



# Town of Mashpee

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16 Great Neck Road North  
Mashpee, Massachusetts 02649

## BOARD OF HEALTH – PUBLIC SESSION

### Minutes of the Meeting of June 2, 2016

#### **Board Members Present:**

Kalliope Egloff, Chair  
Lucy Burton, Co-Chair  
Brian Baumgaertel, 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 – 7 Bight Circle.**

Glen Harrington stated that this is a straight upgrade of a septic system that is on a very small lot. The four bedroom design and the groundwater dictated the larger Soil Absorption System and subsequent variances. The abutting sideline variance has required the Board to review and approve the plan with required notification to the abutter. Mr. Harrington reviewed the plan and had no problems. The water line will have to be relocated and sleeved. The gas line will also have to be re-routed.

Michael Borselli of Falmouth Engineering, representing 7 Bight Circle, introduced himself to the Board. Mr. Borselli remarked that Title V requires a 20-foot separation to a cellar wall, which is one of the variances requested. The abutter was notified, and it will be mitigated by installing a waterproof membrane on that side.

Mr. Harrington made a recommendation to mark the property line in the field to assist the contractor and to apprise the abutter of the location of the lot line.

Lucy Burton made a motion that the Board of Health approve the variances as requested for 7 Bight Circle with the conditions that the water line is sleeved, the gas line is relocated, and the property line is marked in the field. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

##### **7:20 PM – Nitrogen Aggregation Loading Plan Request – 156 Waterway.**

Glen Harrington stated that the submitted proposal for 156 Waterway includes the request for a nitrogen aggregation plan to obtain credit. The subject property or “facility land” at 156 Waterway has 17,300 square feet and 22,750 square feet of “credit land” is being acquired from the Child’s River East Subdivision open space to obtain a total of 40,050 square feet. This will allow a four bedroom dwelling to be constructed. The draft copies of the facility and credit land Grant of Title 5 Nitrogen Loading Restriction and Easement documents have been provided and reviewed.

Matt Costa of Cape & Islands Engineering, representing 156 Waterway, introduced himself to the Board. Mr. Costa remarked that each time there is a nitrogen restriction easement document prepared there is an accompanied plan that identifies the specific area that is to be restricted. This is restricted in perpetuity and recorded at the Barnstable County Registry of Deeds. There is a master plan that shows each transaction. Mr. Costa will provide a copy of the master plan to Glen Harrington.

Mr. Harrington will inquire if an overlay of the open space showing credit areas can be made available on the Mashpee GIS information map.

Lucy Burton made a motion that the Board of Health approve the nitrogen aggregation plan for 156 Waterway. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**7:25 PM – Title V Variance – 31 Santuit Lane.**

Glen Harrington stated that the proposed septic system repair includes a 1500-gallon septic tank with a Zabel outlet tee filter, a 1000-gallon pump chamber, and a raised Soil Absorption System with pressure distribution. Several iterations of this plan, including a request for a tight tank, have been reviewed. The proposed retained Soil Absorption System with pressure distribution and a four-foot distance above groundwater is an improvement over the existing system. The Board of Health Innovative Alternative Regulation also requires Ultra-Violet disinfection with an Ultra-Violet light due to the Soil Absorption System being less than 75 feet to the Bordering Vegetated Wetland.

Dan Goncalves of Down Cape Engineering, representing 31 Santuit Lane, introduced himself to the Board. Mr. Goncalves commented that this is an upgrade of an older Title 5 septic system and the Ultra-Violet disinfection will be added to the system. The variances allow as much of a distance from the wetland as possible.

Mr. Harrington was contacted by the abutter, Mrs. Greenberg, and she requested that if the vegetation on that side is to be disturbed, she would like to have it re-planted as a screening nature only. This would also require the Conservation Commission's approval and recommendation. Maintenance analysis for the ultra-violet is required annually to prevent back-up.

Lucy Burton made a motion that the Board of Health approve the variances requested for 31 Santuit Lane with the conditions of quarterly total coliform analysis of the Ultra-Violet light for 2 years, annual inspection of the Zabel outlet tee filter and Ultra-Violet light, and with an additional condition of screening vegetation re-planted with the Conservation Commission's guidance. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**NEW BUSINESS**

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

**2. Review/Approve BOH Public Session Minutes: May 19, 2016.**

Lucy Burton made a motion that the Board of Health approve the Public Session minutes of May 19, 2016. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**3. Request for 2016 Retail Food Permit: Washashore Bakery (14 Central Square).**

Glen Harrington stated that the applicant for Washashore Bakery submitted a 2016 Food Establishment permit to operate a bakery at the former Montillio's location at 14 Central Square in Mashpee Commons. The application, the fee, the menu, the ServSafe and Allergen Awareness Certificates, and the floor plan have been provided. The floor plan does not depict the seating that is listed on the application. If outside seating is requested, the permit should be amended.

Sandy McPherson, owner of Washashore Bakery, introduced herself to the Board. Ms. McPherson remarked that she is planning to have outdoor seating and will amend the plan. She would like 8 seats outside and 10 seats inside.

Lucy Burton recommended that the screen door be utilized to prevent entry of flies and animals.

Kalliope Egloff inquired about recycling and food waste composting. Ms. McPherson will recycle and will consider composting.

Lucy Burton made a motion that the Board of Health approve the 2016 Food Establishment Permit Application for Washashore Bakery located at 14 Central Square with the condition of revising the number of seats on the floor plan application and an inspection by the Health Agent prior to opening. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**4. Request for 2016 Mobile Food License: Cape Cod Coffee.**

Glen Harrington commented that pre-approval was sought from the Board of Health Chair to allow operation of the new mobile unit that was purchased by Cape Cod Coffee. The previous mobile unit was owned and operated by Scott Morse of Cape Cod Donuts. However, Cape Cod Coffee purchased the new mobile unit and is requesting the permit in their name. Mr. Morse will continue to operate the mobile unit. The unit was inspected and passed with no issues. All openings have screens, all surfaces are stainless steel, and the fan and hood are new. The grease is recycled by Baker Commodities, and the Cape Cod Coffee store operates as the commissary. The menu will remain the same. Mr. Harrington will mention to the owners that recycling is essential.

Lucy Burton made a motion that the Board of Health approve the 2016 Mobile Food Permit for Cape Cod Coffee. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**5. Request for 2016 Bodywork Facility and Bodywork Therapist License: Within Wellness Massage/Kristen Long (680 Falmouth Road, Unit 5).**

Glen Harrington remarked that pre-approval was sought from the Board of Health Chair to allow operation of a new bodywork facility and bodywork practitioner located at 680 Falmouth Road, Unit 5. The inspection of the one-room facility has been performed and passed. The educational requirements and state licenses were provided. This unit is located on the second floor in the Paul Peters Building across from Deer Crossing.

Lucy Burton made a motion that the Board of Health approve the 2016 Bodywork Facility and 2016 Bodywork Therapist Licenses for Within Wellness Massage and Kristen Long. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**6. Request for 2016 Tobacco Sales Permit and/or Nicotine Delivery Products: Soprano's.**

George Hailer, representing MJRE, LLC – Soprano's Ristorante, introduced himself to the Board.

Glen Harrington stated that the owner of Soprano's Ristorante has requested a 2016 Tobacco Sales Permit to sell cigars at the facility with the intent to be smoked at the outside seating area. Mr. Harrington forwarded an email to Mashpee's establishments clarifying the use of outdoor seating as a smoking area:

- The smoking area may only be used if wait service has ended or is not available for that space. This is due to the fact that employees may not be subject to second hand smoke during their service for the employer.
- Any operable windows or doors must be closed to eliminate migration of the smoke into the enclosed occupied structure/food establishment.
- If removable walls make up the enclosed smoking area then 50% or more of the walls must be put up to allow the smoke to escape and dissipate to open air. (105 CMR 661.200).
- Our local BOH regulation also prohibits smoking within 10 feet of an intake, door or window. That includes e-cigarettes, too.

The applicant outlined some of the above requirements of MGL c. 270 s. 22 in the application.

Mr. Hailer remarked that the outside smoking area will be open with an umbrella or canopy and no walls.

Ed Ricciardi, owner of Soprano's Ristorante, introduced himself to the Board. Mr. Ricciardi commented that no smoking will be allowed until after a certain hour, until the patio is clear of dinner guests, and there is no wait service. This is strictly for cigar smoking, not cigarettes.

Brian Baumgaertel made a motion that the Board of Health approve the 2016 Tobacco Sales Permit for MJRE, LLC, doing business as Soprano's Ristorante, located at 681 Falmouth Road with the condition of a passing pre-operation inspection by the Health Agent. Lucy Burton seconded the motion with the comment that she does not support this trend. The motion was unanimously approved.

#### **7. Request for Reduction of Temporary Food Permit Fee: BBQ Mike's Catering.**

Glen Harrington commented that in order to get more vendors for the Food Truck Fridays, the Recreation Department has asked BBQ Mike's Catering (Mike and Christine Conrod), which is a caterer and not a mobile truck, to participate. Their commissary is the Gateway Christian Center in Cotuit. Mr. Harrington recommended that a one-time \$100 catering fee for the calendar year be approved since they are working from a licensed facility with the condition that all of the requirements of the temporary food regulations and guidance for each event are met. \$100 is the permit fee for the mobile food vendors that participate at all of the local events.

Lucy Burton made a motion that the Board of Health approve the 2016 Catering License for BBQ Mike's Catering for a one-time catering fee of \$100 for the calendar year with the conditions of a pre-operation inspection by the Health Agent. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

#### **8. Amendment to Tobacco Sales Regulation: Board of Health.**

Glen Harrington stated that at the last meeting the Board heard comments from several retailers in Town and their suspected loss of business due to the raising of the minimum tobacco sales age to 21. The Board countered with the life safety issue of the 18 to 20 year old population.

Mr. Harrington forwarded the draft changes to the existing regulation with the comments on the changes to the Board. He tried to explain each change and its justification. He also included a comment regarding an exemption for point of sale, third-party enforcement or training programs. Mr. Harrington does not believe such an exemption should be given. The responsibility should be on the permit holder. At the last meeting Alltown Mashpee's representative explained the point of sale computer verification process.

Should the Board approve the amendments, the next decision is the date it becomes effective. The Falmouth Board of Health delayed the approval to allow the retailers to react to the changes. Mr. Harrington agrees that some time should be given because any high school age employee less than 18 years old will no longer be allowed to sell tobacco products. The existing state required signs will also need to be changed from 18 to 21.

The Board discussed the possibility of the employee wearing a name tag to identify themselves. However, teenagers have a tendency to forget their name tags or lose them and perhaps borrow one from a friend. It would be difficult to enforce and to be effective.

Steve Rafferty, a member of the Falmouth Board of Health, introduced himself to the Board. Mr. Rafferty commented that Falmouth's Tobacco Regulation is a bit different than Mashpee's. The age limit for tobacco sale was not raised from 16 to 18 years of age. The employer must have the employee properly trained and understand the law. Anyone selling tobacco must request proof of age of anyone under 27 years of age. The person making the sale and the permit holder are held at fault if a sale is made to an under-age individual. Mr. Rafferty explained that the Falmouth Tobacco Regulation states that the employee must read the regulation and state laws regarding the sale of tobacco and then sign a statement with a copy on file in the office of their employment.

Lucy Burton commented on two items of the revised tobacco regulation:

- The Board inadvertently changed the violation suspension at the last meeting, it should now be written as, "up to 5 days at the Board's discretion" in Section J. Violations: #1b; and
- The language should read, "up to 30 days at the Board's discretion" in Section J. Violations: #1c.

Kalliope Egloff's recommendations on the revised tobacco regulation are:

- Keep the 18 years of age in Section D. Tobacco and Nicotine Delivery Product Sales to Individuals under the Age of 21 Prohibited: #5;
- Eliminate the citation against the point of sales person and replace it with the word “establishment” in Section J. Violations: #1;
- Remove “All retail sales persons shall be readily identifiable by wearing a nametag with letters of a minimum of one-half inch high in contrasting colors to their uniform/clothing” in Section E. Tobacco and Nicotine Delivery Product Sales Permit: #10; and
- Remove the definition: “Retail Sales person – The person who performs the act of sales or distribution of tobacco product or nicotine-delivery product as defined in this regulation” on Page 2 in Section C. Definitions.

Lucy Burton and Brian Baumgaertel agreed with the changes. Also, Ms. Egloff mentioned that the Board study the information from Tobacco Control, examine the alcohol sting paperwork, and perhaps modify this amendment if required.

The Board discussed a date to publish the Tobacco Regulation and decided on July 1, 2016. Final discussion will take place at the next Board of Health meeting scheduled on June 23, 2016.

Lucy Burton made a motion that the Board of Health continue the discussion of the revised Tobacco Sales Regulation to the next Board of Health meeting scheduled on June 23, 2016. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**9. Request to Amend Enforceable Agreement: 78 Nick Trail.**

Glen Harrington commented that at the last meeting the Board approved a variance for the property located at 78 Nick Trail to transfer without the cesspools being upgraded with the mitigation of an Enforceable Agreement. The date set for completion of the septic system was September 7, 2016. The date of September 7, 2016, was actually the start date requested by the buyer and not to be the completion date. The closing date is June 23, 2016; therefore, 90 days from the property transfer would be September 23, 2016. Kevin Kirrane requested September 21, 2016, for the agreement, which is enough time for installation of the system and issuance of the Certificate of Compliance.

Lucy Burton made a motion that the Board of Health amend the Enforceable Agreement for 78 Nick Trail to have the Certificate of Compliance issued by September 21, 2016, for the septic upgrade. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

**OLD BUSINESS**

**1. Housing Compliance Update: 394 Cotuit Road.**

Glen Harrington stated that Erika Woods of the Cape Cod Hoarding Task Force has requested that the Board of Health review and set guidelines for closure of the property and the Sanitary Code violation at 394 Cotuit Road. Ms. Woods has some specific requests for the Board to review:

1. In the kitchen: Is it possible for a 2’ wide pathway to be considered as compliant. A 3’ pathway is not attainable. Will the Board accept the use of the kitchen table for purposes other than eating as long as passage around the table is possible? The owner uses it more for office use.

Recommendation: As long as the room is organized, cleanable, and no hazards a 2’ pathway is acceptable.

2. The first floor bedroom, living room and bathroom have been maintained clear of clutter. The dining room has had some recurrences, and Ms. Woods is working to correct the problem.

Recommendation: There is access around the bed, the hallway is totally clear, and there is space around the dining room table.

3. The room at the right at the top of the stairs is occupied by the daughter and son-in-law. The bed is kept clear, but there are some sanitary issues with dirty dishes and dog hair. What does the Board wish to do about the maintenance of this room? It is not technically part of the clutter issue.

Recommendation: The sanitary condition of the room must be maintained in order to be compliant.

4. The room to the left at the top of the stairs is no longer being used as a bedroom. If the room is organized where clear access to the window is made available, will that be considered compliant?

Recommendation: If the bedroom is used for storage, then it would be compliant where it is cleanable and sanitary, and there are no hazards with access to the window and closet.

5. The basement is used for storage. If clear paths to the bulkhead, clothes washer, dryer and utilities are maintained, will that be sufficient for compliance?

Recommendation: It would be compliant if the paths are 3 feet wide to the bulkhead, utilities, washer/dryer; and no unsecured piles are higher than four feet where someone could be trapped under the clutter.

Mr. Harrington provided before and after photographs to the Board. Ms. Woods is looking for goals for each of the individual rooms. This will give her a better indication of the Board's expectations. The contract with Ms. McFarland-Richter expired at the end of May 2016. The owner continues to attend the Buried in Treasurers training.

Kalliope Egloff suggested that an inspector of the Fire Department accompany the Board of Health inspector at the next inspection.

Mr. Harrington remarked that since there are five dogs the issue remains with the number of dogs. A kennel permit was not recommended because of the condition and clutter of the house; however, Ms. McFarland-Richter will be informed of the requirements of a kennel permit.

## **2. Farmer's Market: Mashpee Commons.**

Mary Derr, Marketing Director at Mashpee Commons, introduced herself to the Board.

Ms. Derr commented that the Mashpee Commons Farmer's Market is very similar to last year and will take place by the Organic Market. The Organic Market is involved with Mashpee Commons in coordinating the event. A portion of Market Street, by the Organic Market, is closed to prevent traffic on that section of roadway. The Farmer's Market will begin June 5, 2016, through October 2016, from 11 AM to 3 PM. A weekly fee of \$100 for the temporary food event will be paid to the Board of Health.

The Board informed Ms. Derr that fishermen vendors will be required to contact the Board of Health prior to attending the Farmer's Market.

Kalliope Egloff emphasized recycling and food waste composting at the Farmer's Market.

The Board expressed their concern on the construction at Mashpee Commons. Ms. Derr commented that no construction will take place on Sundays, and she will be mindful of all of the Board's concerns.

Lucy Burton made a motion that the Board of Health approve the Mashpee Commons Farmer's Market 2016 application with the following conditions: A \$100 weekly fee paid to the Board of Health; samples will only be provided by vendors who are ServSafe trained; vendor information is required weekly by Thursday at noon to be reviewed by the Health Department; vendors without gloves will pay an automatic \$100 fine; mindful of the Boards concerns of construction, dust and debris; and Rory Eames will be the Certified Food Manager providing oversight for the Farmer's Market or a designated person if Ms. Eames is not available. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

## **3. Septic Loan Waiver: 251 Great Neck Road North.**

Glen Harrington commented that the Assessor, Town Treasurer, and Mr. Harrington will meet with Town Counsel on June 10, 2016, to discuss the promissory note for 251 Great Neck Road North.

**4. Request for 2016 Mobile Food License: Shawna's Dream Machine.**

Glen Harrington remarked that he has not received the paperwork regarding the commissary and the police issued ice cream vending truck license for Shawna's Dream Machine. The Attleboro police chief has not issued the vending license as yet. Mr. Harrington is requesting continuance for Shawna's Dream Machine because the application is not complete.

**ADDITIONAL TOPICS**

None.

**DISCUSSION**

**1. Meeting Update – Mashpee Cares Committee Meeting: Glen Harrington.**

Glen Harrington remarked that the Mashpee Cares Committee has not scheduled a meeting.

**2. Zika Virus.**

Glen Harrington commented that the Department of Public Health issues a weekly update and basically lists the number of calls that are received by the Department of Public Health. There is no funding set aside for the Zika virus in the Northeast because it has an extremely low risk. There are 2 types of mosquitoes that carry the virus. One is not in this region, and the other is the Asian Tiger mosquito that is in this area. No incidences have been reported. Vigilance of standing water and the use of repellents is extremely important.

**NEXT MEETING**

The next meeting of the Board of Health is scheduled for Thursday June 23, 2016, 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 9:19 PM. Brian Baumgaertel seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Frances Boulos  
Administrative Assistant  
Mashpee Board of Health

attachments