

**BOARD OF HEALTH MEETING
THURSDAY JUNE 14, 2007
LARGE HEARING ROOM
DENNIS TOWN OFFICES**

PRESENT: Chairman Covell, Members Perrino, Livingston and Chamberlain

STAFF: Director Hayes, Secretary Clarke

ABSENT: Member Bird

Chairman Covell called the meeting to order at 7:05

I. ADMINISTRATIVE BUSINESS

**REORGANIZATION OF THE BOARD: Elect Chairman, Vice
Chairman & Clerk.**

Chairman Covell turned the meeting over to Director Terence Hayes. Director Hayes asked the Board if they had any nominations for the selected positions. Diane Chamberlain nominated Mr. Paul Covell as Chairman of the Dennis Board of Health. Curt Livingston seconded the motion.

Director Hayes turned the meeting back to Mr. Covell.

Ms. Chamberlain nominated Mr. Thomas Perrino as Vice Chairman of the Dennis Board of Health. Mr. Livingston seconded the motion.

Mr. Curt Livingston nominated Ms. Diane Chamberlain as Clerk for the Dennis Board of Health. Mr. Perrino seconded the motion.

VOTED

**IN FAVOR 4
OPPOSED 0**

II. ACTION

- A. Vadium & Olga Radunsky- Variance Application (Addition-
Cont. from 3/8/2007)
13 BAY LEAF WAY, UNIT 2, WEST DENNIS**

Mr. Covell read the legal notice: a variance by Vadium & Olga Radunsky, 13 Bay Leaf, Unit 2, 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 7' requested from the soil absorption system to the north property line.
- Variance of 7' requested from the soil absorption system to the west property line.
- Variance of 12' requested from the soil absorption system to the foundation wall.
- Variance of 5' requested from the septic tank to the property line.
- Variance of 2' requested from the septic tank to the foundation wall.
- 15.248(1): No reserve area provided.

Town of Dennis

- Reg. 9.0: Variance of 7' requested from the soil absorption system to the north property line.
- Variance of 7' requested from the soil absorption system to the west property line.
- Variance of 12' requested from the soil absorption system to the foundation wall.
- Variance of 5' requested from the septic tank to the property line.
- Reg. 9.0: Variance of 2' requested from the septic tank to the foundation wall.
- Reg. 16.B: Variance requested to allow an addition in an Environmentally Sensitive Area, as defined by Reg. 9.3A.
- Reg. 15.0: No reserve area provided.

Ms. Linda Pinto, P.E., of Bennett & O'Reilly submitted a letter requesting a continuance to the August 9, 2007 Board of Health Meeting.

Ms. Chamberlain moved to continue the variance application by Vadium & Olga Radunsky, 13 Bay Leaf Way, Unit 2, West Dennis, to the August 9, 2007 Board of Health Meeting.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 4
OPPOSED 0

- B. Richard C. & Judith P. Watts- Variance Application (Voluntary Upgrade)
15 WHIG STREET, DENNIS**

Mr. Covell read the legal notice: a variance application for Richard C. & Judith P. Watts, 15 Whig Street, Dennis, who seeks the following variances from the regulations of the Massachusetts Department of Environmental Protection, Title 5 and the Town of Dennis Regulation for Subsurface Disposal of Sewage:

Title 5

- 15.211(1):** Variance of 5' requested from the soil absorption system to the west property line.
Variance of 2' requested from the soil absorption system to the cellar wall.
- 15.212(b):** Variance of 2' requested from the 5' separation requirement between the bottom of the soil absorption system and groundwater.
- 15.248(1):** No reserve area provided (removal and replacement requested)

Town of Dennis

- Reg. 9.0:** Variance of 5' requested from the soil absorption system to the west property line.
Variance of 2' requested from the soil absorption system to the cellar wall.
- Reg. 15.0:** No reserve area provided (removal and replacement requested).
- Reg. 9.3A:** Variance requested to allow construction on an Environmentally Sensitive Area.

Mr. Keith Fernandes, of Bennett & O'Reilly, was present on behalf of the applicant, Mr. Richard Watts. Mr. Watts is looking to upgrade the existing septic system. Mr. Fernandes explained the new flow of the system. He explained that it will now be flowing into a 1500 gallon septic tank, then into a two compartment pump chamber. The flow will then be pumped into a re-circulating sand filter and then into a distribution box. Mr. Fernandes explained the requested variances. Mr. Fernandes noted that there is a miscalculation on the proposed plan. He noted that the leaching fields will be raised 2". He informed the Board members that revised plans will be submitted to the Health Department. Mr. Fernandes opened his proposal up to the Board members for questions.

Mr. Hayes said he had no comments on the plan and that it was a tough site.

Mr. Curt Livingston moved to approve the variance application by Richard C. & Judith P. Watts, 15 Whig Street, Dennis as per memorandum of June 7, 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 of the floor plan to the dwelling without further review by the Board of Health.**

4. The exposed retaining wall shall have a soil, vegetative to textured covering.
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 ot 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 coli form 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.

Ms. Chamberlain seconded the motion.

VOTED

IN FAVOR 4
OPPOSED 0

- C. Philomena Kelley Nominee Trust/Dublin Construction: Variance Application (NEW CONSTRUCTION)
73 CHANDLER DRIVE, SOUTH DENNIS

Mr. Covell read the legal notice: a variance application for Philomena Kelley Nominee Trust/Dublin Construction, 73 Chandler Drive, South Dennis, 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 new construction on an Environmentally Sensitive Area.

Mr. Robin Wilcox, of Sweetser Engineering, submitted a letter asking to have the variance application withdrawn without prejudice.

Mr. Curt Livingston moved to approve the request to have the variance for Philomena Kelley Nominee Trust/Dublin Construction, 73 Chandler Drive, South Dennis, withdrawn without prejudice as per memorandum of June 7, 2007.

Ms. Chamberlain seconded the motion.

VOTED

IN FAVOR 4
OPPOSED 0

D. Rotondi Realty Trust/Joseph Rotondi: Variance Application (FAILED SYSTEM)
7 SQUADRILLI WAY, DENNIS

Mr. Covell read the legal notice: a variance application for Rotondi Realty Trust/Joseph Rotondi, 7 Squadrilli Way, Dennis, who seeks the following variance from the regulations of the Massachusetts Department of Environmental Protection, Title 5:

Title 5

15.260(8): Permission requested to utilize a tight tank. The dwelling is to be restricted to seasonal use (6 months of less).

Mr. Steve Haas, of Eagle Surveying & Engineering, and the owner, Mr. Joseph Rotondi were present. Previously, Mr. Rotondi had a system designed with a septic tank and a pump chamber. The current Title 5 Code allows seasonal homes to take advantage of tight tanks. This would eliminate the pump chamber and vaulted leaching system. Mr. Rotondi is looking for the Board's approval of the tight tank system. There needs to be a deed restriction on the property that only allows it to be a seasonal use property. Seasonal use is considered 6 months of the year or less.

Director Hayes stated that he thinks this is a win-win situation for both the homeowner, and the Dennis Board of Health. He says this will preserve the environment.

Mr. Covell stated that this will still require Department of Environmental Protection approval.

Mr. Perrino moved to approve the variance application by Rotondi Realty Trust/Joseph Rotondi, 7 Squadrilli Way, Dennis as per memorandum of June 7, 2007, with the following conditions:

1. The dwelling shall be restricted to seasonal use (six months or less per year) only.
2. Record variances and conditions at the Registry of Deeds to run with the property with a COPY TO THE HEALTH DEPARTMENT.

Ms. Chamberlain seconded the motion.

VOTED

IN FAVOR 4
OPPOSED 0

**E. Robert K. Duby Trust/Robert Duby-Variance Application(Addition)
19 PINEFIELD LANE, SOUTH DENNIS**

Mr. Covell read the legal notice: a variance application for Robert K. Duby Trust/Robert Duby, 19 Pinefield Lane, South Dennis, 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 addition and alteration of habitable space in an Environmentally Sensitive Area.

Mr. Dan Croteau, P.E., of Moran Engineering, Mr. Robert K. Duby and builder George Blakely were present. It was noted that a portion of the lot is wetland and in an environmentally sensitive area. Mr. Croteau explained that the 8' x 10' section of the deck is going to be changed into a kitchen. Also a 4' x 10' entry porch is going to be added at the front door. The added portion of the kitchen will be supported by beams. There is going to be no addition to the foundation. Mr. Croteau also noted that the plans have been before the Dennis Historic Commission and have been approved. The existing septic tank is going to be replaced by a Singulair system with an Ultraviolet disinfectant unit. The existing nitrogen loading of the system is 7.3 ppm and the proposed nitrogen loading will be 4.75 ppm.

Mr. Perrino asked if the existing leaching field was going to still be used.

Mr. Croteau confirmed that the existing leaching field would still be used.

Mr. Perrino then states that this was based on a prior variance and it should be re-stated.

Mr. Hayes stated that this project is considered new construction because of the change in bedroom numbers from 2 to 4. Existing capacity of the system was for 2 bedrooms. This is not a local upgrade approval according to Mr. Hayes.

A discussion took place of what is considered new construction.

Mr. Duby was under the impression that originally this house was designed for 3 bedrooms.

Mr. Croteau stated that the Dennis Assessors Office has this property listed as a 3 bedroom dwelling.

Ms. Chamberlain moved to approve the variance application for Robert K. Duby Trust/Robert Duby, 19 Pinefield Lane, South Dennis as per memorandum of June 7, 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 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.
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.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 4
 OPPOSED 0

**F. Robert & Elizabeth McCormack-Variance requested from Habitable Space Requirements of the State Sanitary Code, Chapter II, Minimum Standards of Fitness for Human Habitation
 27 BEACHPLUM LANE, DENNISPORT**

Mr. Covell read the legal notice: A variance requested from Habitable Space Requirements of the State Sanitary Code, 105 CMR 410.000, Chapter II, Minimum Standards of Fitness for Human Habitation for Robert & Elizabeth McCormack, 27 Beachplum Lane, Dennisport.

Mr. Robert McCormack, owner, was present. Mr. McCormack is requesting a variance for his cottage. He would like to change his occupancy from 5 occupants to 6 occupants. When the cottage was inspected, it measured 21 square feet shy of having the extra occupant. There is no history of a rental permit on file with the Dennis Health Department. The owner continued to explain the number of beds in the cottage and his reasoning for wanting the extra occupant.

Ms. Chamberlain moved to approve the variance request for Robert & Elizabeth McCormack, 27 Beachplum Lane, Dennisport, and allow for a maximum occupancy of six (6) occupants.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 4

OPPOSED 0

**G. Dean & Darren Blasé-Variance Requested from Habitable Space Requirements of the State Sanitary Code, 105 CMR 410.000, Chapter II, Minimum Standards of Fitness for Human Habitation
51 BAYVIEW ROAD, UNIT 4, DENNIS**

Mr. Covell read the legal notice: A variance requested from Habitable Space Requirements of the State Sanitary Code, 105 CMR 410.000, Chapter II, Minimum Standards of Fitness for Human Habitation for Dean & Darren Blasé, 51 Bayview Road, Unit 4, Dennis.

Dean & Darren Blasé, owners, were present. Ms. Blasé stated that the cottage was purchased on March 20, 2006. An inspection was done on May 4, 2007, and the occupancy was determined to be 3. Ms. Blasé would like to have occupancy changed to 6 as it was in previous years. Ms. Blasé presented Board members with a copy of a rental permit from 2005.

Ms. Chamberlain moved to approve the variance request for Dean & Darren Blasé, 51 Bayview Road, Unit 4, Dennis, and allow for maximum occupancy of six (6) occupants.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 4

OPPOSED 0

**H. Neil Crowley-Variance requested from Habitable Space Requirements of the State Sanitary Code, 105 CMR 410.000, Chapter II, Minimum Standards of Fitness for Human Habitation
32 MYRTLE ROAD, DENNISPORT**

Mr. Covell read the legal notice: A variance requested from Habitable Space Requirements of the State Sanitary Code, 105 CMR 410.000, Chapter II, Minimum Standards of Fitness for Human Habitation for Neil Crowley, 32 Myrtle Road, Dennisport.

Ms. Cynthia Crowley, owner, was present. Ms. Crowley would like to have the maximum occupancy changed from 4 occupants to 6 occupants. In 1984, the rental permit was issued for

5 occupants. In 1996, the rental permit was issued for 4 occupants. The owner presented the Board members with her copy of a 2006 rental permit, issued for 6 occupants.

Mr. Perrino asked how many bedrooms are in the property.

It was noted that there are two (2) bedrooms and the porch does not count as habitable square footage.

Ms. Chamberlain moved to approve the variance request for Neil Crowley, 32 Myrtle Road, Dennisport, and allow for a maximum occupancy for six (6) occupants.

Mr. Livingston seconded the motion.

VOTED

**IN FAVOR 4
OPPOSED 0**

**I. William Baker-Appeal of Order to Correct a Violation of the State Sanitary Code, 105 CMR 410.000, Minimum Standards of Fitness for Human Habitation
72 OLD MAIN STREET, SOUTH DENNIS**

Mr. Covell read the legal notice: Appeal of the order issued by the Health Department to correct a violation of The State Sanitary Code, Chapter II, 410.602 (A), at the property located at 72 Old Main Street, South Dennis.

Mr. William Baker, owner, was present. Mr. Baker stated that David Reid and Mr. Terence Hayes have been in communication regarding the property. Mr. Baker stated that his neighbor has made a good effort to clean up the property.

Ms. Chamberlain moved to vacate the order at 72 Old Main Street, South Dennis, issued to William Baker.

Mr. Livingston seconded the motion.

VOTED

**IN FAVOR 4
OPPOSED 0**

**J. Robert H. Derbes- Show Cause Hearing for Non-Compliance with an Order to Correct a Violation of The State Environmental Code, Title 5, 310 CMR 15.000
100 BLEAK HOUSE CIRCLE, DENNIS**

Mr. Liam Anderson, P.E, was present on behalf of the homeowner. Mr. Anderson stated that he was brought into the situation after the original certified letter was received by the homeowner. He stated that there was some concern about the retaining wall and possible effluent leaking. Mr. Anderson stated that there was sampling done at the property and the samples came back with no effluent present. Mr. Anderson also stated that there is a sprinkler system behind the wall that could possibly be leaking. It was noted that the backside of the wall is clay and is completely soaked. It was Mr. Anderson's opinion that there is no breakout of sewage; just standing water. Mr. Anderson stated that the homeowner did not respond originally because there was a passing Title 5 inspection report on file. They would be happy to replace the system if needed, but would like to know the situation before doing so. Based on the sampling, the owner is asking that the system not have to be replaced.

Mr. Hayes spoke with Mr. Anderson and the owner's son-in-law. Mr. Hayes agrees with Mr. Anderson on the fact that it is only saturated ground and not sewerage. Results show there is a very low nitrate number. Also, the fact that there is no fecal matter, leads Mr. Hayes to believe this is not a sewage breakout.

Mr. Livingston moved to vacate the order of 100 Bleak House Circle, Dennis, Robert H. Derbes.

Ms. Chamberlain seconded the motion.

VOTED

IN FAVOR 4
OPPOSED 0

**K. Charles Meader, General Manager/The Soundings Seaside Resort-
Appeal an Order to Correct a Violation of The Food Code 105 CMR
590.000, State Sanitary Code, Chapter X , Minimum Standards for a
Food Establishment
79 CHASE AVENUE, DENNISPORT**

Mr. Charles Meader, General Manager of the Soundings Seaside Resort LLC, and Courtney Dubois, Certified Food Manager, were present. Mr. Meader informed the Board members that barbequed food is offered to their guests at the pool during the summer months. Hamburgers, hot dogs and chicken are being served. Mr. Meader also informed the Board that the food was being prepared in the kitchen on-premises and brought out to poolside to a refrigeration unit. The meat is being purchased from Ferretis Market in Brewster. The Board was informed that if food was not used by the second day, it was disposed of. Mr. Meader is looking for variance to serve barbequed food poolside.

Mr. Covell stated that he was aware of this matter about a month ago.

Mr. Meader stated that the property was sold on May 11, 2007. Mr. Hayes informed Mr. Meader upon transfer of property, they would need to apply for new licenses. Ownership has changed to Soundings Resort LLC.

Mr. Covell stated that if the Board granted the variance, that in the future, the variance would transfer, but the permits are not transferable.

Mr. Hayes requested that Mr. Meader put his intentions for the pool area in writing and submit it to the Dennis Health Department.

Ms. Chamberlain moved to approve the variance for the Soundings Seaside Resort LLC.

Mr. Livingston seconded the motion.

VOTED

IN FAVOR 4
OPPOSED 0

L. VOTE to Approve Proposed Amendment to the Town of Dennis Sale and Distribution of Tobacco Products By-Law, Section III: Violations and Penalties.

Mr. Perrino stated that the regulations were looked at during a previous work session. The only suggestion that Mr. Perrino had was that the language be changed. He suggested that the fine requirements state “up to” before the fees. This would give the Board some discretion as to the offense and the fees that may apply.

Mr. Livingston stated that he didn’t think that first time offenders should be fined depending on years of operation.

Mr. Hayes stated that it was under Massachusetts General Law that first time offenders be fined.

Mr. Livingston is looking for some leniency with first time offenders.

Mr. Perrino stated that his general suggestion carries through all three (3) regulation changes. He also stated that after third offenses, there should be a license suspension from the Board of Health.

Mr. Hayes suggested holding off on signing the regulations until the July 12, 2007 Board of Health meeting.

Ms. Chamberlain moved to continue the regulation approval to the July 12, 2007 Board of Health meeting.

Mr. Livingston seconded motion.

VOTED

IN FAVOR 4
OPPOSED 0

M. VOTE to Approve Proposed Amendment to the Town of Dennis Board of Health Tobacco Control Regulations, Section X: Violations and Penalties

Ms. Chamberlain moved to continue the regulation approval to the July 12, 2007 Board of Health meeting.

Mr. Livingston seconded motion.

VOTED

IN FAVOR 4
OPPOSED 0

N. VOTE to Approve Proposed Amendment to the Dennis Board of Health Regulations Enforced with Non-Criminal Citations, Section 2.7.17: Violation of Tobacco Control Regulations

Ms. Chamberlain moved to continue the regulation approval to the July 12, 2007 Board of Health meeting.

Mr. Livingston seconded motion.

VOTED

IN FAVOR 4
OPPOSED 0

III. MINUTES

- **Minutes approved from Board of Health Meeting, May 10, 2007**

Mr. Perrino noted that on page three (3), Agenda Item I-A., paragraph four , the line should read: "Mr. Covell *read* comments to the faxed/mailed oppositions."

Ms. Chamberlain moved to approve the minutes from May 10, 2007. Mr. Livingston seconded motion.

VOTED

IN FAVOR 4
OPPOSED 0

Meeting adjourned at 7:55 p.m.

jc