

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

February 16, 2023

The Orleans Board of Health (BOH) convened this meeting in the Nauset Room of the Orleans Town Hall on Thursday, February 16, 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, Mr. John Kanaga, and Mr. Luke Chapman.

Also present were: Health Agent Alex Fitch; Stephanie Sequin from Ryder & Wilcox, representing 38 Old Timer's Lane owner Sean Xenos, and also representing 100 Tonset Road owners David and Catherine Ferraresi; 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 – 38 Old Timer's Lane.

Stephanie Sequin from Ryder & Wilcox, Inc. was present representing 38 Old Timer's Lane owner Sean Xenos, who has requested a variance to Orleans Code 185-108(A) to allow for a sewage disposal system (SDS) as part of new construction on the property.

38 Old Timers Lane is a currently a vacant lot. In the past there was a two-bedroom dwelling with a Title 5 system, but it has been vacant for a period of time. There is currently an approved and active building permit for a two-bedroom dwelling with an approved two-bedroom Title 5 system, and they are hoping to amend the bedroom count of that building permit with the approval of an Innovate/Alternative (I/A) system.

The lot is 20,038 square feet. Therefore, per our Nutrient Management Regulations, construction is restricted to two bedrooms.

Section 185-108(A) states in part that no Disposal Works Construction Permit shall be issued

“unless the proposed system is designed to receive or shall receive four hundred forty (440) gallons per day or less per forty thousand square feet (40,000) of lot area or ratio thereof.”

The Board of Health can grant variances to the Nutrient Management Regulations (NMRs). The 38 Old Timers Lane variance request falls under Section 185-109(1)(A), for variance requests not demonstrating a hardship. This section states that for

“residential lots less than 40,000 square feet the Board may allow, by variance, an additional 110 gallons per day over the number allowed by § 185-108A and B with the use of an Innovative/Alternative Nutrient Reducing (I/A) Technology in conjunction with the on-site subsurface sewage disposal system.”

Mr. Smith asked if the homeowner was aware that at some future date the property may be in Phase III of the proposed sewer system. If this does in fact happen, Mr. Smith said they will have a dispensation for residual time up to ten years before they must connect. Ms. Sequin will pass that information along.

There were no abutters present.

On a motion by Mr. McGrath and seconded by Mr. Kanaga, in the matter of 38 Old Timer’s Lane, and the variance for a 3-bedroom house on a 20,039 square foot parcel, the BOH voted to approve the variance, finding that the nitrogen loading calculations for the three-bedroom denitrifying septic system are an environmental benefit over the standard Title V for a two-bedroom house and to include the standard requirements as listed by the Health Agent as follows:

To state the specific Department of Environmental Protection (DEP) approved I/A technology being installed:

- **Installation and operation must meet all DEP conditions of approval;**
- **The system must be under and operation and maintenance agreement throughout its life;**
- **Effluent must maintain a total nitrogen concentration of 19 ppm or less;**
- **In addition to any testing required by the DEP, the owner must test the effluent quarterly for Biological Oxygen Demand (BOD), Total Suspended Solids (TSS) and Total Nitrogen;**
- **Copies of the analysis must be submitted to the Orleans Health Department within thirty days of the sampling date;**
- **Disclosure of the requirement and use of I/A technology shall be recorded at the Registry of Deeds.**

There being no further discussion, the roll call vote was 5-0-0.

Agenda Item 3 – Variance Request – 100 Tonset Road.

Stephanie Sequin from Ryder & Wilcox, Inc. was present representing 100 Tonset Road owners David and Catherine Ferraresi, who have requested a variance to 310 CMR 15.229(1)(a) which states in part that

“the septic tank shall have a minimum effective volume of 1,500 gallons.”

The existing system at 100 Tonset Road includes a 1,000 gallon septic tank, therefore a variance is required to allow a pump to be added to this system.

In this case, the standard of review is as follows:

“Variances shall be granted only when, in the opinion of the Approving Authority: (a) The person requesting a variance has established that enforcement of the provision of 310 CMR 15.000 from which a variance is sought would be manifestly unjust, considering all the relevant facts and circumstances of the individual case; and (b) The person requesting a variance has established that a level of environmental protection that is at least equivalent to that provided under 310 CMR 15.000 can be achieved without strict application of the provision of 310 CMR 15.000 from which a variance is sought.”

100 Tonset Road has proposed to build an addition, which will include a new bathroom on the first floor. Due to circumstances that Ms. Sequin described in her letter dated February 3, 2023, the new plumbing fixtures will require a sewage ejector pump.

The owners have already met the requirements in 310 CMR 15.229(1), which states that

“pumping of sewage to a septic tank may be approved by the Approving Authority for a single family dwelling provided that the volume of sewage pumped is less than 25% of the design flow of the system.”

There were no abutters present.

On a motion by Mr. McGrath and seconded by Mr. Kanaga, in the matter of 100 Tonset Road, the BOH voted to approve the variance request with the installation of a non-grinder pump on a 1,000 gallon septic tank. There being no further discussion, the roll call vote was 5-0-0.

Agenda Item 4 – Approve Minutes.

- January 5, 2023.

On a motion by Mr. Kanaga and seconded by Mr. Smith, the Board of Health voted to approve the Meeting Minutes dated January 5, 2023. With no further discussion, the roll call vote was 4-0-1, with Mr. Chapman abstaining.

- January 19, 2023.

On a motion by Mr. Kanaga and seconded by Mr. Smith, the Board of Health voted to approve the Meeting Minutes dated January 19, 2023. With no further discussion, the roll call vote was 4-0-1, with Mr. McGrath abstaining.

Agenda Item 5 – Administrative.

Septic Installer License Approval - LaMountain Bros Inc.

LaMountain Bros Inc., based in Oxford, MA. applied for a license in Orleans specifically to

do the sewer connection work at the Alltown Mobile gas station. The HD interviewed the applicant and is comfortable with the Board approving their license.

On a motion by Mr. Kanaga and seconded by Mr. McGrath, in the matter of LaMountain Bros., the Board of Health voted to approve their application for a Septic Installer License. There being no further discussion, the roll call vote was 5-0-0.

Agenda Item 6 – Health Agent’s Report.

Sewer Connection Reminder Letters

As requested by the Board, reminder letters regarding Alternate Connection Dates were sent out February 9th. While doing research on these properties, it was discovered that three of the properties were never issued specific alternative connection timelines (i.e. 90 days), but were conditioned to connect as soon as the sewer is available. Those properties still received reminders from the Health Department stating that they were granted a variance or extension by the Board in the past with the requirement that they connect.

Sewer Connection Order Letters

The HD has met with Town Counsel several times to review the order letters which will be mailed out on March 9. The final draft has been completed and will be included in the BOH March 2 meeting packets.

Sewer Connection Process

The HD has been working with the Town’s Media Department to construct a webpage that would provide useful information for those owners who received a connection order. The page will spell out the sewer connection process and include all the order letters as attachments. Links to a list of installers, contractors, and other pertinent information will appear underneath each step in the process.

Mr. Galligan stated that the Board of of Water and Sewer Commissioners (BWSC) is on track with finalizing the letter which will be submitted to the BOH at its March 2 meeting.

Above Ground Fuel Storage Tanks (AGFST)

Beginning March 1, the Health Department will issue fines of \$250 per day to properties that have not taken steps towards compliance with the regulation. (These are the properties that have an indoor single-walled tank installed prior to July 1, 1992 or outdoor single-walled tanks installed prior to July 1, 2008.) Any of the properties remaining on the list at this point will have received two notification letters and an order letter. The HD is working with Town Counsel to establish proper procedures for issuing daily fines. Ms. Fitch will update the Board at its March 2 meeting.

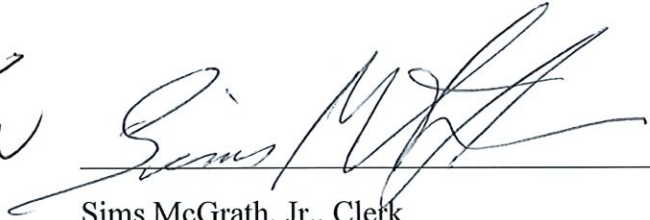
Agenda Item 7 – Adjournment.

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 2:26 p.m. Without further discussion, the roll call vote was 5-0-0.

Respectfully submitted,



Valerie Petersen, Board Secretary



Sims McGrath, Jr., Clerk

April 20, 2023

Date Approved/Accepted

