

**BOARD OF HEALTH MEETING
THURSDAY, OCTOBER 11, 2007
DENNIS TOWN OFFICES
LARGE HEARING ROOM**

PRESENT: Chairman Covell, Members Perrino, Livingston, Bird, and Chamberlain

STAFF: Director Hayes, Secretary Fabiano

I. ACTION

**A. Paula Howard- Variance Application (Addition- Cont. from 9/13/07)
77 CEDAR HILL ROAD, EAST DENNIS**

Mr. Covell read the legal notice: a variance application for Paula Howard, 77 Cedar Hill Road, East Dennis, who seeks the following variance from the Town of Dennis Regulation for Subsurface Disposal of Sewage:

Town of Dennis

Reg.16.B: Variance requested to allow for an addition/alteration of habitable space within an environmentally sensitive area.

Mr. Robin Wilcox was present on behalf of the applicant. Mr. Wilcox stated this is a continued application from September, in which revised plans have been submitted. The applicant has agreed to adhere to the Board Member's recommendations, and add ultraviolet treatment and IA technology to the current septic system.

Ms. Chamberlain moved to approve the variance application for Paula Howard, 77 Cedar Hill Road, East Dennis, as per memorandum of October 2, 2007, with the following conditions:

- 1. All prior conditions are to remain in effect with the property.**
- 2. A signed maintenance agreement for the alternative system shall be submitted to the Health Department, prior to the release of the Disposal System Construction Permit. The O & M agreement for the alternative system shall include a requirement for testing. This testing shall be conducted quarterly TKN, TSS, BOD5, pH, nitrate and temperature. After two (2) years of operation, the applicant shall return to the Board of Health for review of the alternative septic system.**
- 3. A signed operation and maintenance agreement for the ultraviolet disinfection unit shall be submitted to the Health Department prior to the release of the Disposal System Construction Permit. The effluent shall be tested for fecal coliform quarterly.**

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

**B. Robert & Virginia Yeo- Variance Application (Failed System)
74 MERCHANT AVENUE, WEST DENNIS**

Mr. Covell read the legal notice: a variance application for Robert & Virginia Yeo, 74 Merchant Avenue, West Dennis, who seek the following variances from the Massachusetts Department of Environmental Protection, Title 5, and the Town of Dennis Regulations for Subsurface Disposal of Sewage:

Title 5

- 15.211(1):** Variance of 8' requested from the soil absorption system to the property line.
Variance of 2.2' requested from the septic tank to the slab foundation.
Variance of 3.6' requested from the pump chamber to the slab foundation.
Variance of 5' requested from septic tank to the property line.
Variance of 5' requested from the pump chamber to the property line.
- 15.212(b):** Variance of 0.6' requested from the 5' separation requirement between the bottom of the soil absorption system and high groundwater.
- 15.248(1):** No reserve area provided.
- 15.255(5):** Variance of 3' requested from 5' requirement for the removal of impermeable soils from around the soil absorption system.
Variance requested from 5' requirement for the removal of impermeable (peat) soils from under the 12" leaching pipe and under the drain.
- 15.240(9):** Variance requested to allow less than 9" of cover over the pea stone on the soil absorption system.
- 15.104:** Variance requested to allow use of a sieve analysis alternative (C3 layer 4'+ below the watertable and C3 layer is not compacted – see sieve analysis).

Town of Dennis

- Reg. 9.0:** Variance of 8' requested from the soil absorption system to the property line.
Variance of 2.2' requested from the septic tank to the slab foundation.
Variance of 3.6' requested from the pump chamber to the slab foundation.
Variance of 5' requested from septic tank to the property line.
Variance of 5' requested from the pump chamber to the property line.
Variance of 14' requested from the soil absorption system to the top of the tank.

Variance of 7' requested from the soil absorption system to the high water line.

Reg. 15.0: No reserve area provided.

Mr. Ronald Cadillac, Professional Land Surveyor, was present on behalf of the applicants. Mr. Cadillac explained the dwelling is three bedrooms in size and it is located on the Fingers. Mr. Cadillac explained the applicant is seeking to have a two foot removal of soil around the leaching facility in lieu of the required five feet. Mr. Cadillac showed the Board Members the proposed design, stating there is a problem with the peet on the lot. The proposed design will be seeking approval from the State.

Ms. Chamberlain asked why the engineer has not proposed any nitrogen reduction or ultraviolet treatment in design. Ms. Chamberlain stated the Board has been consistent with requiring IA and UV in the area of the Fingers, given the sensitivity to nitrogen with the lagoon and the problem with high groundwater.

Mr. Cadillac told the Board Members that the owners are seeking financial assistant from the County for the upgrade, and the cost of IA technology may hinder that. The property is located 93' from the lagoon, and the septic system would be even further.

Ms. Chamberlain moved to deny the variance application for Robert & Virginia Yeo, 74 Merchant Avenue, West Dennis, as presented.

No one seconded the motion.

The motion was denied with a vote of 0-5.

Mr. Perrino moved to approve the variance application for Robert & Virginia Yeo, 74 Merchant Avenue, West Dennis, as per memorandum of October 1, 2007, with the following conditions:

- 1. A revised septic system plan is submitted to the Health Department showing the addition of IA technology and ultraviolet treatment.**
- 2. No garbage disposal.**
- 3. Water-saving devices shall be installed and verified by the Dennis Plumbing Inspector.**
- 4. No alteration to the floor plan of the dwelling without further review by the Board of Health.**
- 5. Record variances and conditions at the Registry of Deeds to run with the property, with a copy to the Health Department.**
- 6. The design engineer shall submit a certified as-built plan, with elevations, to the Health Department.**
- 7. A signed maintenance agreement for the alternative system shall be submitted to the Health Department, prior to the release of the Disposal System Construction Permit. The O & M agreement for the alternative system shall include a requirement for testing. This testing shall be conducted quarterly TKN, TSS, BOD5, pH, nitrate and temperature. After two (2) years of operation, the applicant shall**

return to the Board of Health for review of the alternative septic system.

- 8. A signed operation and maintenance agreement for the ultraviolet disinfection unit shall be submitted to the Health Department prior to the release of the Disposal System Construction Permit. The effluent shall be tested for fecal coliform quarterly.
- 9. A time-run meter shall be installed and hard-wired into the main electrical panel.
- 10. An engineered report shall be submitted to the Board of Health after any inundation of the system, due to flood or natural causes.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

**C. Stephen & Leah DeSantis- Variance Application (New Construction- Rebuild)
2 SHORE ROAD, WEST DENNIS**

Mr. Covell read the legal notice: a variance application for Stephen & Leah DeSantis, 2 Shore Road, West Dennis, who seek the following variances from the Massachusetts Department of Environmental Protection, and the Town of Dennis Regulations for Subsurface Disposal of Sewage:

Title 5

15.405(1)(b): Variance of 5.5' requested from the soil absorption system to the foundation.

Town of Dennis

Reg. 9.0: Variance of 5.5' requested from the soil absorption system to the foundation.

Mr. Covell stated a letter requesting a withdrawal of the application without prejudice.

Mr. Perrino moved to withdraw the variance application for Stephen & Leah DeSantis, 2 Shore Road, West Dennis, without prejudice.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 5
OPPOSED 0

**D. Henry Reeves- Variance Application (Addition)
30 HIGHBANK CIRCLE, DENNISPORT**

Mr. Covell read the legal notice: a variance application for Henry Reeves, 30 Highbank Circle, Dennisport, who seeks the following variance from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

Town of Dennis

Reg. 16.B: Variance requested to allow an alteration/addition of habitable space in an Environmentally Sensitive Area.

Alex Rainy, Contractor, was present on behalf of the applicant. Mr. Rainy stated the applicant is seeking approval to build an addition of habitable space to the dwelling which is located in an environmentally sensitive area. The number of bedrooms is not increasing.

Ms. Chamberlain stated that she would be seeking IA technology and ultraviolet treatment, since the current septic system was installed without it, and the applicants are seeking to increase the amount of habitable space.

Mr. Rainy asked if it would be possible to approve the variance application with a proviso the additional treatment be added to the current septic system.

Ms. Chamberlain moved to approve the variance application for Henry Reeves, 30 Highbank Circle, Dennisport, as per memorandum of October 1, 2007, with the following conditions:

- 1. A revised septic system plan is submitted to the Health Department showing the addition of IA technology and ultraviolet treatment.**
- 2. No garbage disposal.**
- 3. Water-saving devices shall be installed and verified by the Dennis Plumbing Inspector.**
- 4. No alteration to the floor plan of the dwelling without further review by the Board of Health.**
- 5. Record variances and conditions at the Registry of Deeds to run with the property, with a copy to the Health Department.**
- 6. The design engineer shall submit a certified as-built plan, with elevations, to the Health Department.**
- 7. A signed maintenance agreement for the alternative system shall be submitted to the Health Department, prior to the release of the Disposal System Construction Permit. The O & M agreement for the alternative system shall include a requirement for testing. This testing shall be conducted quarterly for TKN, TSS, BOD5, pH, nitrate, and temperature. After two (2) years of operation, the applicant shall return to the Board of Health for review of the alternative septic system.**
- 8. A signed operation and maintenance agreement for the ultraviolet disinfection unit shall be submitted to the Health Department prior to the release of the Disposal System Construction Permit. The effluent shall be tested for fecal coliform quarterly.**

- 9. A time-run meter shall be installed and hard-wired into the main electrical panel.
- 10. An engineered report shall be submitted to the Board of Health after any inundation of the system, due to flood or natural causes.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 5
 OPPOSED 0

E. The Cork Qualified Personal Residence Trust, Michael & Marybeth Noonon, Tr.- Variance Application (Addition)
75 CROCKER'S PATH, EAST DENNIS

Mr. Covell read the legal notice: a variance application for 75 Crocker's Path, East Dennis, 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 an alteration/addition of habitable space in an Environmentally Sensitive Area.

Todd Labarge, Engineer, was present on behalf of the applicant. Mr. Labarge explained the applicant is seeking approval for two different properties this evening. The two properties are owned by the same people, and they are trying to combine them into a family compound. The applicant's have sought approval from the Zoning Board. This particular parcel is seeking a variance to build a detached garage with a living space above it. The applicant wishes to connect the plumbing to the existing septic system. This detached garage will be used essentially for a summer guest house.

Mr. Perrino moved to approve the variance application for The Cork Qualified Personal Residence Trust, Michael & Marybeth Noonon, Tr., 75 Crocker's Path, East Dennis, as per memorandum of October 1, 2007, with the following conditions,

- 1. No garbage disposal.
- 2. Water-saving devices shall be installed and verified by the Dennis Plumbing Inspector.
- 3. No alteration to the floor plan of 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.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 5
 OPPOSED 0

**F. The Cork Qualified Personal Residence Trust, Michael & Marybeth Noonon, Tr.- Variance Application (Addition)
91 CROCKER'S PATH, EAST DENNIS**

Mr. Covell read the legal notice: a variance application for 75 Crocker's Path, East Dennis, 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 new construction in an Environmentally Sensitive Area.

Mr. Todd Labarge, Engineer, was present on behalf of the applicant. The project involves the demolition of the existing dwelling and new construction of an eight-bedroom home.

Mr. Hayes stated the design of the septic system is very conservative.

Ms. Chamberlain moved to approve the variance application for The Cork Qualified Personal Residence Trust, Michael & Marybeth Noonon, Tr., 91 Crocker's Path, East Dennis, as per memorandum of October 1, 2007, with the following conditions

- 1. No garbage disposal.**
- 2. Water-saving devices shall be installed and verified by the Dennis Plumbing Inspector.**
- 3. No alteration to the floor plan of 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.**
- 6. A signed maintenance agreement for the alternative system shall be submitted to the Health Department, prior to the release of the Disposal System Construction Permit. The O & M agreement for the alternative system shall include a requirement for testing. This testing shall be conducted quarterly for TKN, TSS, BOD5, pH, nitrate, and temperature. After two (2) years of operation, the applicant shall return to the Board of Health for review of the alternative septic system.**
- 7. A signed operation and maintenance agreement for the ultraviolet disinfection unit shall be submitted to the Health Department prior to the release of the Disposal System Construction Permit. The effluent shall be tested for fecal coliform quarterly.**
- 8. A time-run meter shall be installed and hard-wired into the main electrical panel.**

- 9. An engineered report shall be submitted to the Board of Health after any inundation of the system, due to flood or natural causes.

Ms. Bird seconded the motion.

VOTED

IN FAVOR 5
 OPPOSED 0

**G. Elizabeth Gail Hayden/Kilameen Cois, Tra, LLC- Variance Application (New Construction)
 7 RIVERSIDE WAY, WEST DENNIS**

Mr. Covell read the legal notice: a variance application by Elisabeth Gail Hayden, 7 Riverside Way, West Dennis, who seeks the following variances from the Massachusetts Department of Environmental Protection, Title 5, and the Town of Dennis Regulations for Subsurface Disposal of Sewage:

Title 5

- 15.211(1):** Variance of 7' requested from the soil absorption system to the lot line (street).
 Variance of 9' requested from the reserve soil absorption system to the lot line (street).
 Variance of 5' requested from the reserve soil absorption system to the lot line (side).
 Variance of 5' requested from the septic tank to the foundation (slab).

Town of Dennis

- Reg. 9.0:** Variance of 7' requested from the soil absorption system to the lot line (street).
 Variance of 9' requested from the reserve soil absorption system to the lot line (street).
 Variance of 5' requested from the reserve soil absorption system to the lot line (side).
 Variance of 5' requested from the septic tank to the foundation (slab).
- Reg. 16.B:** Variance requested to allow new construction in an Environmentally Sensitive Area and relief from additional criteria of Regulation 16.B, as deemed just by the Board.

Mr. Robert Perry was present on behalf of the applicant. Mr. Perry told the Board Members there will be some revisions that he has already spoken to Director Hayes about. The house foundation will be raised ½' to 1' to meet street grade requirements. This is a tear down and rebuild of a four -bedroom home, with a septic system that will have innovative and alternative technology and ultraviolet treatment. It is a proposed

Singular system, with a cultech flat leaching bed. Mr. Perry explained the remainder of the project to the Board Members.

Mr. Livingston moved to approve the variance application for Elizabeth Gail Hayden, 7 Riverside Way, West Dennis, as per memorandum of October 2, 2007, with the following conditions:

1. No garbage disposal.
2. Water-saving devices shall be installed and verified by the Dennis Plumbing Inspector.
3. No alteration to the floor plan of 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.
6. A signed maintenance agreement for the alternative system shall be submitted to the Health Department, prior to the release of the Disposal System Construction Permit. The O & M agreement for the alternative system shall include a requirement for testing. This testing shall be conducted quarterly for TKN, TSS, BOD5, pH, nitrate, and temperature. After two (2) years of operation, the applicant shall return to the Board of Health for review of the alternative septic system.
7. A signed operation and maintenance agreement for the ultraviolet disinfection unit shall be submitted to the Health Department prior to the release of the Disposal System Construction Permit. The effluent shall be tested for fecal coliform quarterly.
8. A time-run meter shall be installed and hard-wired into the main electrical panel.
9. An engineered report shall be submitted to the Board of Health after any inundation of the system, due to flood or natural causes.

Ms. Chamberlain seconded the motion, subject to receipt of revised plan showing the revisions that the Health Director discussed with Mr. Perry.

VOTED

IN FAVOR 5
OPPOSED 0

**H. Port Sea Esta Condo. Association- Appeal of Order to Correct a Violation of 310 CMR 15.000, The State Environmental Code, Title 5 (Cont. from 8/9/07)
49 INMAN ROAD, DENNISPORT**

Mr. Covell read the legal notice.

Mr. Hayes indicated the septic system was tested and passed by the Title 5 Septic System Inspector, Dan Speakman. Mr. Hayes witnessed the inspection, and requested the Board Members rescind the order to upgrade the septic system.

Ms. Chamberlain moved to rescind the order to upgrade the septic system located at 49 Inman Road, Dennisport, Port Sea Esta Condominiums.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 5

OPPOSED 0

- I. **Thomas & Jan Dexter- Appeal of the Order to Correct a Violation of 310 CMR 15.000, The State Environmental Code, Title 5
241 OLD WHARF ROAD, CHASE'S OCEAN GROVE, COTTAGE
#150, DENNISPORT**

Mr. Covell read the legal notice.

Mr. Livingston stepped down.

Thomas Dexter was present and stated the septic system had been inspected prior to the partial collapse of the cesspool. As noted in a letter from Agent Singleton, no sewage was noted at the time of the collapse. The septic system has not been used since the partial collapse, and it is only covered by pieces of plywood for the time being. Mr. Dexter is seeking to repair the collapsed cesspool without doing a full upgrade, and is seeking advice from the Board of Health.

Mr. Hayes stated that the Department of Environmental Protection views the sight as one parcel of land, with individual ownership of dwellings and sewage systems. At this time, the Board of Health does not have any oversight at this location, where DEP has jurisdiction. Mr. Hayes recommended Mr. Dexter contact the Southeast Regional Office for DEP (Brian Dudley) to resolve the matter.

A lengthy discussion regarding the safety of an open cesspool took place, and whose jurisdiction it is oversee the completion of an upgrade.

Brian Dudley, Stacy Singleton and Terry all visited the site. Mr. Hayes and Mr. Dudley had seen signs of recent installations of new cesspools at the site, and the Health Department can not issue any kind of permits to repair cesspools. Mr. Hayes indicated that he has to draft a letter to the owner of Chase's Ocean Grove, Jeff Chase, stating the property is in violation of Mass DEP's Title 5 code. The situation is out of the Health Department's hands at this point in time.

Bill Bystrom, owner of a cottage in Chase's Ocean Grove, was present and asked if there was anything the Health Department or Board of Health could do regarding the open hole. Mr. Bystrom stated he feels it is a safety issue.

Mr. Hayes responded the Health Department can not issue a permit or an order at this level. Any correspondence must come from DEP.

A discussion of the safety of the residents took place.

Mr. Perrino instructed Mr. Dexter to contact DEP regarding the full upgrade of the septic system, and in the mean time, come in to Health Department and request an emergency repair for the cesspool, in order to get it covered. The system should still be usable, and it at this time, it is not in use for the fall and winter months.

Ms. Chamberlain moved to deny the appeal of an order to correct a violation of 310 CMR 15.000, The State Environmental Code, Title 5, for Thomas and Jan Dexter, 241 Old Wharf Road, Unit 150, Dennisport.

Ms. Bird seconded the motion.

VOTED

**IN FAVOR 4 (Livingston abstained)
OPPOSED 0**

J. Anthony & Maureen Powers- 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 83 UNCLE ROLF'S ROAD, DENNISPORT

Mr. Covell read the legal notice.

Ms. Maureen Powers, owner, was present. A prior rental occupancy permit had been issued for six persons. Ms. Powers is seeking to increase her maximum occupancy from five persons to six. Ms. Power's property is 40 sq. ft. shy of the required 610 square feet.

Ms. Chamberlain moved to approve the variance request for Anthony and Maureen Powers, 83 Uncle Rolf Road, Dennisport, and allow for a maximum occupancy of six persons.

Mr. Livingston seconded the motion.

VOTED

**IN FAVOR 5
OPPOSED 0**

K. Ellen Davies- Show Cause Hearing for Non-Compliance with an Order to Correct violations of the State Sanitary Code, 105 CMR 410.000, Minimum Standards for Fitness for Human Habitation 69 CLIPPER LANE, DENNISPORT

Mr. Covell read the legal notice.

Ms. Ellen Davies was present. Ms. Davies stated the home had belonged to her deceased mother. Ms. Davies stated that after an initial attempt to rent the dwelling, she and her siblings have decided that a family member will be purchasing the dwelling and residing in it. She no longer is in need of a Rental Occupancy Permit.

Ms. Bird moved to remove the show cause hearing for Ellen Davies, 69 Clipper Lane, Dennisport, from the agenda.

Mr. Livingston seconded the motion.

VOTED

**IN FAVOR 5
OPPOSED 0**

L. Patrick McKeown, Ex. VP, Christy's of Cape Cod, LLC, - Show Cause Hearing for Violation of the Town of Dennis By-Law for the Sale and Distribution of Tobacco Products, Section II-b CHRISTY'S OF CAPE COD #605, 515 MAIN STREET, DENNISPORT

Mr. Covell stepped down.

Mr. Perrino read the legal notice.

Mr. Christy Mihos, owner of Christy's of Cape Cod, LLC, was present. Mr. Mihos apologized to the Board for the mistake in sale, and stated it would not happen again. The last offense for Christy's was approximately five years ago.

Ms. Chamberlain moved to issue a warning to Christy's of Cape Cod, LLC, for the violation of the Town of Dennis By-Law for the Sale and Distribution of Tobacco Products, Section II-b.

Mr. Livingston seconded the motion.

VOTED

**IN FAVOR 4 (Covell abstained)
OPPOSED 0**

**M. Donald I Porcaro- Show Cause Hearing for Violation of the Town of Dennis By-Law for the Sale and Distribution of Tobacco Products, Section II-b
PORCARO'S MARKET & DELI, 238 LOWER COUNTY ROAD, DENNISPORT**

Mr. Covell stepped down.

Mr. Perrino read the legal notice.

Donald Porcaro, store owner, was present. Mr. Porcaro's father sold the cigarettes to the minor. Mr. Porcaro stated he did ask the girl for identification after the sale, of which the minor told him no and left the store. Mr. Porcaro explained it is the policy of the store that no clerk goes after anyone outside of the store.

Ms. Chamberlain moved to issue a warning to Donald I. Porcaro, Porcaro's Market & Deli, for the violation of the Town of Dennis By-Law for the Sale and Distribution of Tobacco Products, Section II-b.

Mr. Livingston seconded the motion.

VOTED

**IN FAVOR 4 (Covell abstained)
OPPOSED 0**

N. VOTE to Approve Proposed Amendment to the Town of Dennis Swimming Pool Regulations, Regulation 4: COMPLIANCED – BASED SURCHARGES, Sections A, B, &C

Ms. Chamberlain moved to approve the proposed amendments to the Town of Dennis Swimming Pool Regulations, Regulation 4: COMPLIANCED BASED SURCHARGES, Sections A, B & C as printed.

Ms. Bird seconded the motion.

VOTED

**IN FAVOR 5
OPPOSED 0**

NOTE: Ms. Chamberlain requested that she be known as Diane T Chamberlain on any legal document.

II. MINUTES

- 1. Regular Meeting of September 13, 2007**

Ms. Chamberlain moved to approve the minutes of the Regular Meeting of the Board of Health, September 13, 2007, as printed.

Mr. Chamberlain seconded the motion.

VOTED

IN FAVOR 4 (Bird abstained)

OPPOSED 0

2. Work Session of September 27, 2007

Ms. Chamberlain moved to continue the approval of the minutes of the Work Session of September 27, 2007 to the November 8, 2007 meeting.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 4 (Covell abstained)

OPPOSED 0

The meeting adjourned at 8:35 p.m.