



Terri A. Guarino  
Health Agent

# TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue  
Buzzards Bay, MA 02532  
[www.townofbourne.com/health](http://www.townofbourne.com/health)  
Phone (508) 759-0600 ext. 1513  
Fax (508) 759-0679



RECEIVED  
2022 JAN 14 AM 11:52  
TOWN CLERK BOURNE

## MINUTES December 8, 2021

### Meeting was called to order at 05:30pm

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.** – Miss Guarino goes over the COVID-19 update she released to the public on December 2nd, 2021 and alerts the Board that Bourne’s percent positivity has increased from 7.1 to 8.0 percent in the last seven days. She explains that eventually this is going to become endemic in the population. We all have to make our own decisions and evaluate risk with our daily lives. COVID isn’t going anywhere. Miss Guarino suggests that the Board of Health go fully remote for public meetings until there is a drop in positivity. She asks for a vote for posting mask advisories on public buildings. **Barbara Princiotta made a motion to recommend to all boards and committees that they go remote and for posting the recommendation for masking in all public places. Mr. Meier seconded the motion. All in favor and it was a unanimous vote.** Miss Guarino continued her updates to tell the Board that the renewal process of the Department’s online permitting is going well, and that anyone who does not renew their annual permits by December 31st will start receiving late fees. She also announces to the Board that this will be Health Inspector, Stephanie Fitch’s last meeting, as she has accepted the position of Conservation Agent with the Town. The Board wishes Ms. Fitch well. There was no further discussion from the Board or the public.
  
3. **ISWM- Daniel Barret, General Manager-- Discussion and possible vote on new residential recycling policy.** – Mr. Barret read over the draft recycling center policy. There is a change from years prior when paint will be accepted. Mr. Andrews suggested that the paint collection/ household hazardous waste collection days could be announced and advertised to the public prior. **Mr. Meier made a motion to accept the endorsement for the residential recycling policy for ISWM as presented and shown. Miss Princiotta seconded the motion. All in favor and the motion passed unanimously.**
  
4. **118 Old Dam Rd – Owners, Jordan and Kelly Race – Request to amend requirement set forth by the Board on June 9, 2021 for a 2 bedroom deed restriction to be changed to a 3 bedroom deed restriction.** – Jordan and Kelly Race were present. Mr. Race explained how the plan when they purchased the house last December was to expand it from a two bedroom to a three bedroom. He had discovered how one of the neighbors put in a MicroFAST unit to add a third bedroom and, therefore, believed he could do the same. Mr. Andrews explains that this is a sensitive area, and when it originally came before the Board with variance requests, they accepted the proposed MicroFAST 0.5 system with a conventional leaching facility with a 2 bedroom deed restriction to help better protect the surrounding resources. Mr. Andrews asks Miss Guarino if she has the nitrogen loading numbers submitted with the



original septic design proposal. Miss Guarino states that the proposed septic nitrogen loading calculations for a two bedroom home would be 2.867ppm and it was also presented as a three bedroom, with the nitrogen loading calculation being 3.896ppm. Both designs are under the 5ppm threshold. Mr. Andrews asks if the results could be better if the applicants install to a different leaching facility. Miss Guarino states that oftentimes for new construction, the Board requires a pressure dosing or equivalent alternative type of leaching facility to address virus attenuation. Mr. Andrews states that Mr. Race has the right to put in the currently approved system with the existing house, but a rebuild application would trigger an upgraded leaching facility. He suggests that if the plan is to add the third bedroom, instead of asking for a change of the deed restriction, reapply with a new leaching system that the Board will require. Mr. Race is concerned of the costs associated with refileing, as his plan was to slowly renovate the home himself. Mr. and Mrs. Race both wonder why a three bedroom septic system is not adequate for a 3 bedroom home. Miss Guarino explains that there is a local Board of Health Regulation related to resource areas, when there is an upgrade the board looks for maximum feasible compliance, and that Title 5 has a minimum design flow for any single family dwelling, which is 330 gallons per day which is equivalent to three bedrooms. For new construction, which includes adding a bedroom, there is less leniency within the local health regulation and the Board of Health will ask for additional treatment with a pressure distribution or another type of alternative soil absorption system. This added treatment unit helps with TSS removal, BOD5 removal, and virus attenuation in areas that are in the flood zone and are shallow to groundwater, like this dwelling. Miss Guarino further explains that as designed, the currently approved proposed system has calculations below 5ppm with just the conventional leaching system. Mr. Andrews states that it is still within 150ft so it would trigger an alternative leaching field. Mr. Race explains all of the septic plans are made more complicated as there are multiple parties involved; himself and his wife, the previous owners, and their two sets of lawyers. He considers installing the currently approved system now and then applying for the alternative leaching field later as he works on the house. Mr. Andrews states that he will not grant that building permit without the alternative leaching system permitted. Mr. Andrews explains Mr. Race's concerns are not aggravating to the Board, that the Board is here to help him and would hate for him to spend money on something only to have to redo it. Mr. Race would like to get the current system approved with a three bedroom deed restriction and then pull a building permit to add a bedroom. Mr. Andrews says he cannot change the deed restriction tonight with what is proposed. Mrs. Race wonders why their neighbors had the same type of system installed and started out as a 2 bedroom and added a third bedroom with no issue. Mrs. Race wonders if precedence would benefit them in this case or only if the Board's decision was appealed. Ms. Princiotta states that each situation is unique in its own way and that the Board's original decision for this septic upgrade was made based off the letter submitted with the application stating that there was "no proposed renovation, alteration or addition to the existing dwelling and that there were to be no change in the number of bedrooms for the dwelling." She understands that the Races were not a part of that submission, but the Board's decision was based on the facts presented in the original submission on the June 9, 2021 meeting. Mrs. Race requests an explanation for why one additional bedroom makes such a difference. Miss Guarino states it is the difference between a repair and upgrade under Title 5 and Bourne's local health regulations and new construction that adds flow, like a bedroom addition. This addition of flow increases nutrient loading on that parcel of land. Mrs. Race questions why a three bedroom system that is approved is not enough for the addition of a third bedroom to the home. Mr. Andrews explains that the minimum design allowed under Title 5 is three bedrooms, a two bedroom system could not have been designed and that based on what was proposed on June 9th, 2021 the Board approved the proposed septic design without an alternative soil absorption system for a two bedroom dwelling, at the time no additional flow was being requested or proposed. Any new construction would trigger the need for an alternative leaching facility. A two bedroom deed restriction was required to prevent any expansion on that lot with a system lacking an alternative leaching facility. Mr. Race clarifies his two options are to either update the septic design plans to include an alternative leaching facility and update the deed restriction to three bedrooms, or install the currently approved septic design with the two bedroom deed restriction and update the leaching facility later on when they submit a building permit application to add a bedroom. Mr. Andrews agrees those are the two options he could take, and as the regulations are written today there would be no issues in approving the updated septic system with a three



bedroom deed restriction later on. Mr. Race asks if he needs to include floorplans for the three bedroom dwelling with an upgraded septic design plan. Miss Guarino states that floor plans would not be needed for Board of Health approval of the septic design, but would be needed for building permit approval. Mr. Race thanks the Board for explaining this process to him, and states that now they just have to decide which route they are going to take. Mr. Andrews states that if they chose to update the septic plans with a modified leaching facility now that he would feel comfortable with waiving filing fees for an amended plan. Miss Guarino states that abutter notification for an amended request would depend on if there were any additional variances requested, but that the filing fee for the original submission was collected this year so an amended plan would be equivalent to the project being continued by the Board. The rest of the Board agreed with Mr. Andrews that any re-filing fee could be waived. Mrs. Race wonders, worst case scenario, how they would appeal the Board's denial if they chose not to sign the deed restriction and could only afford the currently proposed system without modification. Miss Guarino states that it would need to be brought to the Court of Competent Jurisdiction. **No action was required.**

5. **7 Alden Ave – Brian Grady of GAF Engineering, Inc on behalf of owners Ernest & Ann Alden- Requesting relief from State and Local Board of Health Title 5 Regulations. Variances requested include a 6.5 foot reduction from the required 20 feet from an S.A.S to a bulkhead. A 5 foot reduction in the required 10 foot separation from the S.A.S to the property line to lot 143. A 3 foot reduction in the required 10 foot separation from the S.A.S to the street line. A 5 foot reduction in the required 10 foot separation from the septic tank to the cellar wall. A 4 foot reduction in the required 10 foot separation from a septic tank to the property line of lot 143. A 3 foot reduction in the required 10 foot separation from the septic tank to the street line and a 3± foot in the required 5 foot excavation of unsuitable materials in all directions beyond the outer perimeter of the S.A.S. – Mr. Grady was present and explained the variances and that the affected neighbor was notified and submitted a letter. He has reviewed the plans and understands what is proposed. Miss Guarino stressed the need to have the engineering company stake out the strip out area as it is right up on the property line. Ms. Princiotta made a motion to approve the variances requested for 7 Alden Ave including a 6.5 foot reduction from the required 20 feet from an S.A.S to a bulkhead. A 5 foot reduction in the required 10 foot separation from the S.A.S to the property line to lot 143. A 3 foot reduction in the required 10 foot separation from the S.A.S to the street line. A 5 foot reduction in the required 10 foot separation from the septic tank to the cellar wall. A 4 foot reduction in the required 10 foot separation from a septic tank to the property line of lot 143. A 3 foot reduction in the required 10 foot separation from the septic tank to the street line and a 3± foot in the required 5 foot excavation of unsuitable materials in all directions beyond the outer perimeter of the S.A.S. Also the vapor barrier is to be inspected as well as the other parts of the system by the Health Department. Mr. Andrews clarified that the 3 foot reduction in the stripout is plus or minus which Miss Princiotta amended the motion to include. Mr. Meier seconded the motion. All in favor and the motion passed unanimously.**
6. **110 Circuit Ave – Michael Borselli P.E. of Falmouth Engineering on behalf of owner Charles Primmerman- Discussion and possible vote on a waiver from Board of Health 150 Foot Setback Regulations for the use of an existing leach field and relocation of a septic tank to facilitate the demolition of 2 buildings to make way for the construction of a new dwelling. – Mike Borselli and Greg Siroonian from RESCOM present on behalf of the owners. Mr. Borselli states that the proposed work will demolish a two building dwelling with 4 bedrooms and construct a smaller footprint 1 building dwelling with 4 bedrooms. The project is Conservation Commission and ZBA approved. Miss Guarino clarified that the relief granted in 2007 was 114 feet not the 144 feet that was written on the submission letter. She recommended that the deed restriction currently on the property be modified to state that it is a four bedroom deed restriction for one dwelling, as it currently also includes the cottage. She also recommended that the engineers plan for the worst and modify the plans to include new tanks, but if the existing tanks are certified to be in working order that they could be used after they are moved; it is a question of if the seal remains intact. Mr. Andrews would like the plans to include all setback distances.**



Mr. Borselli states that it probably isn't practical to salvage the old tanks and requiring new tanks is a perfectly acceptable condition. Mr. Meier agrees that the applicants are better off with new tanks after they are moved. Mike Sugrue, abutter at 14 Park Street, asked about aesthetics of the system being moved and tree removal. Mr. Borselli pointed out a few trees that were in conflict with the tank removal and that the only aesthetic changes would be covers to grade. **Miss Princiotta made a motion to approve the waiver from the Board of Health 150 Foot Setback Regulations for the use of the existing leach field to facilitate the demolition of 2 buildings to make way for the construction of a new dwelling, provided the plans are revised to show existing soil absorption system setbacks more clearly, amend the deed restriction of the property from specifying the main house and cottage to one 4-bedroom house, and to replace the septic tanks. Mr. Meier seconded the motion. All were in favor and the motion passed unanimously.**

7. **72 Circuit Ave – Timothy Santos VP & P.E. of Holmes & McGrath, Inc on behalf of Owners John & Christina Bonvouloir- Discussion and possible vote on granting a waiver from Board of Health 150 Foot Setback Regulations for the use of an existing conventional septic system for renovations of the 2 bedroom dwelling located at 72 Circuit Ave. –**Michael McGrath was present for the meeting and explained the proposed project. Miss Guarino states that there is a more direct path from the septic system to the resource areas that needs to be delineated, as it may be the closest setback. Knowing this delineation would let the Board know if the 25% of increase trigger of septic upgrade is required per the local Board of Health 150 foot Setback Regulation. Mr. Andrews explains if it is greater than 150ft then the project could be approved, but if it is less than 150 feet then the amount of proposed work would trigger a septic upgrade to an IA system in that resource area. Mr. Siroonian from RESCOM clarified that the resource areas should in fact be delineated and confirmed with the Conservation Agent. He says they would not have proposed this amount of work without a septic upgrade had they thought they didn't meet the 150ft setback requirements. The Board agreed that if the delineation to the nearest resource area is confirmed to be greater than 150ft that Miss Guarino could administratively approve the project. **Miss Princiotta made a motion that the Health Agent can administratively approve this project if the plans are revised and delineated and accepted by the Conservation Agent to include the resource areas being greater than 150 feet from the existing septic system. Mr. Meier seconded the motion. All in favor and the motion passed unanimously.**
  
8. **Cape View Way – Joseph Henderson P.E. of Horsley Witten Group on behalf of the Preservation of Affordable Housing/ Housing Assistance Corporation- CONTINUED from April 28<sup>th</sup> and July 14<sup>th</sup> - Requesting approval of a new subdivision and sewage disposal system. –** Mr. Henderson explained that since he last met with the Board, the system has been redesigned to include a standard septic system without any variances. **Miss Princiotta made a motion to close the past hearing for Cape View Way and have the Health Agent approve this administratively provided that there are no variances or requirements from the Board of Health. Mr. Meier seconded the motion. All in favor and the motion passed unanimously.**
  
9. **Ship and Shore – Owner, Robert Long – Discussion and possible vote on prohibition of tobacco product sales at Ship and Shore due to nonpayment of fines instituted on January 27<sup>th</sup>, 2021, pursuant to 105 CMR 665.040(C) and Bourne Board of Health Tobacco Regulations Section E.9. –** No one was present to represent Ship and Shore. Miss Guarino explained that the Health Department has been alerted by Barnstable County Tobacco Control that tobacco products are still being sold at this location and there are still ongoing violations. Mr. Andrews asked for clarification on whether he was selling tobacco products that were not allowed or tobacco products period. Miss Guarino states that there were no flavored tobacco products for sale at the time. Mr. Andrews stated that he is licensed to sell allowable tobacco products until December 31, 2021 when his license expires. Miss Guarino clarified that pursuant to local Board of Health regulations, the application to renew that permit was due on December 1, 2021 and that Ship and Shore's renewal was not received by the Health Department. Miss Guarino states that pursuant to Bourne Board of Health Regulations and 105 CMR 665.040, a retail establishment



shall be prohibited from selling tobacco products if the retailer or owner of the establishment has failed to pay all fines issued and failed to correct violations of local Health Regulations and/or 105 CMR 665. As of today that is the case for Ship and Shore, the violations voted on January 27th, 2021 go back to 2020. Miss Guarino states that the options in front of the Board are to either suspend or revoke the tobacco sales permit, and that a permanent revocation would prohibit the owner or the establishment from applying for a new tobacco sales permit in the future but an indefinite suspension would allow the reissuance of a permit should all fines be paid and violations corrected. Mr. Andrews felt an indefinite suspension might be best as the fines issued were new state fines that were quite hefty, state statutes and the Board could not change that fee structure. There is further discussion amongst the Board and the Health Agent to remind all in attendance of the first meeting. Miss Guarino stated that the other two establishments with violations that night were issued fines and paid them promptly. Mr. Andrews recalled issuing the fines and felt bad having to institute such a hefty fine on the retailers that were in attendance, but the Board's hands were tied as it was a state statute. Mr. Andrews asks if this was the item that the Board sent to the Town Administrator for Town Council advice. Miss Guarino confirms this is true and that the Town Administrator advised to follow due process as set forward in the Board of Health regulations. Miss Guarino states that the Town Administrator advised that any suspension or revocation voted on by the Board would also entail the removal of all tobacco products from the shelf, and if this is not done then a cease and desist followed by court proceedings would be required. She also states she will brief the new Town Administrator on this issue. Ms. Princiotta asked if Bourne Tobacco Licenses are portable or if they are linked to the address, store, or owner. Ms. Shea confirms the license is issued to Robert Long of Ship and Shore at 26 Ben Abbey Road. Mr. Andrews also confirms this. Miss Guarino states that is how she would refer it to the Department of Revenue. She states that this is the first time in her career that a license would have to be revoked like this and she feels establishment, owner, and address should be included. Any confusion in the future based on this would require a hearing to ascertain the answer. Mr. Andrews states that after discussion he is leaning towards permanent revocation. Miss Princiotta states that it seems he has had a lot of time to work this out. Mr. Meier asks if Mr. Long has ever been in contact. Mr. Andrews states he was on the first hearing originally discussing the violations and he believes the office has spoken to him since then. Ms. Shea confirms that the last contact the office had from Mr. Long was after he received his letter alerting him of the Board's vote to institute fines. Mr. Long called the office and announced he would not be paying the fine. Mr. Andrews states that Mr. Long has been notified of the fines and his duty to pay them several times. **Ms. Princiotta made a motion to prohibit the sale of tobacco products by Robert Long, the owner of Ship and Shore at 26 Ben Abbey Road, Sagamore, as of January 1, 2022 AND to permanently revoke the Retail Tobacco Sales Permit in the Town of Bourne. After December 31, 2021, all tobacco products must be removed from the store prior to opening the next business day due to the non-payment of fines. Mr. Meier seconded the motion. There was no further discussion. Roll call vote to approve. Mr. Meier...yes, Ms. Princiotta... yes, Mr. Andrews, Chair... yes. Motion passed unanimously.**

10. **Discussion and possible vote on filling the vacant seat of the Board of Health.** – Skipped due to lack of paperwork.
11. **Approve minutes— approve the minutes from the previous meeting dated October 13, 2021.** – Mr. Meier made a motion to approve the minutes from October 13, 2021 and Mr. Andrews seconded the motion. Miss Princiotta abstained and the motion passed 2-0-1.
12. **Set a tentative date for the next meeting and adjourn.** – Open Session and Executive Session to be held on Monday December 13<sup>th</sup>, 2021 at 1pm on Zoom. Next regular scheduled meetings to be remote and resume the second and fourth Wednesdays in January.

Taped by Terri Guarino, Health Agent. Typed by Kaitlyn Shea, Health Inspector



Stanley Andrews \_\_\_\_\_

Galon Barlow Jr. \_\_\_\_\_

Don Uitti \_\_\_\_\_

William Meier \_\_\_\_\_

Barbara Princiotta \_\_\_\_\_