

**TOWN OF ORLEANS – BOARD OF HEALTH
MINUTES OF MEETING**

January 5, 2023

The Orleans Board of Health (BOH) convened this meeting in the Nauset Room of the Orleans Town Hall on Thursday, January 5, 2023. This was a hybrid meeting.

The Board of Health members present were: Chairman Joseph Hartung, Vice Chairman Mr. John Smith, Board Clerk Mr. Sims McGrath, and Mr. John Kanaga. Mr. Luke Chapman was unable to attend.

Also present were: Health Agent Alex Fitch; Thomas Robbins, owner of 4 Twiss Road; Ken Fearn, owner of 41 Winslow Drive; Brian Allard, owner of 14 Locust Road; Dillan Hoyt (Shoreline Pools) representing Betsy Rosenfield, owner of 163 Pochet Road, and Select Board liaison Kevin Galligan.

Chairman Joseph Hartung called this meeting of the Orleans Board of Health (BOH) to order at 2:00 p.m. and explained how the public can participate in the meeting remotely or through real-time public access provided by Orleans Channel 18 on the Town website and local cable television.

Agenda Item 1 - Public and Press.

Select Board Liaison Mr. Galligan spoke to the progress at the last weekly meeting regarding the Wastewater treatment facility. He stated that the substantial completion of their deliberations will occur within two weeks and that the target vote date is Feb 15, 2023. The BOH will then be notified and will be asked to work on the letter (draft to be provided), presumably at its March 9th meeting. The letter will notify owners of the expected completion date. Owners will have one year to comply.

Ms. Fitch confirmed that the updated letter, which has been drafted along with Town Counsel, will be on the agenda for the next BOH meeting.

No one was present representing the press.

Agenda Item 2 – Variance Request – 4 Twiss Road.

Thomas Robbins, owner of 4 Twiss Road, appeared via ZOOM to request a variance to the Above Ground Storage Tank (AGFST) Regulations. He does have a contract in place, but the date of installation is unknown and depends on when the oil in the existing single walled tanks is depleted. This is a seasonal property which is currently being used only on weekends, so the single walled tanks will likely remain in use until May.

According to Town records, 4 Twiss Road has two single walled oil tanks in the basement, which were installed in February 1988.

Section 185-136 (C) of our AGFST Regulation states that

“All existing indoor above ground single wall fuel storage tanks and associated piping not meeting the design standards set forth in § 185-135 of this regulation shall be removed as set forth below.” And goes on to state that indoor tanks installed prior to July 1, 1992 are required to be removed by January 1, 2023.”

Section 185-141 states that

“Variances from these regulations may be granted by the Orleans Board of Health after a hearing at which the applicant establishes the following: A. The enforcement thereof would do manifest injustice. B. The installation, operation, and maintenance of a storage tank will not adversely affect the public or private water resources.”

In granting a variance, the Board will take into consideration the groundwater flow, soil conditions, and depth to groundwater, size, shape, and slope of the lot and existing and known future water supplies.

Ms. Fitch noted that 4 Twiss Road is not in a Zone II and is not within 100 feet of a drinking water well.

There were no abutters present.

On a motion by Mr. McGrath and seconded by Mr. Kanaga, in the matter of 4 Twiss Road, the BOH voted to approve the variance request for a 90 (ninety) day extension from date of application for the installation of the AGFST. With no further discussion, the roll call vote was 4-0-0.

Agenda Item 3 – Variance Request – 41 Winslow Drive.

Mr. Ken Fearn, owner of 41 Winslow Drive, appeared via ZOOM to request a variance to the AGFST Regulations. They are converting to natural gas, though the date this will happen has not been firmly established.

According to Town records 41 Winslow Drive has an indoor, single walled tank in the basement that was installed in November 1987. Again, section 185-36 (C) states in part that indoor tanks installed prior to July 1, 1992 are required to be removed by January 1, 2023.

In addition, it states that

“Variances from these regulations may be granted by the Orleans Board of Health after a hearing at which the applicant establishes the following: A. The enforcement thereof would do manifest injustice. B. The installation, operation, and maintenance of a storage tank will not adversely affect the public or private water resources.”

“In granting a variance, the Board will take into consideration the groundwater flow, soil conditions, and depth to groundwater, size, shape, and slope of the lot and existing and known future water supplies.”

There were no abutters present.

Mr. Fearn stated that he has a contract with the plumber and has already submitted an application to National Grid. Since he and his wife are in their 80’s he would not want to be without heat while conversion is being done. The requested extension seems to fit with what National Grid’s schedule.

On a motion by Mr. McGrath and seconded by Mr. Kanaga, in the matter of 41 Winslow Drive and the AGFST regulations, understanding that the applicant is working with National Grid and has a contract with a plumber, and that the HD has a copy on file of the application with National Grid to supply natural gas to the house to replace the oil tank altogether, the BOH voted to approve the extension to June 1, 2023 so that there is adequate time to implement this change. There being no further discussion, the roll call vote was 4-0-0.

Agenda Item 4 – Variance Request – 14 Locust Road.

Brian Allard, owner of 14 Locust Road, was present to ask for an extension to May 1, 2023 to comply with the AGFST regulation. He is currently experiencing several hardships, making it difficult to comply until this spring. He is currently looking into other possibilities for heating as well, i.e. natural gas, heat pumps, etc.

According to Town records, 14 Locust has an indoor, single walled tank with an unknown installation date. The owner indicates it was installed sometime prior to 1983. For the record, section 185-36 (C) states in part that indoor tanks installed prior to July 1, 1992 are required to be removed by January 1, 2023.

Variances from these regulations may be granted by the Orleans Board of Health after a hearing at which the applicant establishes that:

- A. The enforcement thereof would do manifest injustice.
- B. The installation, operation, and maintenance of a storage tank will not adversely affect the public or private water resources.

The property is not located in a Zone II. There were no abutters present.

Since Mr. Allard has an appointment with an engineering firm for Feb 1, 2023, the BOH agreed that his application is reasonable.

On a motion by Mr. Smith and seconded by Mr. Kanaga, in the matter of 14 Locust Road, the Board of Health voted to approve a variance to May 1, 2023 at the latest, for the single walled oil tank removal, and that there be a plan in place for that tank removal. With no further discussion, the roll call vote was 4-0-0.

Agenda Item 5 – Variance Request – 163 Pochet Road.

Dillan Hoyt from Shoreline Pools appeared, representing Betsy Rosenfield, owner of 163 Pochet Road. The owner has requested a variance to Chapter 147 of the Code of Orleans. The proposed swimming pool fence will be 24 feet from the apron of the pool at its farthest point, which requires a 4-foot variance.

Chapter 147 of the Code of Orleans regulates the fencing around residential, outdoor swimming pools. The bylaw states that

“every residential, outdoor swimming pool shall be totally enclosed by a fence or solid structure four (4) feet in height, firmly secured at ground level, with no opening, holes or spaces larger than four (4) inches in any direction. Such fence or structure, including gates therein, shall not be less than four (4) feet above finished grade, and any gate shall be made self-closing and be equipped with a self-closing safety latch placed at a minimum height of four (4) feet from ground level on the inside of the gate or otherwise made inaccessible from the outside of the gate. For the purpose of this paragraph, an exterior door of a dwelling house can be used in lieu of a gate when such dwelling house is used to satisfy, in whole or in part, the enclosure requirements of this bylaw. Each swimming pool fence enclosure, as defined above, shall be placed at a distance no greater than twenty (20) feet from the apron of the pool.”

The Board of Health is empowered to grant variances to this provision after a public hearing and a determination by the Board that the public health and safety can be protected without strict adherence to the provisions of the bylaw.

Safety measures included are:

- The pool area will be fully enclosed by 4 foot high fence;
- The two gates in the fence leading into the pool will have alarmed latches;
- There will be no obstructions of views into the pool area;
- There will be an automatic safety pool cover.

(Note that there are no doors from dwelling or pool cabana into the gated pool area.)

On a motion by Mr. Smith and seconded by Mr. McGrath, in the matter of 163 Pochet Road, the Board of Health voted to approve a four (4) foot variance where twenty feet is required for fencing enclosing the pool area, with the provisos that the two gates entering the pool area be alarmed and that there be an automatic pool cover installed. With no further discussion, the roll call vote was 4-0-0.

Agenda Item 6 – Approve Minutes.

- November 3, 2022.

(Mr. McGrath abstained since he did not attend the meeting and stated that although he approved the minutes as clerk, he approved as a matter of form, not to content.)

On a motion by Mr. Smith and seconded by Mr. Kanaga, the Board of Health voted to approve the Meeting Minutes dated November 3, 2022. With no further discussion, the roll call vote was 3-0-1.

- November 17, 2022.

On a motion by Mr. Kanaga and seconded by Mr. McGrath, the Board of Health voted to approve the Meeting Minutes dated November 17, 2022. With no further discussion, the roll call vote was 4-0-0.

Agenda Item 7 - Administrative.

- Food Establishment and Farmer’s Market Permits for Nauset Juice

A new business, Nauset Juice, has applied for a food establishment and farmers market permit. They propose to produce and bottle raw, cold pressed, unpasteurized juices.

Nauset Juice proposes to use a commercial kitchen at a local church that has held its own food service permit with the Town for many years and is in good standing with the HD. The Nauset Juice business owners have submitted ingredients lists and an HACCP plan, in addition to all the standard requirements for each permit application.

The HD has communicated with Nauset Juice that unpasteurized juice is a high risk food, and Asst. Health Agent Kelly Messier has been doing a lot of research and organizing to help Nauset Juice be compliant with any and all regulations specifically pertaining to juice.

Ms. Fitch stated that the Board can approve both permit applications, but requested that it do so pending any additional paperwork, pre-opening inspections and requirements from the Health Department.

Ms. Fitch assured the Board that the HD has had experience and a history of successful administration of raw juices (with Stop and Shop).

On a motion by Mr. McGrath and seconded by Mr. Kanaga, in the matter of Nauset Juice, the Board of Health voted to approve both permits pending the administrative approval of the Health Department. Without further discussion, the roll call vote was 4-0-0.

Agenda Item 8 – Health Agent’s Report

Ms. Fitch stated that 252 AGFST order letters were sent out by certified mail on January 4, 2023.. The letter reflected the changes discussed at the last meeting and give recipients until March 1, 2023 to address their single walled fuel storage tank. She will continue to provide updates as this unfolds.

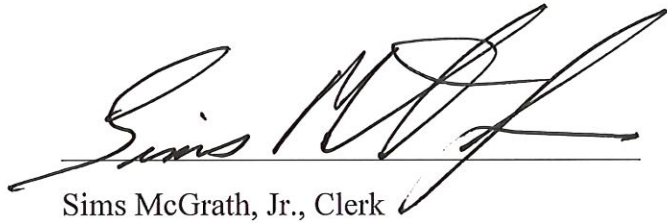
Agenda Item 9 - Adjournment.

On a motion by Mr. Hartung and seconded by Mr. Kanaga, the Board of Health voted to adjourn this meeting of the Orleans Board of Health at 2:31 p.m. Without further discussion, the roll call vote was 4-0-0.

Respectfully submitted,



Valerie Petersen, Board Secretary



Sims McGrath, Jr., Clerk

February 16, 2023

Date Approved/Accepted