

Edgartown Board of Health
Meeting Minutes of April 28, 2021

E. Garrett Orazem, DMD

Meegan M. Lancaster

Christopher Edwards

The meeting was called to order at 4:30PM. Payroll through May 11, 2021 were approved. Bills listed for payment and the Minutes of March 24, 2021 were approved as submitted.

A general discussion took place concerning the summer season and Covid dining changes. Mention was made to extended table space for outside seating similar in fashion to last season. Gov. Baker's recent guidelines for re-opening business will gradually take place over the next few months, with most restrictions lifted in August as long as there are no public health risks. The in town mask mandate put in place by the BOH last July will need to be reviewed.

At 4:45PM the violation of 310 CMR 15.504(2) which governs the disposal of septage and discharge to a sewer treatment works hearing posted for Maciel & Sons, Inc was opened. Those attending included Troy, Trevor Maciel & Lisa Williston. Dr. Nicholas Bruno, Trust & Karen Liffman owners of # 18 Mill Hill Rd., reporters Rich Saltzberg & Noah Asimow. Town employees Chief McNamee and Jennifer Smyth, Assistant at the Wastewater Dept. As directed by Board chairperson M. Lancaster the attached **narrative was read into the record by HA Matthew E. Poole. The Edgartown police report taken by Officer Townes was read into record by the HA.** Troy Maciel provided the Board with his explanation of the events indicating BOH staff did not provide accurate information to the Bruno's with regards to the volume pumped. He added his company was the only one to respond after hours to the tenant occupied dwelling which reported had a "back up " of waste in the house, dislodged a clog and located a cesspool which he stated was not pumped by another company as part of the purchase and sale transfer records in 2014. He further stated due to the buildup of grease he treated the two tanks with a "bacteria chemical" and needed the use of a camera to assess the situation. At this point in the meeting Chair. Lancaster stated the reason we are all here is his company returned to the property and disposed of septic waste matter in an illegal manner. Mr. Maciel did not deny that fact as the property owners questioned his billing. Ms. Lancaster asked if Dr. Bruno would like to speak. Dr. Bruno stated he had on more than one occasion called the Maciel office and asked to speak to Troy with regards to the invoice and up until today was not provided any detail or explanation of the work done at his property. He did state there was a copy of the Title V plan on site at the time of the pumping and it did match up with what was on file at the office of the Board of Health. Dr. Bruno added he never made any mention to not paying his bill, and all of his questions regarding the service went unanswered and they felt they were treated poorly by the staff and that there was no communication on the part of Mr. Maciel. Mr. Bruno inquired to the Board members as to what he is to do now that Maciel returned septage, which was not his to the system and how to determine the condition of his system which was recently inspected by Doug Cooper, RS. Chief McNamee spoke on behalf of his department and added he did inquiry with the district of attorney's office for any possible criminal charges with a reply this was a civil matter and no action was taken other than the report filed by Officer Townes. A statement was made with regards to a similar incident where Maciel & Sons returned septic to a home owner's system. Agent Poole confirmed that in 2018 the violation was received and an agreement with the home owner was worked out. Both member Orazem and Edwards agreed there was a clear violation of the Title V statue and if better communication had taken place, this incident could have been avoided. Mr. Edwards felt a penalty is warranted either in the way of a fine or a possible revocation of the hauler permits to pump and haul septic waste for disposal. Dr. Bruno spoke again to determine if the waste disposed at his property has any hazardous material and/or toxic substances. Agent Poole stated based upon his experience the waste was "island" originated and the white flake substances most likely is Aidox a common product used to treat septic systems. An inquiry came from N. Asimow with regards to the septic dumped back into the system, to which Agent Poole added, nothing was left on the ground surface with all of the waste returned to the tank. At this time **Chair. Lancaster explained to all involved based upon the recommendation** of the HA and the Title V requirements the violation has consequences. The Board discussed the porta-potty contact held by Dottie's' Potties as a separate business and due to the current needs of the community would not be part of

any fine or violation. At this time a motion was made and duly second all in favor of a \$ 500.00 fine and a 15 day suspension of the septic hauler permit issued to Maciel & Sons, Inc. Mention was made to a hand deliver order or if the company would accept an electronic version. Ms. Williston stated they would accept an email of the order and will at that time decide if a full hearing for revocation would be requested. The group left the meeting 5:55PM.

Chris Alley was before the Board to submit two septic plans listed as # 31 and # 33 Edgartown Bay Rd., Jake Erhard. Also attending was K Donahue, RE Agent & Jeff Karp. DWP permit # 65/2021 was presented for an existing four bedroom dwelling and a detached garage with two bedrooms for a total of six. Mr. Alley added, the MH septic has failed and the new system would replace the cesspool and connect the garage to the Title V design. Both properties would include town water on separate lines. DWP # 66/2021 at 31 Edg Bay Rd is vacant land except for a leaching field and when 1500 gallon tank is added with a proposed dwelling can accommodate four bedrooms. At this point in the conversation the structures listed on the developed site # 33 was discussed. The detached two bedroom garage has an office and if the new septic permit would address that area. It was also determined there is a small "studio" like structure (unheated) with a fireplace and a hand sink with no know location of where or if the sink is connected. Mention was made to adding an IAT unit to both systems as development will be done on both house lots by a new owner which most likely is beyond the exiting footprint. The Board members indicated they could assess a dollar amount to future development and if the amount is met treatment would be necessary. At this time the Board discussed a conditional approval for both permits with Mr. Alley providing a deed restriction associated with the build out on the property and any increase in foot print or sq footage to require an IAT system. Mr. Alley thanked the Board and left the meeting at 6:40PM.

Agent Poole indicated he will consult with Town Atty. Michael Goldsmith for the Maciel & Sons violation letter based upon the hearing held earlier.

There being no further business before the Board, the meeting was adjourned at 6:45PM.

Respectfully submitted,

Janet Anthony-Hathaway, Assistant

Approved on: July 7, 2021

E. Garrett Orazem, DMD

Meegan M. Lancaster

Christopher Edwards

Property location: 18 Mill Hill Rd., M 29 L 67.

Current owners: Nicholas Bruno, Trustee of Nicholas P. Bruno Trust

Main house served by a septic tank, leaching pit converted to a settling chamber and a d-box feeding a gravel bed.

Guest House served by a 1500 Gal. Septic Tank and an infiltrator bed, shared with a

Detached bedroom over a garage connected to a 1500 Gal Septic Tank – shares infiltrator bed with Guest House.

On March 25 the property was pumped at the request of the owner by Maciel and Sons, Inc., the holder of a valid Edgartown license to pump and haul septic waste in the Town of Edgartown.

Pumping records and disposal receipts reflect 3325 Gals disposed at New Bedford WW Treatment Plant & 2575 Gals at Edg WWTP. Total volume 5900 Gals attributed to this property.

The volume disposed based on records from the two disposal facilities matches the amount of septage indicated on a bill to the property owner dated March 25, 2021, invoice # 14234.

Following pumping on March 25, the owner contacted the EBoH office and inquired with Janet Hathaway, Ass't to the BoH, about information held in the property records about the system components, volumes and town pumping requirements. A series of phone calls between the property owner and the BoH spanning the between Monday, March 29 and Tuesday, April 6 occurred while the property owner worked to reconcile the property records and their bill with the pumper. It's my understanding that similar communication via email and phone occurred between the owner and the pumper over the same span of time.

Mid-morning on April 6, I received a call that Maciel and Sons had returned to the property and had or was about to empty the contents of their septage truck back into the septic system. I promptly called Troy Maciel's cell phone and left a voice mail informing him that I knew of his intent to empty septage back into the system. Within a few minutes of my voice mail Troy called me back and I answered. I informed him I knew of the purpose of returning to the property that day and discouraged him 3 times, during the course of our phone conversation NOT to put septage back into the system. I told him that it would put his town haulers permit in jeopardy. I had him on speaker phone with Janet hearing about 4/5ths of the call. Troy informed me it was done and there was no changing his mind.

Later that AM I phone Dr. and Mrs. Bruno and they provided me with their view of the events.

Doug Cooper visited the property and reported to me on 4/16 of his observation(s) of a white oatmeal-like material in the leaching pit (downstream of main house tank and before the distribution box) that he couldn't identify with good confidence. Notably, the bill for the property service indicates 3 "bacteria" treatments were added to the system by Maciel and Sons.

A few days later Doug Cooper contacted me again and said he'd recently inspected a system in another town that had been treated with Aidox and it presented itself very similarly. We both surmised that Aidox was the reason for the oatmeal like conditions observed in the pit, partly because it's the most popular treatment material in use on MV in my experience and we're both familiar with this possibility.

The consumer protection and business aspects of these events between the owner and pumper are NOT under the purview of the BoH.

What do have is the direct conversation I had with Troy Maciel on April 6 and the Police Report prepared by Edg officer Towns who visited the property on April 6 and instructed the truck operator, Trevor Maciel, to stop the loading of septage into the onsite system, informed him he wasn't authorized to be on the property that day and to depart, which he did.

Based on my direct phone conversation with Troy Maciel and the corresponding police report, it's my opinion that nobody is denying that this event occurred.

As such, as BoH Agent, I find that this is a violation of 310 CMR 15. 504 (2) which governs disposal of septage and requires discharge to a sanitary sewer or treatment works (a WWTP) or a permitted septage receiving facility.

Based on the information provided – I request instruction from the Board of Health regarding how they would like me to proceed with enforcement of this violation and to consider any penalty they determine is appropriate.



**EDGARTOWN POLICE DEPARTMENT
EDGARTOWN, MA**

INCIDENT # / REPORT #
2021001170 / 1

OFFICER
TOWNES, Z

RANK
OFC

REVIEW STATUS
COMPLETED

INCIDENT #2021001170 DATA

As Of 04/12/2021 10:42:44

BASIC INFORMATION

CASE TITLE

LOCATION

APT/UNIT #

18 MILL HILL RD

DATE/TIME REPORTED

04/06/2021 10:47:01

DATE/TIME OCCURRED

On or about 04/06/2021 10:47

INCIDENT TYPE(S)/OFFENSE(S)

(CMCG)CIVIL MATTER: GENERAL

PERSONS

ROLE

NAME

SEX

RACE

INVOLVED PARTY

MACIEL, TREVOR ALAN

MALE

WHITE

INVOLVED PARTY

BRUNO, KAREN

FEMALE

UNKNOWN

INVOLVED PARTY

BRUNO, NICHOLAS

MALE

UNKNOWN

[NO OFFENDERS]

[NO VEHICLES]

[NO PROPERTY]

OFFICER REPORT: 2021001170 - 1 / TOWNES, Z ()

DATE/TIME OF REPORT

04/06/2021 13:02:35

TYPE OF REPORT

INCIDENT

REVIEW STATUS

COMPLETED

NARRATIVE

On the above date and time I, Officer Townes, received a call to respond to 18 Mill Hill for the report of suspicious activity. Upon arrival I observed a Maciel and Sons septic pumping truck with a hose extended into an open septic tank.

I placed a call to the RP and identified her as Karen Bruno. Bruno stated that she and her husband who she identified as Nicholas Bruno, own 18 Mill Hill Road. The property consists of three buildings, two of which are currently rented out.

Bruno stated that she called the police because she was having issues with Maciel and Sons and she did not want them on her property. I advised that I would speak with the Maciel and Sons employee on scene and I would call her back after.

I exited my cruiser and met with Trevor Maciel. I asked him to explain what was going on. Maciel explained that his company and the Bruno's were unable to come to an agreement over costs of work done. Maciel stated that he had returned to 18 Mill Hill to pump sewage back into the Bruno's septic tanks.

I ordered Maciel to stop pumping and explained that if he felt he was owed money he could pursue that in civil court. Maciel stopped pumping and stated that he understood.

I asked Maciel to explain in detail his side of the story, the following is a summary of Maciel's explanation. The Bruno's called Maciel and Sons to pump out their septic system around March 26th. Trevor arrived on the property and located three septic tanks, all of which were full and needed to be pumped out.

Maciel then pumped out all three tanks for a total of 5,800 gallons of sewage. Maciel stated that he also located a leaching field that needed to be chemically treated so he treated it. Maciel and Son's sent Bruno a bill reflecting the 5,800 gallons of sewage that was pumped out. Bruno refused to pay and was repetitively argumentative with their office administrator. Maciel decided to return the sewage due to lack of payment.

I advised Maciel that I would document the incident and if he wanted to pursue payment he would have to do so through the court. He stated that he understood. I asked him how much sewage he had pumped back in to Bruno's septic tank and he stated approximately 2,000 gallons. Maciel then packed up his truck and cleared the scene.

I placed a call to Bruno and explained my findings. Bruno was very upset and stated that Maciel's statements were not accurate. Bruno stated that she had the three title five certificates for the septic tanks on her property. Bruno stated that the total gallons of septic between the three tanks was

2,400 gallons so Maciel's claiming they pumped 5,800 was not true.

Furthermore Bruno called the Edgartown Wastewater Department and requested the receipt of the deposit of sewage from her residence to the waste water facility. The receipt showed just above 2,400 gallons which Bruno stated was the correct amount. Bruno questioned Maciel's about the other 3,400 gallons and they stated that they had to bring it to New Bedford to get rid of it. Bruno also pointed out that if they had disposed of her sewage at the Edgartown Wastewater Facility and New Bedford, then what was pumped back into her septic tanks today.

Bruno was also upset with the fact that Maciel's treated a leaching field without discussing the work with her. The total amount of the bill Bruno received was for \$6,000. Bruno stated that the septic tank that was being filled when I showed up only holds 750 gallons, but Maciel stated that he just deposited 2,000 gallons. Bruno was very concerned that her septic tanks were damaged in the process.

I advised Bruno to hire another septic company to come and inspect her tanks and if they located any issues to notify me.

Bruno stated that her husband was already on the phone with The Edgartown Board of Health. I explained that I would document the incident for her. Lastly Bruno asked that I speak with someone at the Maciel and Son's office and advise them that no one from the company was allowed at 18 Mill Hill Road. I placed multiple calls to Maciel and Son's to no avail.

OFFICER SIGNATURES

Reporting Officer:	_____	Date:	_____
	TOWNES, Z		OFC
Approving Officer:	_____	Date:	_____
	CRAIG, J		SGT