves. *Systems considered failed systems until rectified.*

13. Cesspools meaning any pit with open-jointed linings or holes in the bottom and/or sidewalls into which raw sewage is discharged, the liquid portion of the sewage being disposed of by seeping or leaching into the surrounding soils, and the solids or sludge being retained in the pit, are considered failed systems automatically upon inspection. Cesspools are nonconforming systems.

14. All non-conforming septic systems within one hundred fifty (150) feet of any wetland or nitrogen sensitive area will be considered to be failing to protect public health, safety, welfare and the environment and shall be upgraded to meet the requirements of Bourne Board of Health Regulations and/or Title 5 **within/ by 2 years** (years/ date). ** Brad would like copy of edits* *additional 150ft around buffer* *shall be inspected* *or effective date.*

15. ~~This regulation shall take effect immediately upon publication of a summary in a newspaper of general circulation in the Town of Bourne, which date shall be posted on the front page of this regulation.~~

Adopted: **September 22, 2021**

Effective: _____

-The Bourne Board of Health