

TOWN OF HARWICH



RECEIVED
TOWN CLERK
HARWICH, MA

2025 SEP 18 P 1:01

BOARD OF HEALTH
732 Main Street Harwich, MA 02645
508-430-7509
E-mail: health@harwich-ma.gov

TOWN OF HARWICH BOARD OF HEALTH TUESDAY AUGUST 19 2025 -6:30 P.M. HARWICH TOWN HALL – DONN B. GRIFFIN ROOM MEETING MINUTES

BOARD OF HEALTH MEMBERS PRESENT: Chairman Kevin DuPont, R.N., Vice Chair Ronald Dowgiallo, D.M.D., Clerk Pamela Howell, R.N., Members Sharon Pflieger, M.S., & Janet Siviski, R.N.

STAFF MEMBERS PRESENT: Health Director Carrie Schoener & Executive Assistant Stephanie Johnson

OTHERS PRESENT & ONLINE: Barbara Nickerson, Marguerite Heffernan, Robert Nickerson, Cheryl Tivnan, Kayley Tivnan, Sarah Powell, Taylor Powell, Maura Costa, Garrett Peterson, Rebecca Boyer, Ben Warshaw, John Warshaw, Bob Young, Rachel Heppen, Christina Hagopian, Cyndi Williams, Patrick McDowell, Mike Moreau, Chris Liberty and anonymous viewer.

I CALL TO ORDER

Chairman DuPont called the meeting to order at 6:30 p.m.

II PUBLIC COMMENT

Barbara Nickerson asked if there was an alternative way to inform the public of the continuance of the filing of 606 Route 28 filing.

Ms. Schoner noted that this was a last-minute notice from the applicant that abutters were not notified and that the variance filing would need to be continued to the September 16th 2025 meeting pending abutter notification.

III MINUTES OF PREVIOUS MEETINGS (Regular Meeting Minutes)

June 17 2025 Meeting Minutes

Motion: Sharon Pflieger motioned to accept the June 17, 2025 meeting minutes.

Second: Mr. Dowgiallo seconded the motion.

Vote: Approved 5-0-0

July 15, 2025 Meeting Minutes

Motion: Sharon Pflieger motioned to accept the July 15, 2025 meeting minutes.

Second: Mr. Dowgiallo seconded the motion.

Vote: Approved 5-0-0

Exhibits: June 17, 2025 meeting minutes and July 15, 2025 meeting minutes.

IV OLD/UNFINISHED BUSINESS

**A. CONTINUED FROM JUNE 17, 2025 BOARD OF HEALTH MEETING
PENDING ABUTTER NOTIFICATION - VARIANCE REQUEST FOR DOG
FRIENDLY SPACE- 545 ROUTE 28- 105 CR 590:00 CHAPTER 6 SECTION
501.115 PARAGRAPH A**

Mrs. Pflieger reviewed the applicant's proposed layout and stated that the proposed relief area seems small and asked if the relief area is in sight-range of patrons?

Owner Taylor Powell noted it has been hard to regulate if the animal is a service animal or a pet. He stated that the relief area is approximately twenty feet away from the patrons. He added that he has not have add in issue in the past with dogs relieving themselves on the patio.

Mrs. Powell noted that as business owners, they may lose business by becoming a dog friendly.

Ms. Schoener asked Mrs. Powell if they relief area could be moved so that it is not as visible to patrons dining. Sarah and Taylor replied that they would do anything that the Board would ask for approval. She added that there should be pet training for their staff just as there are additional training requirements for staff. Mr. Powell noted that they take pride in their business.

Motion: Sharon Pflieger motioned to accept the dog friendly variance filing for Perks 545 Route 28 with the conditions that are outlined for approval.

Second: Mr. Dowgiallo seconded the motion.

Vote: Approved 5-0-0

Exhibits: Proposed Guidelines for Dog Friendly Outdoor Dining Areas, Variance Dog Friendly Space Request Form, Letter to Board, Letter to Abutters, Copy of Certified Abutter List, Certified Mail Receipts. Site / Floor Plan and Photo of Relief Area and Email Correspondence.

V NEW BUSINESS

A. VARIANCE REQUEST FROM TOWN OF HARWICH REGULATION 1.211 – 606 ROUTE 28- REQUESTING TO ALLOW THE CONSTRUCTION OF THE SEPTIC SYSTEM ON THE PROPERTY HAVING A DESIGN FLOW GREATER THAN 2000 GALLONS PER DAY

Continued to September 16, 2025 Board of Health meeting at 6:30p.m. pending abutter notification.

B. VARIANCE REQUEST FROM TITLE 5 310 CMR 15.215 (1)- 8 LAKEWAY LANE – SEEKING RELIEF FROM NITROGEN LOADING LIMITATIONS 440 GALLON PER DAY RESTRICTION

Mr. Warshaw provided the Board with a summary of his home and his request for seeking relief from the one-bedroom deed restriction.

Ms. Schoener provided the Board with background information as to Mr. Warshaw's request from previously seeking clarification from Massachusetts Department of Environmental Protection. She stressed her concern as to where does the Town draws the line. Should the Board entertain the request for relief she proposed capping the property to two bedrooms per the septic design.

Mr. Warshaw referred to Title 5 that a single-family home is assumed to be three bedrooms and that this would be able to bring properties below the standard, to the standard line. Which would also allow the property to home a family.

Mrs. Pflieger stated she would be comfortable approving the request for two bedrooms but not three because the septic system was only designed for two bedrooms.

Mr. DuPont asked what the allowed bedroom count would be once connected to sewer. Ms. Schoener noted that upon connection, the property would still be capped. She added that the Town still needs to remain compliant with the intermunicipal agreement with Chatham and State funding that is dependent on flow as well.

Mrs. Pflieger noted, if the Board were to approve this for one case, this opens up the opportunity for future properties seeking additional bedrooms.

Mr. Warshaw expressed his concerns for when the year his home was built and that his septic tank is designed at 1500 gallons and the leaching field is designed for three bedrooms.

Ms. Schoener noted that the septic system cannot be undersized. She added that in 1995 the Title 5 code change to include nitrogen loading restrictions and that single family dwellings with restrictions. She noted that for properties with one bedroom deed restrictions, they have two

bedrooms septic designs as that is the minimum septic design criteria because septic systems cannot be designed for a one bedroom.

Mr. Warshaw noted that this could allow the Board to address the Town's housing problem.

Robert Faldetta stated that he is in a similar situation as Mr. Warshaw. He questioned that even if his septic was designed for three bedrooms, he could not add additional bedrooms due to the sewer agreement with Chatham. He expressed his concerns for renters, air bnbs, and new developments.

Ms. Schoener noted that undeveloped properties were accounted for when determining flow count under the 440 rule and that all properties that are being connected to sewer are restricted to four bedrooms per acre.

Mr. Faldetti asked if the additional flow would be for all the deeded one bedrooms that would be going to Chatham.

Ms. Schoener reiterated that for properties that are already approved, the flow is going Chatham.

Mr. Faldetta stressed his concerns for air bnbs and number of people.

Ms. Schoener noted that short-term rentals are registered by the building department and that they should be following their rental density agreement. She noted that without a complaint, there would be no way for the Town to know of short-term rentals exceeding their rental density agreement(s). She added that the Board is not here to discuss short term rental properties.

Mr. Warshaw noted that he has adopted additional methods to reduce nitrogen on his lot.

Rachel Heppen asked what feedback was from the State.

Mr. Dowgiallo asked Ms. Schoener when sewer would be available in the area, she responded appropriately five years.

Maura Costa questioned the Board how does one seek relief? Would there be any modifications to the property or would this just be a notice issued? Ms. Schoener noted that there would be a deed restriction required. Additionally, Maura Costa addressed her concerns at 4 Lakeway Lane.

Mr. DuPont asked Ms. Schoener if Mr. Warshaw were to install an I/A system, would he be allowed three bedrooms? Ms. Schoener noted that it would still be undersized to serve three bedrooms.

Christina Hagopian expressed her support for Mr. Warshaw's request and stated that the town needs to support growing families in Harwich who want to stay in the town. She suggested approval of Mr. Warshaw's third bedroom with a zero-nitrogen septic system. Ms. Schoener noted the only zero-nitrogen septic system would be a tight tank and typically those are the last resort.

Ms. Schoener noted there are nitrogen reducing technologies available which are monitored by the Department of Environmental Policy.

Ms. Schoener noted the Board could approve the variance with a two-bedroom deed restriction and then modify the one bedroom to two bedrooms along with the submission of a floor plan.

Mr. Warshaw asked the Board upon connection to sewer, could he come back to the Board and reapply for an increase in bedroom count? Ms. Schoener noted that once connected to sewer, approval would be required by the Water / Wastewater Board.

Mr. DuPont noted that unfortunately that determination does not fall under the Board of Health's purview once the property has been connected to sewer.

Motion: Mrs. Howell motioned to approve the variance request from Title 5 310 CMR 15.215 (1) seeking relief from nitrogen loading limitations with the following conditions:

- 1. Property is restricted to a maximum of two (2) bedrooms.**
- 2. No increase in habitable space or square footage without further review by the Board of Health.**
- 3. This letter of approval and conditions must be recorded at the Barnstable County Registry of Deeds.**

Second: Mrs. Pfleger seconded the motion.

Vote: Approved 5-0-0

Exhibits: Variance Application, Abutter Notification, Abutters List, Letter to Board of Health, Site Plan, Existing Deed Restriction, Existing and Proposed Floor Plans.

C. VARIANCE REQUEST FROM TOWN OF HARWICH REGULATION 1.210 - 8 CRANBERRY WAY- MINIMUM SETBACK REQUIREMENTS

Continued to September 16, 2025, Board of Health meeting at 6:30p.m. pending presence of applicant or owner.

D. PROPOSED AMMENDMENT(S) TO DOG FREINDLY SPACE VARIANCE FILING REQUIREMENTS

Ms. Schoener noted that abutter notification should not be required as a filing requirement as abutter notification affects the establishment and its patrons more than it affects the surrounding businesses but that the discussion it to be determined by the board. She added that she did reach out to all towns across the Cape & Islands and Tisbury was the only town to respond to the email.

Chairman DuPont asked if anyone in the room had reviewed the packet contents? Ms. Schoener noted that the agenda and packet contents are posted online for the public to review.

Mr. DuPont read the requirements and conditions for approval for the dog friendly space variance. He then opened up comments from the public.

Margarite Heffernan stated her concerns for patrons with allergies. Mr. DuPont noted that dogs would only be permitted to outdoor dining areas,

Cheryl Tivnan expressed her approval of Perk's being a dog friendly establishment from previous occasions where dogs had been present well under control, leashed and behaved properly. She noted that the businesses are taking the risk for becoming a dog friendly establishment. She added that patrons would be able to see that the establishment is dog friendly with proper signage.

Mr. DuPont noted the 2022 federal food code change that allowed dogs (non-service animals) in restaurants with variance approval from local board of health.

Ms. Schoener reiterated that if there is not a dog friendly sign posted in the restaurant the establishment should not have dogs in any portion of the establishment unless it is a service animal.

Bob Young questioned the Board as why this would require a variance rather than a rule change. He noted that in the summer months tourists come in and are unaware of the rules in town. He noted that it is up to the business owners to ask for proof that the animal is a service animal. He stressed that he keeps the establishment as clean as possible. He noted that one patron brought in a large service animal but that he cannot ask the patron about their disability and that it is offensive to the patron(s).

Ms. Schoener advised Mr. Young that it is the state sanitary food code that gives the Town to require the approval of a variance and that is a requirement of the state's regulation. She added that establishments are legally allowed to ask if the animal is a service animal and what service does the animal provide.

Rebecca Boyer noted that when she had been to Perks and there are dogs, responsible dog owners would remove their dog should they not be behaving appropriately. She advised that there could be a one-time offense and that the establishment would need to apply every year. She noted that there are other businesses that are taking advantage of the variance and that not everyone in the community would be taking advantage of this.

Mrs. Williams noted that Harwich is extremely pet friendly and that the Chamber has a water bowl in front and has dog treats inside. She noted that there should be guidelines provided for these businesses and pet owners. She suggested that this could apply for the approval on an annual basis.

Bob Nickerson stated his concern for abutter notification specifically that dog waste should not become the place on abutters property. Mr. DuPont noted that establishments are required to provide a relief area for the dogs, which is a condition for approval.

Garrett Peterson noted that there are not a lot of places where patrons can come in with their dog(s) and dine. He added that abutter notification should not be a requirement as it is the responsibility of the business owner and their premises. He reiterated his support for allowing dog-variances in Harwich.

Elizabeth Than voiced her approval for Perks being a dog-friendly establishments from previously brining her puppy into Perks for training the dog to become a therapy dog.

Mr. DuPont stated that there will always be people who do not agree with dog-friendly establishments and that it is the restaurant that is taking a risk for allowing dogs at their establishment. Mr. DuPont directed his question to Sarah & Taylor Powell owners of Perks that abutter notification be removed from the filing requirement for future applications being that they have been the only applicant so far.

Sharon Pfleger questioned, what about patrons who don't want dogs in restaurants? She stressed that there needs to regulations on what is acceptable vs. what is not acceptable. She added that it should be business owner's responsibility to remove the dog(s) from the establishment and that the staff should be properly trained and it is also their responsibility to address the situation should one arise.

Mrs. Siviski questioned if there should be limit on the number of dogs a patron can bring to the establishment. Mr. DuPont noted that the Board may be overstepping by restricting the number of dogs a patron can bring and stressed that it would fall under the owner's responsibility to ensure that the dog(s) are behaving appropriately and the establishment can enforce their rules should the dog(s) be misbehaving.

Motion: Mrs. Howell motioned to approve the dog friendly outdoor dining areas with the inclusion that it is the business owner's responsibility to train staff on how to handle a dog who is not behaving appropriately.

Second: Mrs. Pfleger seconded the motion.

Vote: Approved 5-0-0

Exhibits: Town of Harwich Proposed Guidelines for Dog-Friendly Outdoor Dining Areas, Town of Harwich Variance Request for Outdoor "Dog Friendly Space" Application Form, City of Boston Guidelines for The Allowance of Dogs in Outdoor Dining Areas, City of Boston Variance Dog Friendly Space Request Form, Email Correspondence from Town of Tisbury regarding, Dog Friendly Outdoor Dining Guidance, Town of Tisbury Guidelines for Allowing Dogs in Outdoor Dining Areas and Town of Tisbury Dog Friendly Space Variance Request Form.

VI REPORT OF THE HEALTH DIRECTOR- Health Director Report for August 2025

Ms. Schoener presented the health director report as provided in the packet. No action was taken.

Exhibit: Report of the Health Director August 2025

VII PERMITS- New Licenses listed below

FILING DEADLINE 8/6/25 (MEETING 8/19/25)		
---	--	--

EVENT	BUSINESS	
Warren Miranda/ Cape Verdean Festival	Harwich	Cape Verdean Festival
Louis Rizzo/ Wild Game Sausage Man	Marstons Mills	Cape Cod Senior Softball All Star
Cape Cod Commercial Fishermen's Alliance	Chatham	Hookers Ball
Mitchel Rogers/ Chatham Ice Cream Bars	Chatham	Cranberry Festival
Crystal Weinert/ Kydoosies	South Yarmouth	204 Market
Joe Pino/ Bella Cannoli	Wilmington	Cranberry Festival
Joe Pino/ Bittersweet Herb Farm	Wilmington	Cranberry Festival
MOBILE FOOD TRUCK	BUSINESS	
Eduardo Sarabia/ Andale on Wheels	Harwich Port	
RESIDENTIAL KITCHEN	BUSINESS	
Maura Hall / Sugarberry Cottage Creations - Halls Cape Cod Cranberries, LLC	South Dennis	
STABLE	BUSINESS	
Hannah Greene	Harwich	(2) Horses - Residential
UTILITY INSTALLER	BUSINESS	
Nate Norgeot/ Norgeot Inc	Brewster	
Patrick K McDowell/ PKM Contractors Inc.	Dennis	

Ms. Schoener advised the Board that a compliant was received regarding the stable permit for 2 Rebecca Road. She stated that there were concerns of the odor coming from the property and that the department would be conducting an investigation with Animal Control Office Jen Harrington and will be asking the applicant to make any changes that seems fit.

Chairman DuPont questioned that the stable was there and that it was not approved previously. Ms. Schoener noted that the stable and horses are on site, and that the stable had already been inspected by the animal control officer. She added that she will be working with Jen Harrington regarding the proposed manure management plan but that it currently meets all setbacks within the animal regulations. She added that it may be a management practice that would need to be modified.

Mrs. Pflieger raised the question if the Board were to accept the permit and if applicant decided to not relocate the manure pile what would happen. Ms. Schoener replied that the applicant would then be brought in front of the Board for a noncompliance hearing.

Motion: Mrs. Howell motioned to accept the permits as printed.

Second: Mrs. Pflieger seconded the motion.

Vote: Approved 5-0-0

Exhibits: Email correspondence

VII ADJOURN

Motion: Mrs. Pflieger motioned to adjourn the Board of Health meeting at 8:12 p.n.

Second: Mrs. Howell seconded the motion.

Vote: Approved 5-0-0

Respectfully Submitted,

Stephanie Johnson

***The next Board of Health Meeting will be held on Tuesday, September 16 2025 at
6:30p.m. in the Don B. Griffin Room***