

**BOARD OF HEALTH MEETING
THURSDAY, MAY 14, 2009
DENNIS TOWN OFFICES
LARGE HEARING ROOM**

Present: Chairman Covell, Vice Chairman Perrino, Members Bird, Chamberlain and Bunce

Staff: Director Hayes, Secretary Hodgdon

Chairman Covell called the meeting to order at 7:00 p.m.

I. ACTION

**A. Raymod & Linda France-Show Cause Hearing for Show Cause Hearing for Failure to Comply with an Order to Correct a Violation of 310 CMR 15.000, The State Environmental Code, Title 5
178 SCHOOL STREET, WEST DENNIS**

Mr. Covell read the legal notice: A Show cause hearing for Raymond & Linda France for failure to comply with an order issued by the Health Department to correct a violation of 310 CMR 15.000, The State Environmental Code, Title 5, at 178 School Street, West Dennis, MA.

No one was present for the application. The applicant has contracted with Peter McEntee of Engineering Works, and has requested this item be removed from the agenda. There were no abutters present. Mr. Hayes recommended a continuance until Jun 11, 2009 as per his MEMO dated May 7, 2009.

Mr. Perrino moved to continue the application for Raymond & Linda France, 178 School Street, West Dennis, until June 11, 2009.

Ms. Chamberlain seconded the motion.

VOTED

**IN FAVOR 5
OPPOSED 0**

**B. Eric & Lynn Anderson – Variance Application (Addition – cont. from 4/9/09)
117 SOUTH STREET, EAST DENNIS**

Mr. Covell read the legal notice: A Show cause hearing for Eric & Lynn Anderson, who seek the following variance from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

Town of Dennis

Reg. 16.B: Variance requested to allow alterations to a dwelling in an Environmentally Sensitive Area (propose to finish basement).

Mr. Eric Anderson requested in writing to withdraw, without prejudice, their application for a variance related to their home at 117 South Street, East Dennis, MA.
There were no abutters present.

Ms. Chamberlain moved to approve the request to withdraw without prejudice for Eric & Lynn Anderson, 117 South Street, East Dennis.

Mr. Bunce seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

**C. Wayne D. Hicks-Variance Application (New Construction)
10 VILLAGE GREEN, DENNIS**

Mr. Covell read the legal notice: A variance application for Wayne d. Hicks, 10 Village Green, Dennis, who seeks the following variances from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

Chairman Covell stepped down for the application.

Town of Dennis

Reg. 16.B: Variance requested to allow new construction in an Environmentally Sensitive Area (Zone II).

David LaJoie, P.E., FELCO, Inc., and Wayne D. Hicks were present. Green cards were submitted. As per the MEMO dated May 6, 2009, they are proposing to construct a new, four-bedroom house on a 40,425+/- square foot lot. The proposed dwelling will also contain an office and family room on the first floor. There are no abutting wetlands. The property lies within a Zone II. The proposed septic system will consist of a 2,000 gallon septic tank and 3 4.8' x 8.3' leach chambers and has been designed for four bedrooms. I/A technology has not been included in the design.

Ms. Chamberlain asked about the headroom on the second floor, the plan shows two unfinished spaces that could be used as bedrooms in the future. Mr. Hicks said they do not intend to use those spaces as bedrooms. Mr. Hayes suggested the possibility of a deed restriction limiting the number of bedrooms. Mr. Perrino asked Mr. Hicks if he would accept a deed restriction. Mr. Hicks said yes. Mr. Perrino asked for abutters or anyone who wished to be heard. No response.

Ms. Chamberlain moved to approve the variance application for Wayne D. Hicks, 10 Village Green, Dennis, with the following conditions:

- 1. The dwelling shall be restricted to a total of four (4) bedrooms.**
- 2. Water-saving devices shall be installed and verified by the Dennis Plumbing Inspector.**

- 3. **No alteration of the floor plan to the dwelling without further review by the Board of Health.**
- 4. **Record variances and conditions at the Registry of Deeds to run with the property with a COPY TO THE HEALTH DEPARTMENT.**
- 5. **The design engineer shall submit a certified as-built plan, with elevations, to the Health Department.**

Ms. Bird seconded the motion.

VOTED

IN FAVOR 4

OPPOSED 0

Chairman Covell returned.

**D. Leonard & Lois Bouren-Variance Application (Easement for Existing System)
11 ELLIS DRIVE, DENNISPORT**

Mr. Covell read the legal notice: A variance application for Leonard & Lois Bouren, 11 Ellis Drive, Dennisport, who seek the following variances from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

Title 5

15.211(1)(5): Variance requested to allow a portion of the system to be located off site (195 Sea Street, Dennisport) with an easement.

Town of Dennis

Reg. 5.0: Variance requested to allow a portion of the system to be located off site (195 Sea Street, Dennisport) with an easement.

Robert Smith, Attorney, was present for the application. Green cards were submitted. As per the MEMO dated May 6, 2009, there are no plans for renovations to the building or the septic system on this property. When the applicants purchased the property in 2007, it was discovered that a portion of the septic system (soil absorption system) is located on the adjoining parcel at 195 Sea Street, Dennisport. They propose to leave the system where it is and they have drafted an agreement with the owners of 195 Sea Street, Christopher J. & Robert F. Barry (Barry Family Trust of June Nineteen Hundred Ninety Three) for an easement. A copy of the proposed easement is attached (to the MEMO) and will be executed upon approval of the variances.

Atty. Smith stated that there is an existing use easement in place and the neighbors at 195 Sea Street have already agreed to it. There were no abutters present.

Ms. Chamberlain moved to approve the variance application for an easement for Leonard & Lois Bouren, 11 Ellis Drive, Dennisport, as per the MEMO dated May 6, 2009.

Ms. Bird seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

**E. Sears Road Nominee Trust/Stephen & Patricia McGrail: Variance Application (New Construction – Re-build)
75 SEARS ROAD, EAST DENNIS**

Mr. Covell read the legal notice: A variance application for Sears Road Nominee Trust/Stephen & Patricia McGrail who seek a variance from the Town of Dennis Regulations for Subsurface Disposal of Sewage, for the property located at 75 Sears Road, East Dennis, MA.

Town of Dennis

Reg. 16.B: Variance requested to allow new construction in an Environmentally Sensitive Area.

Stephen & Patricia McGrail, and Thomas Moore were present. Mr. Moore submitted green cards. As per the MEMO dated May 6, 2009, the applicants propose to re-construct their fire damaged four-bedroom home. The property is located in a Zone II and the lot contains 52,869 square feet. The existing septic system was installed in 1991 and failed a Title 5 inspection on April 15, 2009 and therefore, will have to be upgraded. Plans for the new septic system have not been submitted with the variance application, as the owners are anxious to expedite the permitting process. Health Agent Meggan Tierney discussed this issue with Mr. Covell, who recommended that the variance application go forward and should the Board approve the application, they could place a condition that a new septic system shall be designed and installed prior to the release of the Certificate of Occupancy from the Building Department. Approval is not required by the Dennis Conservation Commission.

Mr. Perrino asked if the house had been demolished yet. Mr. Moore said it has to go through Historic first. Mr. Perrino also asked if the existing system could be used. Mr. Moore explained that the original plan was to use the existing septic, but it failed the Title 5 inspection. They are in the process of designing the new system and will apply when they are ready to apply to the building department. Mr. Hayes stated there is no public health issue and the applicants can take up to two (2) years to upgrade the septic system.

Mr. Covell asked for abutters. No response.

Mr. Perrino moved to approve the variance requested for Stephen & Patricia McGrail, 75 Sears Road, East Dennis. Mr. Bunce seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

F. Sherman & Kathleen Rivolla- Variance Application (Addition)
4 WILLOW WAY, SOUTH DENNIS

Mr. Covell read the legal notice: A variance application by Sherman & Kathleen Rivolla who seek variances from the Town of Dennis Regulations for Subsurface Disposal of Sewage, for the property located at 4 Willow Way, South Dennis, MA.

Town of Dennis

Reg. 16.B: Variance requested to allow an addition in an Environmentally Sensitive Area.

Reg. 16.B.2: Variance requested to allow the nitrogen loading to be 19 ppm (5 ppm required).

No one was present. A continuance is requested as per the May 14, 2009 letter from Bennett Engineering. Mr. Covell asked for abutters. None were present.

Ms. Chamberlain moved to continue the Variance Application (Addition) for Sherman & Kathleen Rivolla, 4 Willow Way, South Dennis, until the June 11, 2009 Board of Health meeting. Ms. Bird seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

G. Matthew D. Williams- Variance requested from the habitable Space Requirements of the State Sanitary Code, 105 CMR 410.000, Chapter II: Minimum Standards of Fitness for Human Habitation
3 MYRTLE LANE, DENNISPORT

Mr. Covell read the legal notice: Application by Matthew D. Williams, who seeks a variance from the habitable space requirements of The State Sanitary Code, 105 CMR 410.000, Chapter II: Minimum Standards of Fitness for Human Habitation, for the property located at 3 Myrtle Lane, Dennisport, MA.

Matthew Williams was present for the application. Mr. Williams explained that the property had been previously approved for an occupancy of five (5) for rental purposes before he purchased it, but when he applied for a rental permit this year he was approved for four (4) occupants. He would like to increase the occupancy to five (5) as per his letter dated April 13, 2009.

There were no abutters present.

Ms. Chamberlain moved to approve the variance requested to increase the number of occupants allowed to five (5) for Matthew D. Williams for the property located at 3 Myrtle Lane, Dennisport. Mr. Perrino seconded the motion.

VOTED

**IN FAVOR 5
OPPOSED 0**

**H. Victoria M. Thomas- Show Cause Hearing for Failure to Correct Violations of the State Sanitary Code, 105 CMR 410.000, Chapter II: Minimum Standards of Fitness for Human Habitation.
29 HAWTHORN STREET, SOUTH DENNIS**

Mr. Covell read the legal notice: A show cause hearing for failure to comply with an order issued by the Health Department to correct a violation of 105 CMR 410.000, The State Sanitary Code, Chapter II: Minimum Standards of Fitness for Human Habitation, for the property located at 29 Hawthorn Street, South Dennis, MA.

No one was present. See MEMO dated May 4, 2009. Mr. Hayes recommended to move forward to file a criminal complaint for failure to correct the violations. The Board inquired about zoning issues. Mr. Hayes said Brian Florence, Building Commissioner, is looking into the zoning issues. There were no abutters present.

Mr. Perrino moved to move forward to file a criminal complaint for Victoria M. Thomas for Failure to Correct Violations of the State Sanitary Code, CMR 410.000, Chapter II: Minimum Standards of Fitness for Human Habitation for the property located at 29 Hawthorn Street, South Dennis. Ms. Chamberlain seconded the motion.

VOTED

**IN FAVOR 5
OPPOSED 0**

**I. Cape Cod Realty Trust/Mary Ann Walsh- Show Cause Hearing for Failure to Correct Violations of 105 CMR 410.000: The State Sanitary Code, Chapter II: Minimum Standards of Fitness for Human Habitation (cont. from 4/9/09).
73 LOWER COUNTY ROAD, UNIT 5, DENNISPORT**

Mr. Covell read the legal notice: A continued show cause hearing for Cape Cod Realty Trust/Mary Ann Walsh for failure to comply with an order issued by the Health Department to correct violations of 105 CMR 410.000: The State Sanitary Code, Chapter II: Minimum Standards of Human Habitation, at 73 Lower County Road, Unit 5, Dennisport, MA.

No one was present. As per Mr. Hayes' recommendation and the MEMO dated May 1, 2009 drafted by Agent Jennifer Flood, stating that a re-inspection of Unit 5 was conducted on May 1, 2009 and the outstanding violations were found to be in compliance. The owner is in the process of renovating the unit and will schedule an inspection upon completion. There were no abutters present.

Ms. Chamberlain moved to continue the application for Cape Cod Realty Trust/Mary Ann Walsh, until June 11, 2009, for failure to correct Violations of 105 CMR 410.000: The State Sanitary Code, Chapter II: Minimum Standards of Fitness for Human Habitation for the property located at 73 Lower County Road, Unit 5, Dennisport until June 11, 2009. Ms. Bird seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

**J. B.M.M. Realty Trust/Richard Brown- Show Cause Hearing for Failure to comply with an order to Correct a Violation of 310 CMR 15.000, The State Environmental Code, Title 5 (cont. from 4/9/09)
81ACORN ROAD, EAST DENNIS**

Mr. Covell read the legal notice: A continued show cause hearing for B.M.M. Realty Trust/Richard Brown, for failure to comply with an order issued by the Health Department to correct a violation of 310 CMR 15.000, Title 5, The state Environmental Code, Title 5, at 81 Acorn Road, East Dennis, MA.

No one was present. Mr. Hayes stated that nothing has happened yet, and it's been two (2) years. There is a memo from Francine Brown, dated May 13, 2009, stating engineer Steve Moore has been hired and septic work is to be done by Rodney Fischer and Warren Miranda to begin no later than May 31, 2009. Mr. Hayes recommended continuing until the June 11, 2009 BOH meeting. There were no abutters present.

Mr. Perrino moved to continue the show cause hearing for B.M.M. Realty Trust/Richard Brown for 81 Acorn Road, East Dennis, for Failure to comply with an order to Correct a Violation of 310 CMR 15.000, The State Environmental Code, Title 5 (cont. from 4/9/09) until June 11, 2009. Ms. Chamberlain seconded the motion.

Mr. Covell said if work commences before June 11, 2009 the item will be taken off the agenda.

VOTED

IN FAVOR 5
OPPOSED 0

K. Daid Holt: Appeal of Order to Correct a Violation of 310 CMR 15.000, The State Environmental Code, Title 5.

401 MAIN STREET, UNIT 2, DENNISPORT

Mr. Covell read the legal notice: An appeal by David Holt, of an order issued by the Health Department to correct a violation of 310 CMR 15.000, Title 5, The State Environmental Code, Title 5, at 401 Main Street, Unit 2, Dennisport, MA.

David Holt was present as a result of a septic complaint filed by Dennis Police Dept. on March 23, 2009, for Unit 2. Mr. Holt is appealing the order to have the system pumped and a Title 5 Inspection. The system was pumped in 2006 and Mr. Holt maintains that there have been many police visits because of Mary Tauer, the tenant in Unit 2. He has had no septic problems with any of the other four (4) units and feels the tenant in Unit 2 is responsible for causing the problem.

Mr. Covell suggested the request for appeal be continued until the June 11, 2009 meeting to see if the issue surfaces again. Mr. Holt agreed. Mr. Covell also asked Mr. Holt to contact Mr. Hayes by or before June 11, 2009 and if the system is ok the matter will be continued until the July meeting. Mr. Covell asked if anyone else wished to comment on this issue. No response.

Ms. Bird moved to continue the application until June 11, 2009 for David Holt, 401 Main Street, Unit 2, Dennisport, for Appeal an Order to Correct a Violation of 310 CMR 15.000, The State Environmental Code, Title 5. Mr. Bunce seconded the motion.

VOTED**IN FAVOR 3****OPPOSED 0****ABSTAINED Ms. Chamberlain & Tom Perrino**

L. Roseangela Miller- Show Cause Hearing for Failure to Maintain an Operation & Maintenance Contract for the I/A Septic System (cont. from 4/9/09) 14 & 16 REDWING PLACE, DENNISPORT

Mr. Covell read the legal notice: A continued show cause hearing for Roseangela Miller, for noncompliance with 310 CMR 15.000: The State Environmental Code, Title 5, and The Town of Dennis Regulations for Subsurface Disposal of Sewage, at 14 & 16 Redwing Place, Dennisport, MA

No one was present. Mr. Hayes said Ms. Miller is working to contract with a new service provider, but as of this moment there is no I/A contract in place. Mr. Hayes suggested a continuance until June 11, 2009. There were no abutters present.

Mr. Perrino moved to continue until June 11, 2009 the Show Cause Hearing for Failure to Maintain an Operation & Maintenance Contract for the I/A Septic System (cont. from 4/9/09) for Roseangela Miller, 14 & 16 Redwing Place, Dennisport. Ms. Chamberlain seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

**M. Marilyn Spahr- Show Cause Hearing for Failure to Maintain an Operation & Maintenance Contract for the I/A Septic System (cont. from 4/9/09)
17 WAGER LANE, DENNIS**

Mr. Covell read the legal notice: A continued show cause hearing for Marilyn Spahr, for noncompliance with 310 CMR 15.000: The State Environmental Code, Title 5, and The Town Dennis Regulations for Subsurface Disposal of Sewage, at 17 Wager Lane, Dennis, MA.

No one was present on behalf of the owner. As per the letter, dated April 15, 2009 by Terry Hayes, Mr. Spahr called the department and said he was in the process of obtaining a new Operation & Maintenance agreement, and requested a continuance until the May 14, 2009 meeting which was approved. Mr. Hayes said there have been no further updates from the Spahrs and recommended to move forward to file a criminal complaint. No abutters were present.

Ms. Chamberlain moved to move forward to file a criminal complaint for Marilyn Spahr, for Failure to Maintain an Operation & Maintenance Contract for the I/A Septic System (cont. from 4/9/09) located at 17 Wager Lane, Dennis. Mr. Bunce seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

**N. John & Sandra Scott- Request for an extension to Variance Approval
Granted on 7/13/06
17 SCHOFIELD ROAD, DENNIS**

Mr. Covell read the legal notice: An application by John & Sandra Scott who request an extension to the July 13, 2006 variance granted for the installation of a septic system at 17 Schofield Road, Dennis, MA.

John Scott was present. Mr. Scott explained the need for an extension because the Historic approval took a little longer than expected. They received final approval from the Zoning Board of Appeals on September 5, 2008 and the appeal period for that was up on September 26, 2008. Mr. & Mrs. Scott intend to take down their summer home and rebuild and move here year round. Presently, due to the economy regarding financing and construction, they are seeking an extension to the Variance granted to them on July 13, 2006, as per the MEMO dated April 27, 2009.

Mr. Hayes stated that the extension request is reasonable. There were no abutters present.

Ms. Chamberlain moved to approve the request for an extension to the Variance Approval Granted on July 13, 2006, for one (1) year, to expire July 13, 2010, for John & Sandra Scott, for the property located at 17 Schofield Road, Dennis. Ms. Bird seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

**O. Lalit & Usha Gandhi- A Show Cause Hearing for Failure to Correct a Violation of The State Sanitary Code, Chapter II, 105 CMR 410.000.602(A): Minimum Standards for Human Habitation
393 MAIN STREET, DENNISPORT**

Mr. Covell read the legal notice: A show cause hearing for Lalit & Usha Gandhi for failure to comply with an order issued by the Health Department to correct a violation of The State Sanitary Code, Chapter II, 105 CMR 410.000(A): Minimum Standards of Fitness for Human Habitation, at 393 Main Street, Dennisport, MA.

No one was present. As per the MEMO dated May 13, 2009, Shawn Delude, owner of Nauset Disposal stated that trash removal service has been interrupted due to non-payment and the dumpster will not be removed until payment has been made. Mr. Hayes said he received an email from the Gandhis this week and discussed the situation with Fire Capt. Bob Tucker. Mr. Hayes also stated that, to his knowledge, there are still five (5) people still living there. He said the Gandhis are making an effort to correct this issue and recommended a continuance until the June 11, 2009 meeting. There were no abutters present.

Ms. Chamberlain moved to continue the Show Cause Hearing for Failure to Correct a Violation of The State Sanitary Code, Chapter II, 105 CMR 410.000.602(A): Minimum Standards for Human Habitation until June 11, 2009, Lalit & Usha Gandhi for the property located at 393 Main Street, Dennisport. Ms. Bird seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

II. AGENDA ITEMS

**1. James & Rita Colantonio- Review Proposed Plans to Add Habitable Space
193 NEW BOSTON ROAD, DENNIS**

James & Rita Colantonio were present for the application. They plan to move here year round and would like to extend their bedroom to include a bath and add an unheated sunroom on sono tubes. The septic system was installed in 2003. There was some discussion regarding

the best approach and Mr. Hayes ultimately suggested granting the request as requested. There were no abutters present.

Mr. Bunce moved to approve the request to Add Habitable Space as requested, for James & Rita Colantonio for the property located at 193 New Boston Road, Dennis.

Ms. Chamberlain seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

**2. William Edelhauser-Request to Reduce Testing & Service Requirements for FAST Treatment System
5 STARBOARD WAY, WEST DENNIS**

Mr. Edelhauser was present and is looking for a reduction to once a year. This property is used four (4) months a year. The tests support the request.

Mr. Perrino moved to reduce the testing and service requirements for the FAST Treatment System at 5 Starboard Way, West Dennis, William Edelhauser, to be tested one (1) time per year, to be done in late August.

Mr. Bunce seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

III. MINUTES

- **Work Session of March 26, 2009**

Mr. Perrino moved to approve the minutes of the March 26, 2009 Work Session meeting as printed. Ms. Bird seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

- **Regular Meeting of April 9, 2009**

Ms. Chamberlain moved to approve the minutes of the April 9, 2009 meeting as printed. Mr. Bunce seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

IV. OTHER BUSINESS

Mr. Covell stated that the June 11, 2009 Board of Health Meeting will begin at 7:30 P.M. instead of the usual 7:00 P.M.

The meeting adjourned at 7:55 P.M.

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