

**Public Meeting  
Provincetown Board of Health  
Caucus Hall  
October 5, 2006  
5:00 p.m.**

**Members Present:** Jerry Anathan, Duane Gregory,  
Ken Janson, and John Livingstone.

**Members Absent:** Tom Gaudreau (excused absence)

**Health Agent:** Jane Evans

**Health Inspector:** Brian Carlson (excused absence)

The meeting was called to order at 5:00 p.m.

**AGENDA**

**Public Comments**

There were none.

**New Business**

**32 Commercial Street**

**ACO Request**

The property is currently being served by two cesspools. The decedent's daughter will be selling the property and this will trigger an upgrade of the septic system. Since this is an area being considered for sewer expansion, she is eligible to request an ACO. Both cesspools are in working order but need further evaluation.

**Motion: Approve the request for an ACO for 32 Commercial Street.**

**Motion: Jerry Anathan    Seconded: John Livingstone    Vote: 4-0-0.**

**231 Bradford Street**

**ACO Request**

This property is currently being served by two cesspools. The owners, Louise Venden and Sally Deane, would like to do renovations to the existing dwelling and this will trigger an upgrade of the septic system. Because this is an area being considered for fill-in expansion of Phase I they are eligible to request an ACO. The house is an existing two bedroom but the Title 5 plan has been designed for three bedrooms. (To increase your flow for an ACO you have to prove you can have an unvarianced system and then you have to go into the Growth Management queue.)

Disclosure: Duane Gregory's office was involved in the sale of this property, but currently has no interest in the property. No objections to her sitting on the case.

**Motion: Approve the request for an ACO for 231 Bradford Street.**

**Motion: Jerry Anathan    Seconded: Ken Janson    Vote: 4-0-0.**

**8D Commercial Street**

**Title 5 variance**

Gary Locke presented the plan on the behalf of Alix Ritchie, the owner. He proposes upgrading with a pressure dosed system. Variances are detailed on the plan. Most of the property is extremely low.

The existing cesspool is in a state of imminent failure due to collapse. The proposed septic system will afford a much greater degree of environmental protection since the existing cesspool is most likely sitting in groundwater.

Alix Ritchie gave a mini history of the property. The cottage is part of a condo complex. The other cottage owner in the condo group installed a Title 5 a while ago and - because of the large expenditure - doesn't want to enter into a sewer agreement. Ms. Ritchie would prefer applying for an ACO but the rules state that all members of a condo complex have to go into the sewer or no one can.

**Motion: Approval of the Title 5 with a deed restriction to be recorded at the Barnstable County Registry of Deeds limiting the number of bedrooms to the existing two and proof of recording provided to the Health Agent prior to the issuance of the septic system installation permit. Installation by December 15, 2006.**

**Motion: John Livingstone    Seconded: Jerry Anathan    Vote: 4-0-0.**

## **6 Winston Court**

### **Title 5 variance**

Fred Sateriale is the owner of Beach Point Condominiums. There are 4 buildings each with their own cesspool. All of the cesspools are sitting in groundwater, thus a pressure dosed system is required for increased environmental protection. The raised system proposed will be in the rear of the lot and will be used as a parking lot. At the highest point it will be 3 ft above ground. There were no abutters present or letters in the file.

**Motion: Approval of the Title 5 for 6 Winston Court with a deed restriction to be recorded at the Barnstable County Registry of Deeds limiting the number of bedrooms to the existing twenty-four and proof of recording provided to the Health Agent prior to the issuance of the septic system installation permit.**

**Motion: Ken Janson    Seconded: Jerry Anathan    Vote: 4-0-0.**

## **31 Court Street**

### **Appeal Health Agents Decision – Bedrooms**

Attorney Nancy Correia presented the case to the BoH. Jane designated the house as a one-bedroom house because the only access to the attic bedroom was via a pull-down staircase. They were asking for permission to designate it as historically used as a 2 bedroom. The granddaughter stated the stairway was removed in 1982 and the attic could only be reached by pull-down stairs. (Her grandmother, a widow, removed the stairway without building permit to save money on heat) The applicant stated there were originally two bedrooms upstairs plus one on the first floor. They are only asking that a two bedroom status be restored. Jane says the second floor meets all the requirements of a bedroom except a means of access. It showed evidence of being used as a bedroom. Duane reminded the board that our regulations allow the board to decide these situations on a case by case basis and we have a precedence of this type.

**Motion: Support the request of the applicant provided a staircase to building code is installed prior to approval of a Title 5 or ACO with the proviso that they apply for a building permit within two months. All these applications must be completed within the 60 day timeframe. Also a report from a licensed septic inspector must be completed.**

**Motion: Jerry Anathan    Seconded: Ken Janson    Vote: 4-0-0.**

## **48 – 60 Race Point Road – Unit 16**

### **Deed Restriction Violation**

The Board of Health asked the Health Agent to request permission from Keith Bergman for a legal opinion on the wording in deed restrictions to address the case of tenant / landlord situations and responsibility. The board felt that a written lease should list deed restrictions; but what if there is no lease? It is in fairness to the landlord and the tenant to have it in the language of a lease. Duane to Jane – Please send Ken Weiss an e-mail saying this was a learning experience for all of us. John Livingstone added, "Before going ahead with a fine, the policy has to be defined and he feels the BoH can support adequate communication between the parties."

### **Discussion**

#### **Bedroom Determinations**

Gary Reinhart, Chair of ZBA and Howard Burchman, Chair of Planning asked for a discussion on how bedroom/seating determinations are made by the BoH. There were 4 members of the ZBA in the audience. Duane Gregory, chair of the BoH, had concerns about open meeting law since it was not advertised as a joint meeting and there was a quorum present from ZBA.

Health Agent, Jane Evans, also felt uncomfortable about an unadvertised joint meeting, stated that this was a direct violation of the open meeting law and wished to go on record as having stated this.

Both Gary and Howard were not concerned about possible violations as they were here for discussion. Steve Melamed, a member of the ZBA, said that he could be in attendance as the chair of the Economic Development Committee (he wears two hats). They were all concerned about the spirit of "Growth Management" by-law being skirted sometimes in counting bedrooms and seats.

Duane decided that she was just going to let this discussion happen. The Board will discuss with Gary and Howard only at the table and no voting will occur.

Both Gary and Howard felt there were situations where people were trying to by-pass Growth Management. Duane said she thought it was really about a couple of specific properties. She also said if either of them had a problem with decisions the Health Agent makes, they're free to appeal them. Health Agent has to count the use as she sees it and Title V dictates the criteria. Our own BoH regulations have even made more specific, the definition of a bedroom. The Health Agent has responsibility to make sure the septic system design is adequate for the pre-existing possible use.

John Livingstone thought we are moving toward a conflicting policy. Duane said - if you feel someone has put up a wall creating another bedroom, without benefit of building permit, then you can research it and report the problem to the board. The Board can then hear the evidence and make a decision. The Board has in the past ordered walls to be removed if the evidence indicated they were put up illegally.

Gary – 3<sup>rd</sup> problem – regards seating – and that went into benches, tables, chairs, flows, etc..... Steve Melamed is now getting involved in licenses and is trying to write policy, etc. The EDC has hired a consultant to address many policies. Duane explained the Board's stance on benches...as long as anyone can sit on them without purchasing from the establishment, then they are not counted for flow.

John Livingstone, trying to bring these subjects to a conclusion, asked if it would be worthwhile in creating two or three possible scenarios so that we can deal with these issues for adjudication.

All felt this was a good discussion.

### **Open Space Plan Approval**

Postponed.

### **Approval of Minutes for September 21, 2006**

**Motion: Approve the minutes as written.**

**Motion: Ken Janson      Seconded: Jerry Anathan      Vote: 4-0-0.**

### **Any other business that shall properly come before the Board**

Duane wanted to talk about leash law – there have been no more incidents of rabies reported– so should we revisit the issue? She discussed it with Brian before and in another month there will be another baiting. No cases since summer. But let’s revisit it at another meeting.

### **Health Agent’s Report**

Jane Evans presented a written proposal from Jay Critchley regarding a “Provincetown Historic Septic District Project” and informed the Board that he was placed on the next agenda for discussion. The Chair felt this was a frivolous request, ultimately not feasible under State Sanitary Codes etc. She felt the Board is not obligated to put this on the agenda and all were in agreement.

**Motion: Mr. Critchley’s request to present his “Provincetown Historic Septic District Project” as an agenda item be denied. The Board of Health instructed Jane Evans to let Jay Critchley know that he can speak on this topic under the Public Statements portion of any Board meeting**

**Motion: Duane Gregory      Seconded: Jerry Anathan      Vote: 4-0-0.**

### **Board Members’ Statements**

There were none.

### **Adjournment happened at 6:53 p.m.**

Respectfully submitted,

*Evelyn Gaudiano*

E. Rogers Gaudiano

**Approved by** \_\_\_\_\_ **on** \_\_\_\_\_, 2006.

Duane Gregory, Chair