



Town of Oak Bluffs  
Board of Health  
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508-693-3554 Ext. 127

William White  
Chairman

James Butterick  
Thomas Zinno  
Board Members

Meegan Lancaster  
Health Agent

**BOARD OF HEALTH MEETING  
May 21, 2019 – MINUTES**

**Members Present:** William White, Thomas Zinno, James Butterick

**Others Present:** Meegan Lancaster, Lorna Welch, Dinah Reese, Cody Coutinho

Chairman White called the meeting to order at 10:00 am.

**APPOINTMENTS:**

- **Dinah Reese – 57 Haypath – Map 38 Parcel 12**
  - **Request to allow 1 plot green home burial at property**

Ms. Lancaster explained that she and Ms. Reese have been having ongoing discussions about Ms. Reese's proposal for a green burial at her property. The DEP and the Oak Bluffs Water Dept. have approved this plan as it will not interfere with the drinking water. The next step in the process is to have a scaled plot plan. Ms. Reese submitted a map with a marking on it but it is not a scaled, surveyed plan indicating the actual location of where the burial is located, how it will be done and the number of plots. The abutters were notified about the meeting today. Ms. Reese stated that they all seem to be fine with it. One abutter wrote her a letter stating that they were concerned about what might happen to their property but they didn't show up today. Ms. Lancaster is also recommending some contacts to help guide her through the rest of the process. If the BOH approves the final plans then the plan will need to be recorded at the registry. There may be some additional steps which Ms. Lancaster is looking into.

- **Cody Coutinho on behalf of Jason Reid – 42 Pocasset Ave – M 11 P 140**
  - **Title V Variance Request(s):**
    - 1) **Septic tank to property line 10' required: 4' proposed**
    - 2) **Leaching facility to property line 10' required: 3' proposed**
    - 3) **Leaching facility to foundation 20' required: 9' proposed**
    - 4) **Leaching facility to waterline 10' required: 8' proposed**

Mr. White officially recused himself because he is an abutter. Mr. Coutinho stated that the property currently has a cesspool with an overflow leaching pit on a neighboring lot. They are proposing to move this leaching pit and put in a septic tank and leaching field. He then presented the variance requests with the addition of a PVC liner to be installed around the foundation. Mr. White asked if they were going to fill the leaching pit on the neighboring property. Mr. Coutinho responded that they were planning on having it removed and they would notify the neighbor. Mr. White asked if they would be digging up the neighboring yard and if so they would need to ask for permission. Mr. Coutinho responded that he would let the neighbor know and that the area would be restored to its original state. Mr. Zinno made a motion to approve. All in favor.

**BOARD MEMBER DISCUSSION:**

- **Update on FOS meeting – Vineyard Haven NitRoe septic system installations**

Mr. Butterick stated that there was a presentation by Michael Loberg, from the Vineyard Haven Board of Health, at the recent Friends of Sengekontacket meeting. The presentation covered I/A systems and he proposed that Boards of Health should support all I/A systems and not focus on anyone particular system. Although it is the NitRoe system that they are using in Vineyard Haven.

**APPROVAL OF MINUTES:**

- **None**

**AGENT UPDATES:**

- **Gail Barmakian – 67 S. Circuit Ave. – Map 17 Parcel 47**
  - **Failure to upgrade cesspool – Non-compliance with Enforcement Order**

In 2013 the Board of Health allowed Ms. Barmakian 3 years from the date of transfer to have her system upgraded. The transfer occurred on February 24, 2014, so per the original order, the installation should have been completed by February 24, 2017.

It came to the attention of Ms. Lancaster in 2018 that this upgrade did not occur. Ms. Lancaster stated that an enforcement order was sent in September of 2018. The order required the system to be upgraded and a certificate of compliance to be issued within 9 months from receipt of the order. The date for completion was to be May 11, 2019. She has not yet received a plan, nor has the system been installed. Mr. White stated that he was surprised the work had not been completed as it was his understanding that Ms. Barmakian guaranteed that it would be completed. He asked if Ms. Barmakian had agreed to these terms.

Ms. Barmakian stated that she didn't believe that she had guaranteed anything but admitted to not being in compliance. Ms. Lancaster stated that the Board issued an order with a timeframe for correction so it wasn't necessarily up for debate.

Ms. Barmakian stated that she hired Chris Alley to do a plan, was told over a month ago the plan was ready, and that when she checked with him two weeks ago, Mr. alley said he was going before the Board last Tuesday. Ms. Lancaster stated that we didn't have a meeting last Tuesday. Ms. Barmakian went on to state that she has an emailed copy of the plan. At this point in the meeting, Mr. White asked Mr. Zinno to get Mr. Alley on the phone.

With Mr. Alley on speaker phone Mr. Zinno asked him what system he has designed for Ms. Barmakian. He responded that it was a standard Title V system at the same location that it was approved for in 2013. Mr. Zinno asked if it was the original plan. He responded that it was not exactly the same because the other owner was replacing the house but the leaching field is the exact same as the 2013 plan. Mr. White asked Mr. Alley if he was supposed to present this to the Board. He responded that eventually, yes, he would be presenting to the Board and went on to explain that the plan had been drafted on May 2<sup>nd</sup>.

Mr. Zinno asked Mr. Alley to email the plan to Ms. Lancaster and make sure that the application packet gets submitted as soon as possible. Some discussion was had amongst the Board members about their dissatisfaction

that the plan had not been submitted in a timely fashion and that a plan hadn't even been submitted by the required completion date.

Ms. Barmakian stated that she has a plan, somebody dropped the ball and she was sorry. She said that even if the plan was filed with the BOH she doesn't know if it would have been installed by now as she doesn't know how long these things take. Ms. Lancaster replied that it generally takes less than 9 months. Ms. Barmakian stated that she understands but it wasn't easy for her because some of the planning depended upon her wanting to redo the house and if she moved the house location the system would have to have be moved. Mr. White asked her if she kept in communication with Ms. Lancaster and she replied that she did not. She stated that she doesn't know what the protocol is. Mr. White responded, "communication". Ms. Barmakian stated that she did not know that so she just put in a plan because she knew the deadline was coming with the knowledge that if she redoes the house it may have to be taken out and changed again. She just doesn't have money right now to redo the house. Mr. Zinno stated that no matter where they system is installed it would still be in the same place. She replied that it could have been in 3 locations when she was working with Josh. The location that she has it she will have to redo the pipes and connect it from the opposite side of where it is connected now.

Mr. White expressed his concern that the project hadn't been completed in time and that it appeared that additional delays were occurring. A discussion amongst the Board and the applicant ensued and the applicant was reminded that 9 months had already passed and she was supposed to have the project completed and in the ground by now and the Board has not even received a plan yet. Ms. Barmakian responded that she didn't know how long it takes these things to get approved; she thought that maybe in a few weeks if it's a fairly simple installation. Ms. Barmakian asked for a "little leeway" upon receipt of the plan. She stated that the Board does have the ability for a type of waiver; they do not have to do something. She is asking for some type of forgiveness and acknowledged that she is late and in violation.

The Board and the Health Agent discussed what options might be available to them in terms of signing off on the permit, ensuring compliance is achieved and possibly levying fines. Ms. Barmakian asked if the Board would make her keep the house closed until the septic was installed. Ms. Lancaster stated that it was a possibility that they would be able to do that, she would have to confirm with Town Counsel.

Mr. Butterick stated that it has been more than 5 years since the closing in February of 2014 which was sufficient time to get this done and that given the house is seasonal he doesn't believe that it should be allowed to be occupied until the project is complete. Ms. Barmakian asked to not be punished as she does not believe the cesspool presents a serious enough environmental threat to warrant keeping the house closed. Mr. White asked if she was planning on renting it out this summer. She replied that she did have someone that needs a summer rental which would give her some income to pay for the upgraded system.

Mr. White again asked what options that Board may have for enforcement. Ms. Lancaster stated that failure to comply with the order may constitute grounds for legal action as the order reads in part, "whoever himself or by a servant or agent or as the servant or agent of any of the person or form or corporation which violates any reasonable health regulation for which no penalty by a way of fine or imprisonment or both is provided by law shall be punished by a fine of no more than \$200; every day in which said violation continues shall be considered a separate offence." Ms. Lancaster said she would have to speak with Mr. Goldsmith to see what further action could be taken.

Ms. Barmakian stated that that was all legal stuff but the purpose of the order is to get her to do something and if the Board of Health wanted to pursue further enforcement the Board could do that but it would cost the Town money. She then stated that she would get the installation completed because she now has the money to get the

work done. She offered to put the money in escrow to guarantee that she will get it done. Mr. Zinno stated that we cannot take the money in escrow and that she needs to commit to contracting an excavator to install the system right away. He feels the issue is that when this was discussed in September the path was for Ms. Barmakian to go get a plan, look into the other options, present a plan within a month or two, comeback with a plan and all of this was supposed to have been done a long time ago. Ms. Barmakian replied that she would love to do it in the next 30 days but doesn't know how long it takes. Mr. Zinno stated that our end won't take long. Mr. Butterick stated that we should pursue legal counsel with non-occupancy until this is done. Mr. White suggested that we go to Mr. Goldsmith to see what our legal options are and as we are doing that Ms. Barmakian needs to talk to Mr. Alley and get the plan in asap. Ms. Lancaster stated that if Mr. Alley gets the application packet in today then she will be able to sign off by the end of the day.

Ms. Lancaster confirmed with the Board that she will look into the occupancy issue or fining and as soon as she gets the plan she can sign off on it. She asked if the Board would like to set a time line for a contract to be presented for an installer. Ms. Barmakian stated that she could follow-up with Ms. Lancaster every other day with what progress has been made or not, to tell her who she called and if they called her back. Ms. Lancaster offered to send Ms. Barmakian the list of all the licensed installers in the Town. Mr. White stated that Mr. Alley, as her engineer, should be able to contact them on her behalf. Ms. Lancaster stated that they would re-issue another enforcement order so that this was all in writing as to what is going to be done. The order is going to indicate that there should be a signed contract with an installer received by the BOH by Thursday, May 30<sup>th</sup>. Mr. Barmakian agreed to these terms.

- **Asphalt Plant – Nuisance Air Pollution – Notification/Correspondence**

Ms. Lancaster stated that she has been talking with Jack Seidowicz from the MA DEP about the non-compliance of the asphalt plant. She has received multiple complaints primality while they were producing tarmac for the airport. The production level was very high and was more than they usually produce in the whole season. The complaints were mostly from the alpaca farm but also came from other abutters in the neighborhood. Currently, Chris Lynch is the owner of the plant and Stuart Fuller is the manager. They tried to take some steps to lessen the pollution, for instance by putting a sprinkler in the stack to lessen the particulate emissions and changing the bags in the bag house. She performed an inspection at the site where she observed particulates present in the air and a noticeable odor. The plant temporarily closed the operation the day before the DEP inspector came down although he met with Barbara at the alpaca farm and she showed him photos of the dust. The State is most likely going to be issuing a notice of non-compliance which would allow them to pursue further action if it continues to be an issue and they thought the BOH should send a letter as well. Since the plant has started up operations again she has received two more complaints.

- **Food Code Update Meetings**

The second food code update meeting was held on May 15<sup>th</sup> at the library. It was well attended and seemed very useful to the restaurant operators. They were very appreciative to get brought up to speed on the updated food code. This should help with inspections going forward. Ms. Lancaster would like to get set up with the Mail Chimp to do mass emails in the future. Meegan updated her ServSafe certificate and Lorna got her certificate as well.

Mr. Butterick made a motion to adjourn. All in favor.

Respectfully submitted by Lorna Welch, Administrative Assistant.

DOCUMENTS: Asphalt Plant Notice of Non-compliance