



## Town of Provincetown

### Meeting of the

### BOARD OF HEALTH

Thursday, September, 19, 2013

Caucus Room, Provincetown Town Hall,  
260 Commercial Street, Provincetown, MA

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**Board Members Present:** Laurie Delmolino, Vice Chair; Elizabeth Williams, Ken Janson and Dr. Janet Whelan

**Board Members Absent:** Mark Phillips, Chair and Paige Mansfield, Alternate

**Other Attendees:** Morgan Clark, Public Health and Safety Officer and Brian Carlson, Health and Environmental Affairs Manager

**Call to Order:** Laurie Delmolino, Vice chair called the meeting to order at 4:00 p.m.

**Public Comments:**

There were no public comments.

**Old Business:**

There was no old business brought forward.

**New Business:**

**A. Dog Dining Variance Request – Bubala’s By the Bay – 183 Commercial Street**

**Discussion:** Morgan Clark introduced the Dog Dining request made by Gui Yingling for Bubala’s By The Bay Restaurant. Bubala’s has been allowing dogs on the patio although they do not have a dog dining variance. Morgan inspected the area in question.

Mr. Yingling explained the layout of the restaurant premises. He allows dogs along the fence on the parking lot side of the property and along the Commercial Street side of the patio area where the sidewalk is located. The dogs are leashed to the fence and are expected to stay on the side walk, although most do not. He will continue to allow dogs at these locations when he gets the variance. He does not like having dogs in other areas of the patio.

Betty Williams asked when the dogs come onto the patio do you have hand cleanser on the tables? Mr. Yingling said he would provide it to the tables that have dogs now that he is getting the variance.

Laurie Delmolino asked if in the past the number of tables that allow dogs has been restricted? Ms. Clark replied that it depended on the restaurant. In this case, there are 3 tables on the parking lot side and 5 tables on the Commercial Street side. The requirements are that hand sanitizer is provided and the food servers are not allowed to touch the dogs; if they do they must wash their hands. Any accidents must be cleaned immediately. Cats are not allowed.

***Motion: To allow Bubala's to have dog dining as discussed – 8 tables on the perimeter of the property.***

**Motion:** Ken Janson

**Seconded:** Elizabeth Williams

**The motion was passed unanimously by the Board      Vote: 4 - 0**

### **B. Dog Dining Variance Request – Spiritus Pizza – 190 Commercial Street \**

**Discussion:** Mr. Yingling stated that he never thought that he needed a variance for Spiritus because he does not do food service in the patio out back of the restaurant. There are picnic tables there, but no staff serves there. Customers with dogs access the area from the side of the building; they do not enter through the main part of the restaurant. If he sees a dog in the restaurant the owner is told to bring it alongside the building to the back patio. To him it is just the garden and doesn't know if he needs permission for dogs or not.

Morgan Clark stated that she actually doesn't know if it is needed. She does not see much difference between where people tie their dogs at the benches in front of the restaurant or the patio area in back. Mr. Janson pointed out that it is similar to the Aqua Bar; it is open to the general public. If it is decided that a variance is required, the owner has to instruct the staff to keep an eye on the area and post signs regarding dogs.

Ms. Delmolino has a concern about dogs being on the tables. There is a presumption of a certain level of cleanliness at a restaurant. She is concerned when she sees dogs with their paws on the tables where the restaurant owners can't see the tables. Mr. Yingling told the Board that the restaurant staff busses and cleans the tables. They are wiped down after each customer use.

Morgan Clark has concerns that if someone was to sit on the brick ledge in front of Spiritus that they would be required to have hand sanitizer. Anyone can sit there; not just patrons of Spiritus. It is similar to Aqua Bar in that we would be holding Spiritus responsible for what the general public is doing. It is not a clear delineation in her mind.

Ms. Delmolino asked about what the Board could do about signage? Ms. Clark said that she had created official Board of Health signage for another restaurant to help with compliance.

Betty Williams added that she is not sure that a variance is needed.

**Motion:** *That a variance is not required for dog dining at Spiritus Pizza in the rear outside dining area, at this time.*

**Motion:** Ken Janson

**Seconded:** Elizabeth Williams

**The motion was passed unanimously by the Board      Vote: 4 - 0**

### **C. Historic Bedroom Determination – 29 Conant Street**

**Discussion:** Mr. Carlson reported to the Board that he did a walk-through of the building September 16, 2013 with David Nicolau, the owner's agent. The house was built in 1850 and is noted as having 4 bedrooms by the Assessor's database and 4 bedrooms by the Sewer Department. The property is not connected to the municipal sewer and is not expected to be connected in the future. The Board of Health approved a Title 5 Sewer plan in July 2001 based on 3 apartments and 5 bedrooms. The system was installed in October 2005. The area in question is on the 3rd floor. It is a room that is accessed by walking through an adjoining bedroom. They are both currently being utilized as bedrooms and have been in the past, as well. The room at the end is the "historic bedroom".

Mr. Nicolau demonstrated to the Board the layout of the space as shown on a floor plan signed by the Health Agent at the time. The layout of these old houses are pretty much all the same. They are split down the middle with bedrooms on one side and the kitchen and living room on the other. Originally, there was a door from the living room to access the "historic bedroom". The door was later closed off to make a closet. He wants a determination of exactly what is so, if it does go on the market, he knows exactly what he is selling.

The owner, Janice Hallaman, stated that she has lived there since she was born and the room has always been her bedroom.

Dr. Whelan asked why the Board is being asked to do this? The Title 5 is obviously adequate.

Mr. Nicolau pointed out that the code does not allow walking through one room to get to the other and call it a bedroom. It has to have a separate access door. He wants

to memorialize the bedroom count and have something in the file.

Mr. Carlson said there may also be an issue with the sloped ceiling of the "historic bedroom" and the minimum square footage required. A portion of the ceiling height does meet the code.

Ms. Delmolino asked how this has been addressed in the past?

Mr. Nicolau pointed out that just recently, June 6, 2013, a similar request was approved by the Board for a building on Center Street.

Brian Carlson replied that it is a case by case situation. In this case, it is more about the walk-through access to the room. Based on the owner's use of the room in her lifetime and that the Title 5 actually has the capacity it meets the requirements for an "historic bedroom". It has now been designated by two Health Agents as having 5 bedrooms.

Mr. Janson agrees with the Health Agent and historically there is enough evidence that it has been used as a 5 bedroom. The Title 5 is adequate, also.

***Motion: That we accept the request to call this a five bedroom house based on historic use of the two bedrooms on the 3rd floor.***

**Motion:** Dr. Janet Whelan

**Seconded:** Elizabeth Williams

**The motion was passed unanimously by the Board**

**Vote: 4 - 0**

### **Any Other Business That Shall Properly Come Before the Board**

**Discussion:** Betty Williams brought up the email that she sent out regarding smoking at Cafe Maria. She said that some people walked away from the patio dining area because others were smoking. Morgan Clark said she had received the email, but did not yet know how it falls within the regulation. There are other establishments in town that have outdoor areas where there is no service that are not required to have a variance. She has to speak with Licensing to determine how the area is defined. She has ordered "No Smoking" signs from DPH to distribute during next year's inspections.

### **Approval of Minutes**

**Discussion:** Betty Williams was concerned with the wording on page 2 regarding the tenants satisfaction with changes made at Province Landing. It reads ... " the tenants seem satisfied with the results." She stated that Ken Janson had suggested that it be changed to ... "**some** tenants seem satisfied with the results." Betty added that she is

one of the tenants and she was never asked. She is not that satisfied with the results. This reads as though everyone who had remediation is totally satisfied.

Brian Carlson stated that some people who had remediation of their apartments, who the inspection team met with, said the problem was better. Betty Williams was not interviewed by the team.

Morgan Clark asked the Board if they were in agreement that the wording should be changed to "**some** tenants". The Board agreed to the change.

**Motion: *To approve the minutes of August 1, 2013 as changed.***

**Motion:** Ken Janson

**Seconded:** Dr. Janet Whelan

**The motion was carried by a vote of 3 -0 - 1**

### **Health Department Report**

Brian Carlson told the Board that he had received the bathing beach data from the County and will be able to present it at the next meeting.

Morgan Clark will bring a few versions of signs regarding dogs in restaurants for the Board to review. She attended a workshop regarding legal issues pertaining hoarding. It was helpful to hear how other places deal with this, but the information did not necessarily apply to what we find locally. We don't have social services, we don't have a housing court and it is not always a landlord/tenant issue. We continue to work on the Town's emergency plan.

Brian Carlson mentioned that they had done a presentation at the COA with Denise Parks about emergency preparedness. He has also been working on a couple of housing issues. One is an abandoned property; the owner had passed away and no one is taking care of the building. There was a complaint from the Sewer Department that the pumping station at the Surf Club is getting greased up again. He has contacted Mr. Rogers who engineered the work most recently done. Something is still not right. He and Laurie Delmolino attended a workshop with the Cape Cod Commission on consensus building and water quality and Cape-wide waste water issues.

Morgan heard from the director of the Medical Reserve Corps. There will be a meeting at The U.U. Church on October 9th. The director is tapping into the faith community and fraternal organizations to get the message out of what they do. We rely on them to staff our shelters. Right now Provincetown has two volunteers through the Barnstable County MRC. We need to recruit more and are working on outreach.

**Board Members' Statements**

Dr. Whelan raised the issue of electronic cigarettes. Apparently, there is still a level of toxicity because of the added flavors and other additives in them.

Laurie Delmolino asked staff if they have surveyed other towns about how they deal with "dog dining" variances? Betty Williams said that Salem, Mass. has done something similar to what Provincetown has done. Brian suggested that it perhaps it could be limited to a variance for one table at an establishment. Laurie said that when we issue a variance we assume that people with dogs would be respectful of others with their dog's behavior. That may not always be the case.

**Adjournment:**

There being no further business, Laurie Delmolino moved to adjourn the meeting at 5:09 pm.

Respectfully submitted,

Susan Leonard

**Approved by \_\_\_\_\_ on \_\_\_\_\_, 2013**