

TOWN OF HARWICH



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BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH AGENDA
WEDNESDAY- JANUARY 17, 2024 -6:30 P.M.
HARWICH TOWN HALL – DONN B. GRIFFIN ROOM
MEETING MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Sharon Pfleger, M.S., Vice Chairwoman Pamela Howell, R.N., Clerk Ronald Dowgiallo, D.M.D. & Member Kevin DuPont, R.N. Matt Antoine

STAFF MEMBERS PRESENT: Executive Assistant Stephanie Johnson & Senior Health Agent Meredith Ballinger

OTHERS PRESENT: Dan Pelletier, Gary Carreiro, Noreen Donahue, Allin Thompson, Jr., John Gough, Judith Underwood, Ken Miller & Dr. John William Budell, MD.

ONLINE: Health Director Carrie Schoener, R.S., C.H.O., & Ed Fleming

As required by law, the Town may audio or video record this meeting. Any person intending to either audio or video record this open session is required to inform the Chair.

I CALL TO ORDER

Chairwoman Pfleger called the meeting to order at 6:30 p.m.

II PUBLIC COMMENT

No public comment.

III MINUTES OF PREVIOUS MEETINGS (Regular Meeting Minutes)

September 19, 2023 Meeting Minutes, October 17, 2023 Meeting Minutes, November 21, 2023 Meeting Minutes & December 19, 2023, Meeting Minutes.

September 19, 2023

Motion: Mr. Dowgiallo motioned to bring back the minutes with corrections.

Second: Mr. DuPont seconded the motion.

Vote: Approved 5-0-0

October 17, 2023

Motion: Mr. Dowgiallo motioned to bring back the minutes with corrections.

Second: Mr. DuPont seconded the motion.

Vote: Approved 5-0-0

November 21, 2023

Motion: Mr. Dowgiallo motioned to approve the minutes.

Second: Mr. DuPont seconded the motion.

Vote: Approved 5-0-0

December 19, 2023

Motion: Mr. Dowgiallo motioned to approve the minutes.

Second: Mr. DuPont seconded the motion.

Vote: Approved 5-0-0

Exhibits:

September 19, 2023, meeting minutes, October 17, 2023, meeting minutes, November 21, 2023, meeting minutes & December 19, 2023, meeting minutes

IV OLD/UNFINISHED BUSINESS- *None*

V NEW BUSINESS

A. RECONSIDERATION OF PREVIOUSLY APPROVED VARIANCE CONDITIONS – 4 SALT RIVER ROAD- Request for reconsideration of Variance Approval Condition imposed in 1993 to allow for finishing of basement.

Steve Bobola with Sand Dollar Customs presented. They are requesting approval for a reconsideration of previously approved variances conditions at 4 Salt River Lane.

They are proposing to finish the space in the existing basement. The project will not alter the footprint of the dwelling, it will increase habitable space but will not increase bedroom count.

The exiting floor plan consists of a living room, dining area, family room, kitchen, laundry room, master bedroom, two baths and a two-car garage on the first floor. The second floor has two bedrooms, a full bath and unfinished storage space.

The proposed basement plan would be one open space; the basement currently has a bathroom.

On February 24, 1993, a hearing was conducted to consider a variance request to replace a failed Title 5 sewage disposal system where the following variances were granted:

To allow a proposed septic tank to be 89' from the edge of the wetland where 100' is required.

In granting said variances the Board imposed the following order of conditions:

1. There shall be no expansion beyond the current floor plan.

Motion: Mr. Dowgiallo motioned to approve the reconsideration of previous variance conditions for 4 Salt River Lane with the following conditions:

1. **The Dwelling is restricted to a maximum of 3 bedrooms.**
2. **No further increase in habitable space or square footage without further review by the Board of Health.**
3. **No garbage disposal is allowed.**
4. **The conditions and approval shall be recorded at Barnstable Registry of Deeds.**

Second: Mr. Antoine seconded the motion.

Vote: 5-0-0.

Exhibits: Variance Application, Abutters Notification, Abutters List, Letter to Board of Health, Site Plan, Existing/ Proposed Floor Plans and Deed Restriction.

B. RECONSIDERATION OF PREVIOUSLY APPROVED VARIANCE CONDITIONS – 38 OCEAN AVE-

Dan A. Speakman with Dan A. Speakman Construction, presented. They are requesting approval for a reconsideration of previously approved variances conditions at 38 Ocean Avenue.

Mr. Speakman is proposing to raze and rebuild the existing 2 story dwelling. The project will alter the footprint of the dwelling and increase habitable space but will not increase bedroom count. The project proposes to build-out to a full foundation from the existing crawl space. The existing septic does not include IA technology.

The exiting floor plan consists of an open concept with a living room, dining area, kitchen, laundry room, and bathroom on the first floor. The second floor has two bedrooms and a full bath.

The proposed basement plan would be one open space and a bathroom.

On November 16, 2023, an in-house variance application was reviewed to consider a variance request to replace the Title 5 sewage disposal system where the following variances were granted:

Variance from 310 CMR 15.211

1. Per 310 CMR 15.211: To allow a proposed septic tank to be 5' from property line where 10' is required. A Variance of 5' is granted.
2. Per 310 CMR 15.211: To allow a proposed septic tank to be 2.5' from property line where 10' is required. A Variance of 7.5' is granted.
3. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 6' from crawl space foundation where 20' is required. A Variance of 14' is granted.
4. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 3' from property line where 10' is required. A Variance of 7' is granted.

5. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 2' from property line where 10' is required. A Variance of 8' is granted.
6. Per 310 CMR 15.203: To allow a 6% reduction in the size of the soil absorption system, the variance is granted.
7. Per 310 CMR 15.243: To allow no reserve area, the variance is granted.

In granting said variances the Department imposed the following order of conditions:

1. Property is restricted to a maximum of two (2) bedrooms.
2. No increase in habitable space or square footage, bedrooms, or seating without further review by the Board of Health.
3. This approval letter and conditions must be recorded at the Barnstable County Registry of Deeds.

Ms. Schoener stated that she was under the impression that the basement was being finished and being expanded out to the screened in-porch resulting in an expansion of the foundation footprint. She asked Mr. Speakman for clarification of the space, as her understanding was that the space currently is not any kind of finished space and that it is just a basement, and that the footprint was expanding. Mr. Speakman confirmed that it is not a finished space but there is a finished bathroom in the basement.

Ms. Schoener reiterated that there is a finished bathroom in the unfinished basement.

Mr. DuPont clarified that the question at hand was if there was going to be a foundation expanded to include the porch.

Chairwoman Pflieger stated that this would not be increasing the footprint beyond what is currently there now.

Ms. Schooner added if the foundation plan is not changing and there is no increase in habitable space with the raze and rebuild then this would not be considered a habitable space.

Abutter Ken Miller asked the Board if regulations, interpretation, or enforcement of the Board of Health regulations have changed throughout the years under the Board's supervision? He added that there does not seem to be uniformed enforcement.

Ms. Schoener responded that in this instance there was confusion regarding the plans and what was being proposed. In this instance, there would be no change in the basement other than adding a bathroom. Initially, she interpreted the project as the crawlspace and front porch being expanded out to a full foundation. The case presented by Mr. Miller is not comparable with this project because there are already existing conditions that the Board would not be approving anything to expand beyond what is currently there.

Mr. Miller responded that historically, there does not seem to be uniformed enforcement of the regulations by the Board of Health.

Chairwoman Pflieger stated that the Board is allowed leeway with variances and unfortunately that determination sometimes comes down to the Board itself. Historically, it is the interpretation, or what the Board feels, or what they're willing to accept as a variance.

Ms. Schoener added that one must consider historic interpretations vs. what is currently being done today with regards to the aspects of the project such as lot size, water line placement,

foundation, depths of system, technological advances, etc. Ms. Schoener added that there are a multitude of factors that weigh into how the Board decides. At the time, this decision was made by the Director, currently the health Director is no longer the determining factor. The authority is now under the Boards advisement and no longer on a staff level.

No action was taken due to miscommunication between the presenter and the initial application submitted to staff.

Exhibits: Variance Application, Abutter Notification, Abutters List, Letter to Board of Health, Site Plan, Existing and Proposed Floor Plans.

C. RECONSIDERATION OF PREVIOUSLY APPROVED VARIANCE CONDITIONS – 41 ZYLPHA ROAD-

Dan A. Speakman with Dan A. Speakman Construction presented. They are requesting approval for a reconsideration of previously approved variances conditions at 41 Zylpha Road.

The applicant is proposing to raze and rebuild the existing single-story dwelling. The project will alter the footprint of the dwelling and increase habitable space but will not increase bedroom count. The existing septic does not include IA technology.

The exiting floor plan consists of a living room, dining area, kitchen, bathroom and three bedrooms.

The proposed floor plan will consist of a living room, dining area, kitchen, two bathrooms, office, and the primary bedroom on the first floor. The second floor will consist of two bedrooms, a loft area and a full bathroom. The basement will have a half bath and laundry area.

On October 4, 2023, an in-house variance application was reviewed to consider a variance request to replace the Title 5 sewage disposal system where the following variances were granted:

Variance from 310 CMR 15.211

1. Per 310 CMR 15.211: To allow a proposed septic tank to be 5' from property line where 10' is required. Variance of 5' is granted.
2. Per 310 CMR 15.211: To allow a proposed septic tank to be 9' from foundation where 10' is required. Variance of 1' is granted.
3. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 3' from property line where 10' is required. Variance of 7' is granted.
4. Per 310 CMR 15.211: To allow a proposed soil absorption system to be 8' from foundation where 20' is required. Variance of 12' is granted.
5. Per 310 CMR 15.243: To allow no reserve area.
- 6.

In granting said variances the Board imposed the following order of conditions:

1. Property is restricted to a maximum of three (3) bedrooms.
2. No increase in habitable space or square footage without further review by the Board of Health.
3. This approval letter and conditions must be recorded at the Barnstable County Registry of Deeds.

Mr. Speakman added that nothing is being added with regards to the flow of the septic or the number of bedrooms in the home but that there would be an increase in square footage.

Chairwoman Pfleger questioned what the Board would be voting on. Ms. Ballinger clarified that variance request has not changed but the language of the previous variance approval states, "no increase in habitable space or square footage without further review by the Board". Mr. DuPont added that the Board would be voting on the change of habitable space within the home given the project does not increase the number of bedrooms but does increase habitable space.

Mrs. Powell asked Mr. Speakman the total amount of added square footage. Mr. Speakman confirmed approximately 200 square feet would be added and that part of the project includes a reduction in a section in the rear of the home which allows more room for the septic system and ultimately requiring fewer setbacks.

Motion: Mr. Dowgiallo motioned to approve the reconsideration of previous variance conditions for 41 Zylpha Road with the following conditions:

- 1. The dwelling is restricted to a maximum of three bedrooms.**
- 2. No increase in habitable space or square footage without further review by the Board of Health.**
- 3. No garbage disposal is allowed.**
- 4. The conditions and approval shall be recorded at the Barnstable County Registry of Deeds.**

Second: Mr. DuPont seconded the motion.

Vote: 5-0-0

Exhibits: Variance Application, Abutter Notification, Abutters List, Letter to Board of Health, Site Plan, Existing and Proposed Floor Plans.

VI REPORT OF THE HEALTH DIRECTOR- Health Director Report for January 2024

Ms. Ballinger read the Health Director's report as presented in the packet.

Exhibit: Health Director Monthly Report January 2024.

VII CORRESPONDENCE

None.

VIII PERMITS- New Licenses listed below.

SEPTIC INSTALLER		
*Jonathan Searles/ Francisco Tavares Inc	East Falmouth	
UTILITY INSTALLER		
*Tim De Lude/ Shore Things Siteworks	Harwich	

Motion: Mr. Dowgiallo motioned to approve the permits as printed.
Second: Mr. Antoine seconded the motion.
Vote: 5-0-0

IX OTHER- *None.*

X ADJOURN-

Motion: Mr. Dowgiallo motioned to close the Board of Health Meeting.
Second: Mrs. Howell seconded the motion.
Vote: 5-0-0

XI BOARD OF HEALTH WORK SESSION

Chairwoman Pfleger called to order the Board of Health Work Session Joint Meeting between Water and Wastewater to discuss sewer extensions.

**A. JOINT MEETING WITH WATER AND WASTEWATER ON POSSIBLE
BLANKET EXTENSION FOR SEWER CONNECTION-**

Chairwoman Pfleger clarified that the joint meeting is to discuss extension requirements for sewer connection.

Superintendent Dan Pelletier provided background information regarding setting up financial assistance and different programs to encourage residents to connect to the collection system. Mr. Pelletier added that there were discussions with Mr. Waystack with the Board of Assessors looking into regulations between the Boards and the two-year order to connect. The order to connect was sent out in four mailings; the initial mailing was sent out on February 8, 2022, requiring a February 8, 2024, connection date for 264 residents. Out of the 264 residents ordered to connect in the first mailing – 108 have connected leaving 156 to connect within the next month – an unlikely scenario. Mr. Pelletier recommended that we consider March 1, 2025, which would be two years after the creation of the Aquifund -March 1, 2023. Those in the first mailing would be given an additional thirteen months and those in the last mailing would give an additional four months to connect.

Chairwoman Pfleger read section B within the Board of Health's Sewer Connection Regulations and read section six of the Water Departments Sewer Use Regulations which both contain language referring to the Board of Health. Ms. Pfleger asked if a public hearing would be needed to approve the sewer extension until March 1, 2025, to go into effect.

Ms. Schoener suggested that the Board make a motion to approve the extension and if legal requires a public hearing, then we will do so.

Water/Wastewater Vice Chair, Noreen Donahue suggested that their Board votes to accept the extension and let the chips fall into play as their regulations should be in sync with the Board of Health's regulations.

Chairwoman Pfleger asked if Water/Wastewater would need to vote on this as well.

Mr. Pelletier replied that their Board would not need to vote on this matter because their regulations refer to the timeline that is adopted by the Board of Health.

Motion: Mr. Dowgiallo motioned to extend the sewer connection deadline to March 1, 2025.

Second: Mr. DuPont seconded the motion.

Vote: 5-0-0

XII ADJOURN-

Motion: Mr. Dowgiallo motioned to adjourn the meeting at 7:22pm.

Second: Mr. DuPont seconded the motion.

Vote: Approved 5-0-0.

Respectfully Submitted,

Stephanie Johnson

The next meeting will be held Wednesday February 21, 2024, at 6:30 p.m.