

**BOARD OF HEALTH  
MINUTES OF MEETING  
JANUARY 15, 2020**

**PRESENT:** Amy Wiegandt, M.D., Chairman  
Glenn Monterio, Member  
Catherine Phinney, R.N., Member  
Thomas L. Gleason, M.D., Associate Member  
Robert M. Ethier, Director  
Patrick MacDonald, Inspector  
Suzanne Burke, Recording Secretary  
Attorney Richard Bowen, Town Counsel

**5:00 p.m. Signing of Minutes- December 4, 2020**

On a vote of Catherine Phinney and seconded by Glenn Monterio the minutes of December 4, 2020 were approved and signed. All in favor. 3-0-0.

**5:05 p.m. 2 Carmichael Way- Anthony A. Esposito, P.E. – Discussion**

Mr. Anthony A. Esposito, P.E., Ms. Sandy Keese of McKinnon & Keese, Mr. Frank Westgate Surveyor and Homeowner Ms. Rose Ann Dalbec appeared before the Board to discuss the below listed variances and survey for property located at 2 Carmichael Way. This hearing was continued from December 4, 2019.

**(A) Update of original variance request on July 19, 2017:**

Ms. Sandy Keese, C.S.E. of McKinnon & Keese Engineering spoke on behalf of Ms. Rose Anne Dabec, applicant of the above referenced property. Ms. Keese requested variances from Title 5 in order to repair/upgrade the septic system with a Singlair 500 Denite Septic. The existing two-bedroom home is located on a tiny lake front lot.

Variances requested are as follows:

1. S.A.S. to Crawl Space: 6', Title 5, 20'. A Ruffco 240 Barrier shall be installed against the existing fence on the easterly side of the SAS & on the over dig on the westerly side.
2. S.A.S to Easterly Property Line: 2', Title 5 10'.
3. Septic Tank: (A) Crawl Space: 7' Title 5, 10'(B) Property Line 9', Title 5, 10'.
4. Pump Chamber to: (A) Crawl Space 7', Title 5, 10', (B) Water Line:2' Title 5, 10.

**The above septic variance requests were approved on October 4, 2017. (See timeline below).**

**(B) Timeline:**

**On July 19, 2017**, the Board voted to grant the variances with the conditions: (1) the I/A summary sheet is submitted to the office of Board of Health and (2) a deed restriction, restricting the home to two bedrooms is recorded with the Plymouth County Registry of Deeds and a copy is submitted to the Board of Health for the file.

**On August 2, 2017**, abutter of 2 Carmichael Way, Ms Kathy Dionne requested the approval of variances be reviewed again as she was not properly notified (did not receive notice via certified mail of the meeting) and requested the location of the septic system be moved to the other side of the property. Ms. Dionne also questioned the perc test time. Health Director Robert Ethier was on vacation at this time. Due to improper notification and the absence of Director Robert Ethier, Chair Wiegandt postponed the hearing until further notice.

**On September 20, 2017**, a motion was made to rescind any/all variance requests granted to Ms. Dalbec on July 19, 2017 on property located at 2 Carmichael Way due to improper/lack of notification.

**On October 4, 2017**, Ms. Keese had requested to be placed back on the agenda. Abutters were notified. The Wareham Board of Health voted to grant the requests for the variances. The following motions were made:

Attorney Bowen assisted in the procedure of the following motions:

1. I move to close the hearing. So moved by Dr. Wiegandt. Seconded by Dr. Gleason. All in favor.
2. I move that the applicant has established that the enforcement of 310 CMR 15.000 from which the variance is sought would be manifestly unjust considering all the relevant facts and circumstances of the individual case as presented at this hearing. So moved by Dr. Wiegandt. Seconded by Dr. Gleason. All in favor.
3. I move that the applicant requesting the variances has established that a level of environmental protection that is at least equivalent to that provided to that under 310 CMR 15.000 can be achieved without strict application of provisions of 310 CMR 15.000 from which the variance was sought. So moved by Dr. Wiegandt. Seconded by Dr. Gleason. All in favor.
4. I move to grant the variances as requested. So moved by Dr. Wiegandt. Seconded by Dr. Gleason.

**On December 4, 2019**, Director Robert Ethier requested Ms. Keese and Mr. Esposito, P.E. appear in front of the Board with an update/status report of the plan before the installation. The plan was approved in 2017, is over the one-year approval period, and a new engineer (Mr. Tony Esposito) is now overseeing the project. After review, Member Lawrence Perry posed questions regarding the land survey. He brought attention to the

two different plans, one from GAF Engineering and the other from McKinnon & Keese Engineering. Both plans read different measurements and are not stamped by the surveyor. Mr. Tony Esposito said Title 5 states "the plan must reference a plan which bears the stamp and signature of a Mass Land Surveyor" unless a local Board of Health has regulated a stricter policy. He said this plan is in compliance with Title 5. Mr. Esposito mentioned the surveyors do not like to stamp plans as they do not want to verify the location of the septic system. After discussion it was agreed Ms. Keese and/or Mr. Esposito will (1) have surveyor, Mr. Frank Westgate provide his own plan with an original ink stamp, or (2) attend the next meeting to discuss the survey with the Board, or (3) hire another surveyor to document/stamp the plans/measurements. Homeowner Roseanne Dalbec spoke of her concern with the time/delay of installation of the system and the continued cost of pumping. The Board showed concern, however, both Chair Wiegandt, M.D. and Dr. Thomas Gleason agreed the Board is here to protect the homeowners by making sure the system is installed properly. If not installed properly there will be further problems and higher costs in the future. Ms. Keese requested the Board write a letter stating what the Board is requiring/requesting for approval of the plan. Hearing continued until further notice.

**(End of time line.)**

**January 15, 2020-** Sandy Keese of McKinnon & Keese Engineering, Engineer Mr. Tony Esposito, Mr. Frank Westgate of Westgate Surveying and Homeowner of 2 Carmichael Way Roseann Dalbec all appeared before the Board. Town Counsel Richard Bowen was present to hear/review the survey being submitted which was requested at the December 4, 2019 meeting. This meeting was continued from 12.04.19.

Mr. Esposito presented a copy of a letter from G.A.F. Engineering granting permission to use a G.A.F. surveyed plan. Homeowner Roseanne Dalbec hired/paid G.A.F. to do the survey at the property and requested Mr. Esposito receive permission to refer to the plan.

After intense review and discussion between the Board, Town Counsel and the individuals present, it was found that there is no opposition and the Board agreed to grant the variances with the condition Mr. Esposito stamp the plan to certify the installation and inspection of the retaining wall.

**On a motion of Catherine Phinny and seconded by Glenn Monterio the variances were granted with the condition Mr. Esposito stamp the plan to certify the installation of the septic and installation & inspection of the retaining wall. All in favor 3-0-0.**

**4:40 p.m. 30 Lakeview Drive- Anthony A. Esposito, P.E.- Discussion**

Engineer Mr. Tony Esposito, Sandy Keese of McKinnon & Keese, Mr. Frank Westgate of Westgate Surveying and the Homeowners Attorney/Son- Mr. David Libardoni appeared before the Board to discuss the septic variance requests/plan regarding property

located at 30 Lakeview Drive. (See attached variance request letter dated January 15, 2020.)

Town Counsel Attorney Richard Bowen was present to assist in the process. Mr. Ethier stated the plan submitted to his office included a disclaimer if anyone was to use the plan they would need permission. Another question was regarding the stamp and signature on the submitted engineered plan for 30 Lakeview Drive and if it was indeed legal. Last, Mr. Ethier questioned the variances being requested in regards to a tight tank and if they can be granted for a property that is not a seasonal property.

On or before January 14, 2020, A survey was dropped off at the Health office for review in regards to the engineered plan. Mr. Robert Ethier contacted Mr. Lamont R. Healy, registered land surveyor (via phone call) with questions regarding the survey. Mr. Healy stated to Mr. Robert Ethier that he never signed or stamped an engineered plan regarding 30 Lakeview Drive. Attorney Bowen questioned the panel. Mr. Frank Westgate stated he spoke with Mr. "Monty" Healy the night before and Mr. Healy was confused as to the addresses. Mr. Westgate pointed out Mr. Healy is older and when speaking with him the "other night" he recalled which plan was in question. Town Counsel suggested setting up a special meeting in order for Mr. Healy to attend and address the Board in person. Attorney Bowen suggested continuing the meeting until further notice. Mr. Westgate stated Mr. Healy is leaving the state in two weeks and will not be available. Attorney Bowen suggested the Board hold a meeting on January 22, 2020 and he and the Board Members will be present to hear Mr. Healy. The Board agreed.

Mr. David Libardoni (owner's son/attorney) requested the hearing continue with the variance requests and then be granted upon/after the meeting with Mr. Lamont Healy. The Board agreed. Mr. Tony Esposito submitted a letter from G.A.F. Engineering giving him permission to use their engineered plan. (See attached.) After discussion it was determined the variances would be granted upon Ms. Keese revising and submitting an updated letter of request to the Board and the granting of the variances will also determine on the outcome of Mr. Healy's January 22, 2020 meeting/ survey. Mr. Westgate will contact Mr. Lamont to set up the meeting. Ms. Keese will submit a revised letter of request. Mr. Tony Esposito questioned if the Board would vote in the variances at this meeting. The Board stated "NO" all will be continued and voted on at the next meeting. **Meeting continued until January 22, 2020.**

**5:30 p.m. Sinners & Saints Tattoo, Samantha Norris- Variance to Hand Sink**

Ms. Samantha Norris of Sinners & Saints Tattoo, 2 West Central Avenue, Onset appeared before the Board to request a variance from the Town of Wareham Local Board of Health Body Art Establishment Regulation.

**Local Board of Health Body Art Establishment Regulation: Section 2: Body Art Establishment and Practitioners-Piercing and Tattooing: #5 Operation of Body Art Establishments: #7- A separate, readily accessible hand sink with hot and cold running**

water under pressure, preferably equipped with wrist or foot operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible in the establishment. Each operator area shall have a hand sink.

Ms. Norris stated she has purchased the business known as Sinners & Saints and will be moving the location to 3042 Cranberry Highway. In order to complete renovations to the new establishment, Ms. Norris requested to only install one hand sink as she works with disposable products and does not feel it is necessary to supply each operator/ station with a hand sink. Upon completion of renovations, Ms. Norris will then schedule a date to appear before the Board to request a Body Art Establishment Permit. After discussion, it was agreed to grant the request for the variance and allow Ms. Norris/Sinners and Saints Tattoo to install one hand sink in the new establishment being located at 3042 Cranberry Highway.

**On a motion of Catherine Phinney and seconded by Glenn Monterio the Board agreed to grant the variance. All in favor 3-0-0.**

**HEALTH AGENTS REPORT-** See attached.

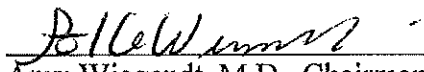
**OLD BUSINESS-**

**NEW BUSINESS-**

**On a motion of Catherine Phinney and seconded by Glenn Monterio the meeting was adjourned at 6:22 p.m. All in favor. 3-0-0**

Respectfully submitted by: Suzanne Burke

Signed and dated: February 5, 2020

  
Amy Wiegandt, M.D., Chairman

\_\_\_\_\_  
Glenn M. Monterio, Member

  
Catherine Phinney, R.N., Member

WAREHAM TOWN CLERK  
2020 FEB 10 PM 5:53

# McKinnon & Keese Engineering

Civil Engineers, Land Surveyors, & Soil Analysts

23 Looks' Mill Ln.

Rochester, MA. 02770

Tel. & Fax (508)763-3854; cell (508)287-0531

email: [mckk21@verizon.net](mailto:mckk21@verizon.net)

Page 1 of 2

Wareham Board of Health

54 Marion Rd.

Wareham, MA. 02571

Jan. 15, 2020

Re: Septic Repair/Upgrade, E. Wareham: #30 Lakeview Dr., E. Wareham

Assess Ref. : Map 129B1, Lot 12

Owner/Applicant: Ms. Nancy Libardoni

Dear Mr. Ethier & Members of the Board;

On behalf Ms. Nancy Libardoni, owner/ applicant of the above referenced property, we would like to request three variances from Title V in order to repair & upgrade this septic system at this existing 1-2 bedroom home on this very tiny lot. Note that there was a prior, remedial design done & permitted on this tiny lot, but due to the dangerous, impractical, difficult proposal of a Denite system here, Ms. Libardoni could only find one contractor willing to undertake this project for \$80,000 with no guarantee her crawl space foundation nor her easterly neighbor's foundation would be left intact. Even this Tight Tank design is precarious, but Tom Barboza & we have worked out this design which is difficult, painstaking, but doable. Please refer to the Site & Septic Plan we have prepared for this project with the Title V variances noted, highlighted in yellow, on our site plan.

The Title V Variances [Setbacks 15.211 (1) ] are:

1. Tight Tank to Southerly Property Line: 0'; Title V, 10'. Note that these property lines have been delineated by Westgate Land Survey, Kingston, MA. & this line lies on an unimproved, gravel private way.
2. Tight Tank to Crawl Space Foundation: 5.5' & 4' respectively; Title V 20'. The excavation here shall utilize steel plates to shore up soil on the foundation side. One tank @ a time to be excavated, installed, & backfilled before the second tank can be installed. We used 2-1,000 gal. tanks that were narrower, shallower than a single 2,000 gal. tank with extended 6" bases lengthwise, but not widthwise. Both are H2O loading, heavy tops affixed with 24" steel manhole covers for added weight to eliminate flotation.
3. 15.260(2) Tight Tank Alarm set @ 3/5 capacity:

Given the fact that the water usage is minimal @ this small, existing home, the most amount of water used daily was 24-25 gallons per day, the worst scenario over the past 3 years. The past 3 year's home water readings are enclosed, done by the Wareham Water Dept. Using these gallons used per day, we still have enough volume left for a 6 day storage post alarm & Howie Smith, whose company prepared this pumpout contract filed with this plan, has always addressed these pumpouts within 24 hours. By setting this alarm higher, it shall be less costly for the homeowner, the frequency of pumping thereby lessened.

Given the space constraints on this tiny 3,440 s.f. lot, we are requesting only these 3 variances in order to accommodate a minimum Tight Tank design per Title V. Note, also, that a 2 bedroom deed restriction & Tight Tank maintenance clause has been applied to the deed of this property by Atty. David Libardoni. The Pumpout Contract signed by Smith's Cesspool & the homeowner is also part of this packet. Even with these variances, we consider this a vast improvement over the existing, failed, cesspool presently servicing this home on Lake Agawam. We thank you for your anticipated consideration in this matter and, as always, look forward to working with you once again.



Very truly yours;

A handwritten signature in black ink, appearing to read "Anthony A. Esposito".

Anthony A. Esposito PE  
McKinnon & Keese Eng.

Cc: Ms. Nancy Libardoni  
Atty. David Libardoni



ENGINEERING  
INC.

ENGINEERS  
SURVEYORS

January 15, 2020

Robert Either  
Town of Wareham  
Board of Health  
54 Marion Road  
Wareham, MA 02571

Re: 2 Carmichael Way  
Wareham, MA  
GAF Job No. 13-8236

Dear Bob:

Please be advised that Anthony Esposito, P.E. is authorized to use, as a plan of reference, the plan entitled Plot Plan-Existing Conditions, 2 Carmichael Way, Wareham, MA, Prepared for Dennis G. Dalbec dated January 14, 2014. Please note that the plan was prepared six (6) years ago and reflects existing conditions at that time. As such, we cannot, and do not, guarantee or warrant that the existing conditions as shown on that plan are accurate as of this date.

Very truly yours,

William F. Madden, P.E.  
President

WFM/ifm

266 MAIN ST.

WAREHAM, MA

02571

TEL 508.295.6600

FAX 508.295.6634



## **HEALTH AGENT'S REPORT**

**January 15, 2020**

Last Meeting, December 4, 2019

### **TITLE 5 REVIEW AND VARIANCES**

(4) Conventional Title 5 Upgrades  
(1) Alternative Systems

### **PERCOLATION TESTS**

(7)

### **EMERGENCY RESPONSE**

Monday, January 13, 2020

### **INSPECTIONS**

Restaurant inspections for 2019 complete.

### **BEACH WATER SAMPLING PROGRAM**

Closed.

### **COURT CASES**

(4) Tuesday, January 14, 2020

### **PUBLIC HEALTH NURSE**

Blood pressure clinic weekly.

### **DISEASE REPORTING**

Reporting is ongoing.

### **PLYMOUTH COUNTY EMERGENCY PREPAREDNESS COALITION**

Tuesday, January 14, 2020. Preparation for (EDS)table Top Exercise on February 11, 2020.

### **OLD BUSINESS**

Rental Housing Program -- Registration for 2020 began.

Flock Registration- (51) registrations.

Members Vote- Land Surveyor Stamp/Septic & Wells

### **NEW BUSINESS**

Submitted by:

Robert M. Ethier, Director of Public Health

Wareham Board of Health