

TOWN OF ORLEANS – BOARD OF HEALTH

MINUTES OF MEETING

March 2, 2023

The Orleans Board of Health (BOH) convened this meeting in the Nauset Room of the Orleans Town Hall on Thursday, March 2, 2023. This was a hybrid meeting.

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

Also present were: Health Agent Alexandra Fitch; Dillan Hoyt of Shoreline Pools (via ZOOM), representing Paul & Laurie Fraser, owners of 10 Safe Harbor Road; abutter Christopher van Tassle (135 Brick Hill Rd.); Board of Water and Sewer Commissioners Chair Alan McLennan; Orleans Fire Inspector Greg Baker, 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.

No one was present representing public or press.

Agenda Item 2 –Variance Request – 10 Safe Harbor Road.

Dillan Hoyt of Shoreline Pools was present to represent owners Paul & Laurie Fraser, who are requesting a variance to Chapter 147 of the Code of Orleans regulates the fencing around residential outdoor swimming pools. They have proposed erecting a swimming pool fence that will be 70 feet from the apron of the pool at its farthest point, which will require a 50-foot variance.

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.

Mr. Hoyt addressed the Board's questions, assuring that all doors will have alarms (including those from the shed), and that alarms will not be battery operated, but hard wired. He also stated that there is a clear site to the pool area (i.e. there no vegetation around the pool area), and that there will be an automatic pool cover.

Abutter Christopher van Tassel, 135 Brick Hill Road, had no issue with the variance other than to ask if the lot lines could be clearly delineated so as to assure that the fence would not violate lot lines. He indicated that there have been no boundary markers going back at least a century. Mr. Hoyt stated that the location of the dwelling was done by Ryder Wilcox, but that a subcontractor will be doing the fencing work. He will suggest staking the lot line.

Mr. Kanaga stated that lot lines are out of the BOH purview and that, while there is faith in Ryder Wilcox, the abutter may wish to obtain his own survey.

On a motion by Mr. Smith and seconded by Mr. Kanaga, in the matter of 10 Safe Harbor Road, the Board of Health voted to approve the variance of 50 feet where 20 feet is required for the distance from the pool to the farthest place along the fence line, with the proviso that all doors into the enclosure be alarmed, that there be an automatic pool cover, and that all gates and doors from the shed be alarmed as well. There being no further discussion, the roll call vote was 3-0-0.

Agenda Item 3 –Discussion and Vote on Sewer Connection Letters.

Alan McLennan, Chair of the Orleans Board of Water and Sewer Commissioners, read, for the record, his letter dated March 2, 2023 to BOH Chair Mr. Hartung which states that, with the successful completion of the wastewater treatment facility, the Massachusetts Dept. of Environmental Protection (DEP) has approved the plans and issued to Orleans a groundwater discharge permit. The letter, quoted below, also states that the Health Department (HD) can proceed to issue sewer hookup orders to those properties in Phase I.

*Joe Hartung, Chairman
Orleans Board of Health
Town Hall
19 School Road
Orleans, MA 02653*

March 2, 2023

Dear Mr. Hartung,

At a regularly scheduled meeting of the Board of Water and Sewer Commissioners held on February 15, 2023, the Board voted unanimously that the construction of the new wastewater treatment facility located at 29 Overland Way had reached substantial completion and was

ready to begin operations, subject to the completion of three outstanding issues. As of this date, those three issues have been satisfied.

In addition, on February 15, 2023 the Town received notification from the Southeast Regional Office of the Department of Environmental Protection of Massachusetts Executive Office of Energy and Environmental Affairs that the Groundwater Discharge Permit #993 had received the Clear Water Test Approval. The approval letter contained the following: "MassDEP is satisfied that the WWTF was constructed in accordance with the engineering plans and hereby approves the operation of the Orleans WWTF."

Therefore, the Board of Health can notify all users in the Downtown Sewer System of their obligation to tie into the system.

Very truly yours,

*Alan McClennen, Chair
Board of Water and Sewer Commissioners*

Ms. Fitch stated that approximately 780 sewer connection order letters will go out in the mail on Thursday, March 9. The meeting packets included two versions of the letter. One is for the majority of properties and the other will be for the handful who have alternate connection dates. Both of these are final drafts and have been approved by Town Counsel. She also stated that the HD will be handling abandonment permits as Mr. Daley approves engineering plans.

Mr. McLennan pointed out that the Barnstable County low (or zero) interest loan program for septic improvements has been expanded to include sewer hookups and will be rebranded as the "Aqua Fund."

On a motion by Mr. Hartung and seconded by Mr. Kanaga, in the matter of the Sewer Connection Letters, the BOH voted to approve the letters and authorize the Health Department to send them out. There being no further discussion, the roll call vote was 3-0-0.

Agenda Item 4 – Discussion on Above Ground Fuel and Chemical Storage Tank (AGFST) Violation Orders and Vote to Authorize Health Agent to Issue Fines.

In January the Board discussed the Above Ground Fuel and Chemical Storage Tank Regulations and the order letters that were mailed out to property owners on January 3. At this time, the BOH decided to give the letter recipients until March 1, 2023 to either remove their single-walled tank or provide evidence to the Health Department that they were under contract to have them removed. As of March 1, the data indicates that there were 47 properties in violation of the AGFST regulation. (The meeting packets contain a final draft of the violation letter and violation notices.) The Health Department met with Town Counsel, who weighed in on the violation notice and process for issuing fines. The BOH needs to vote to authorize the Health Agent to issue the AGFST fines.

There was some discussion regarding process. Ms. Fitch explained that if someone wants to appeal the ticket they would have to go to the Orleans District Court Magistrate. The HD can issue \$250 per

day, but the language is such that the HD is not obligated to do so. It was agreed to give people a chance to respond or to go before the BOH to request a variance. To be clear, however, once issued, the fines can only be appealed before the Magistrate. (Mr. Kanaga pointed out that it might be advisable for those going before the Magistrate to contest fines to first seek a variance from the BOH if appropriate.)

Inspector Baker from the Orleans Fire Department (FD) stated that the FD has been calling all those in violation and has encountered a number of scenarios, including some who no longer have oil heat or oil tanks, some properties that cannot comply due to probate matters, and some which do not have property managers and therefore cannot provide access to the dwelling until summer. He did confirm for Mr. Smith that oil tanks must be removed even if they are no longer in use.

On a motion by Mr. Kanaga and seconded by Mr. Smith , in the matter of the Above Ground Fuel and Chemical Storage Tank Violation Orders and Vote to Authorize Health Agent to Issue Fines, the BOH voted to approve the letter and to authorize the Health Agent to issue an initial fine of \$250, with the follow-up letter dated March 9th to ticket another \$250, with the matter of additional fines to be discussed at the March 16th meeting of the BOH. There being no further discussion, the roll call vote was 3-0-0.

Agenda Item 5 – Approve Minutes.

- February 2, 2023.

On a motion by Mr. Smith and seconded by Mr. Kanaga, the Board of Health voted to approve the Meeting Minutes dated February 2, 2023. With no further discussion, the roll call vote was 3-0-0.

Agenda Item 6 – Administrative.

- Septic Installer License Approval – True North Construction.

True North Construction has applied for a Septic Installer License. The company is based in Yarmouth and has licenses in Yarmouth, Sandwich and Plymouth. The Health Department has already conducted an interview and exam and feels comfortable recommending True North Construction for a license.

On a motion by Mr. Kanaga and seconded by Mr. Smith, in the matter of the Septic Installer License for True North Construction, the BOH voted to approve the license. There being no further discussion, the roll call vote was 3-0-0.

Agenda Item 7 – Health Agent’s Report.

- Opioid Abatement Funds Update.

Orleans has received the first payment as well as confirmation that the second installment will be received this summer. A warrant article to establish a stabilization fund for the Opioid Abatement funds will be voted on at the upcoming annual Town meeting. For planning

purposes, the BOH can submit a warrant article at the October Special Town Meeting (STM) to establish an appropriation account that the Board can then expend monies from.

In the meantime, the HD will put together information on how other Cape Cod towns are moving forward. For example, Harwich created a working group that included the Health Agent and Police Chief to best determine where the funds should be directed.

Ms. Fitch pointed out that there is time before the HD has access to the money, which will allow the BOH to consider how it would like to handle this responsibility.

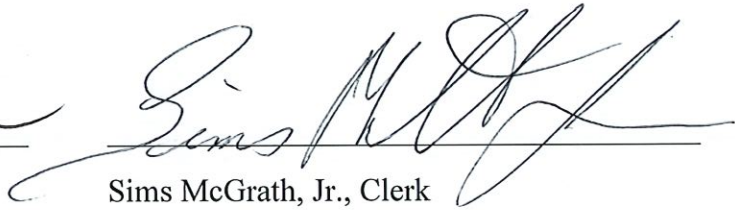
Agenda Item 8 – Adjournment.

On a motion by Mr. Kanaga and seconded by Mr. Hartung, the Board of Health voted to adjourn this meeting of the Orleans Board of Health at 2:43 p.m. Without further discussion, the roll call vote was 3-0-0.

Respectfully submitted,



Valerie Petersen, Board Secretary



Sims McGrath, Jr., Clerk

April 20, 2023

Date Approved/Accepted

