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## Board of Health Minutes 03/20/2014

### Town of Mashpee

*16 Great Neck Road North  
Mashpee, Massachusetts 02649*

#### BOARD OF HEALTH – PUBLIC SESSION

##### Minutes of the Meeting of March 20, 2014

**Board Members Present:**

Kalliope Egloff, Chair  
Lucy Burton, Co-Chair

**Member Absent:**

Burton Kaplan, Clerk

**Also Present:**

Glen Harrington, Health Agent

Chair Kalliope Egloff called the meeting to order at 7:00 PM.

**APPOINTMENTS****7:15 PM – Title V Variance Request – 37 Seconsett Point Road.**

Michael Borselli of Falmouth Engineering, representing Robert Roche of 37 Seconsett Point Road, introduced himself to the Board.

Mr. Borselli commented that he is seeking 4 variances for 37 Seconsett Point Road. Three variances are setbacks to the property line or proposed structure, and the fourth variance is from the requirement to dig 3 additional test holes on the site. Mr. Borselli requested to withdraw the variance for Soil Stability that was originally submitted and add the test-hole variance. The applicant is proposing to demolish and reconstruct a dwelling similar in size to the surrounding houses. The house position was determined to meet certain wetland requirements, which restricts the area for the new septic system.

Mr. Borselli requested the following variances for 37 Seconsett Point Road:

- Soil Absorption System to a property line 10 feet. The distance provided is 5 feet. A 5-foot variance is requested.
- Reserve Area to a property line 10 feet. The distance provided is 7 feet. A 3-foot variance is requested.
- Reserve Area to a slab 10 feet. The distance provided is 4 feet. A 6-foot variance is requested.
- A variance from the requirement to dig 3 additional test holes on the site to perform 3 additional soil evaluations.

In Mr. Borselli's opinion, the relief requested is reasonable and granting the variances from the setback requirements would not create any further impact for public health or the environment.

Glen Harrington stated that:

- The concern with the 5-foot variance to the street line is the location of the water main that services the other homes on the street. This needs to be located and shown on the plan. If it is less than 10 feet from the primary Soil Absorption System to the water main, some mitigation should be provided.

: soils are consistent in that area. Percolation tests have been performed with new systems installed on either side of this property.  
: 4-foot variance to the reserve is closer than normally approved, but it is for a slab and does not create an impact. A rubber membrane needs to be shown as mitigation.

third floor plan needs to be provided showing that it is an unheated and unfinished attic space. There cannot be a door installed at the top or the bottom of the stairs providing privacy and possibly creating another bedroom.

Ted Schilling, an attorney from Osterville, Massachusetts, representing the abutters David Bernstein and Susan Howard of 33 Seconsett Point Road, introduced himself to the Board.

Mr. Schilling commented that the variances are creating and allowing the proposed dwelling to be over-built.

Glen Harrington commented that there would be an increase in flow by adding another bedroom. There are other 4-bedroom dwellings in the area, and these setback variances have been approved for new construction in the past. This is considered new construction, and these setback issues are not considered environmental setbacks. The variances themselves will not hinder the use of the system nor the use of the property. The septic system is positioned as far up to the front of the property because of the 100-foot setback.

Susan Howard, wife of David Bernstein and the abutter at 33 Seconsett Point Road, introduced herself to the Board.

Ms. Howard commented that the variances should not be granted and requested that the Board of Health not approve the variances. Ms. Howard felt that this project should be more consistent with the other homes in the neighborhood.

Lucy Burton made a motion that the Board of Health approve the variances as requested for 37 Seconsett Point Road with the condition that the water main is shown and protected as necessary, the rubber membrane on the garage is provided, and the tee in the distribution box on the inlet end of the force main is required. Kalliope Egloff seconded the motion. The motion was unanimously approved.

**7:20 PM – Local BOH Septic Inspection Variance – 9 Red Fin.**

Glen Harrington stated that a septic inspection was performed by Jim Ford on April 27, 2012, when the Board of Health regulation required replacement of septic tanks over 30 years old. A variance has been requested to that regulation. The applicant was notified that a re-inspection of the septic tank, according to the amended regulation, could take place prior to the meeting but as yet has not been submitted.

Michael Cotter, potential buyer for 9 Red Fin, introduced himself to the Board.

Mr. Cotter commented that the septic inspection report on April 27, 2012, indicated that risers should be added to the distribution box and the leach pit and would like the septic system to be re-inspected.

Lucy Burton made a motion that the Board of Health approve the variance for 9 Red Fin with the condition that the septic system is re-evaluated based upon the new regulation and resubmit the septic inspection report to the Board of Health. Also, risers are to be installed on the distribution box and leach pit to bring the system to within 6 inches of grade. Kalliope Egloff seconded the motion. The motion was unanimously approved.

**7:25 PM – BOH Variance Request – 403 Great Oak Road.**

Matt Costa of Cape and Islands Engineering, representing 403 Great Oak Road, introduced himself to the Board.

Mr. Costa commented that a different plan was originally drawn for the previous owner and presented to the Board of Health about a month ago. The new owner hired Cape and Islands Engineering to redesign the system to accommodate their new house.

Mr. Costa is requesting a variance of 52 feet from the coastal bank to the leach field per the Board of Health Soil Stability Regulation. The mitigation will remain the same with the denitrification system and the Ultraviolet light treatment. The main difference is the design of the leach field between the first approved plan and this plan.

Lucy Burton made a motion that the Board of Health approve the variance as requested for 403 Great Oak Road with the condition that the Operation and Maintenance contract with testing for total nitrogen quarterly for two years be provided prior to occupancy of the dwelling.

**7:30 PM – Nitrogen Aggregation Plan – 36 Bog River Bend.**

Matt Costa of Cape and Islands Engineering, representing the applicant of 36 Bog River Bend, introduced himself to the Board.

Mr. Costa remarked that the Department of Environmental Protection has issued new regulations giving the local Boards of Health the authority to be the sole granting authority for variances, nitrogen aggregation plans, etc.

Mr. Costa commented that under Title V, nitrogen loading requirements can be calculated using an aggregation of land. This land

comes from different areas so long as the land is in the same Zone II. There are 2 separate pieces of land. One is known as the credit land, which is restricted for the benefit of another property. The other is the facility property, which has the septic system on the property.

Mr. Costa remarked that there are two documents known as Nitrogen Restriction and Easements. A parcel of 10,000 square feet of credit land within the same Zone II is taken from 23 Miller Farm Road and moved to 36 Bog River Bend to allow the construction of a 3-bedroom home. After the Board approves this, the plan is then recorded at the Barnstable County Registry of Deeds, and the Nitrogen Restriction and Easements are also recorded against the deeds for each property.

Glen Harrington stated that to establish a fee for review of the Nitrogen Aggregation Plan, the guidance given from Brian Dudley from the Department of Environmental Protection is that if the templates are written word for word, then it is not required for the attorneys to review the document. The fee collected by the Department of Environmental Protection was \$1,580, which covered the technical review and the attorney's review.

Mr. Harrington suggested that a fee be required to cover staff time and place a condition in the approval for the applicant to pay for third party legal review. A standard fee would be difficult to establish because legal review may be different for each applicant.

Lucy Burton made a motion that the Board of Health set a fee of \$250 to cover staff time for the review of the Nitrogen Aggregation Plan. Kalliope Egloff seconded the motion. The motion was unanimously approved.

Lucy Burton made a motion that the Board of Health approve the Nitrogen Aggregation Plan with the condition that the draft document be revised and resubmitted with the new fee in place. Kalliope Egloff seconded the motion. The motion was unanimously approved.

#### **NEW BUSINESS**

**1. Sign Expense Warrants.** The Board members signed the expense warrant.

**2. Review/Approve BOH Public Session Minutes: March 6, 2014.**

Approval of the Board of Health March 6, 2014, Public Session minutes was continued until the next Board of Health meeting with a full Board in attendance.

#### **OLD BUSINESS**

**1. Operation and Maintenance Contract Review: Baypoint LLC – Quinn's Way.**

Glen Harrington stated that the water usage must go over 2,000 gallons per day before the monitoring increases automatically to monthly. Two more units were sold for a total of 9 units; however, the usage is still very low. The Water Department indicated that 184,000 gallons were used at the property in 2013, suggesting that most of the units are seasonal. Bennett Environmental is monitoring the system, and the results were favorable.

The Board will review the Operation and Maintenance Contract for Baypoint LLC, Quinn's Way, every 6 months unless the water usage increases.

#### **ADDITIONAL TOPICS**

**None.**

#### **NEXT MEETING**

The next meeting of the Board of Health is scheduled for Thursday, April 3, 2014, at 7:00 PM. As there was no further business, Lucy Burton made a motion to adjourn the Public Session Meeting of the Board of Health at 8:26 PM. Kalliope Egloff seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Frances Boulos  
Administrative Assistant  
Mashpee Board of Health

attachments

