



Billerica Board of Health

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Sandra Giroux, Chair
Marie O'Rourke, Vice Chair
Mike Grady, Secretary
Robert Reader
Elizabeth Villar, Ph.D.

Richard Berube, Director

BOARD OF HEALTH MINUTES March 5, 2018

Sandra Giroux, Chair called the meeting to order at 7:00 p.m. Also in attendance were Marie O'Rourke, Vice Chair, Mike Grady, Robert Reader and Dr. Elizabeth Villar, Richard Berube, Director and Joanne White, Recording Clerk.

OPEN MICROPHONE

Mrs. Giroux asked if anyone was present for open microphone.

No one was present for open microphone.

ACCEPTANCE OF MINUTES

Mr. Grady made a motion to accept the Meeting Minutes of January 8, 2018. Mrs. O'Rourke seconded. Three (3) voted in favor. Two (2) votes abstained (Robert Reader and Dr. Elizabeth Villar).

BOARD OF HEALTH BUSINESS

Health Department Activity Reports

Mrs. Giroux stated the first item under Board of Health Business is the Health Department Activity Reports.

Copies of the Health Department Activity Reports for the months of January and February are included in the Board's package.

Mr. Berube stated that Christine West, Public Health Nurse continues with her routine activities. Jean Bushnell, Director of Council On Aging, requested a letter expressing the Board of Health's contributions to community health and wellness for Billerica residents.

Christine submitted information to be used in the Resource Guide promoted by the Council On Aging. The information explains the screenings and testing that is done in the Board of Health office and what other services are available for residents.

Mrs. Giroux asked the Board Members if they had any questions regarding Christine's report.

The Board Members did not have any questions.

Mrs. Giroux stated that the next report is from Health Agent, Phavy Pheng.

Mr. Berube explained that progress has been made with the violations at 691 Boston Road. The majority of the violations have been corrected. The only thing left is the structural repairs that need to be done.

Mrs. Giroux asked the Board Members if they had any questions regarding Phavy's report.

The Board Members did not have any questions.

Mrs. Giroux stated that the last report is from Health Agent, Gary Courtemanche.

Mr. Berube explained that the plans for Panera Bread should be submitted to the Board of Health soon. They have broken ground at the site. The Royal Tavern has opened.

Mr. Grady asked is the kitchen clean. The last owner did not do a good job keeping the place clean. Is it the same owners that owned the Pongal Restaurant?

Mr. Berube replied only time will tell about the cleanliness of the kitchen. I think the new owners have a connection but I am not sure.

Mrs. O'Rourke asked why is Stephanie's closing.

Mr. Berube replied their lease went up.

Mrs. Giroux asked the Board Members if they had any questions regarding Gary's report.

The Board Members did not have any questions.

Proposed FY19 Budget

Mrs. Giroux stated the next item under Board of Health Business is the Proposed FY19 Budget.

Mr. Berube explained that the only difference in the budget is the increases under personnel due to the contract. The expenses are level funded.

FY17 Annual Town Report

Mrs. Giroux stated the last item under Board of Health Business is the FY19 Annual Town Report.

Mr. Berube explained that the annual report is fairly consistent with past years.

Mrs. O'Rourke commented that a lot of building permit reviews were done.

Mr. Grady asked if there were more than last year.

Mr. Berube replied that roughly about the same.

Mrs. O'Rourke asked what percentage of the town has sewer.

Mr. Berube replied approximately 75% of the town is sewered. However that does not mean everybody has tied in.

Mrs. Giroux asked the Board Members if they had any questions.

The Board Members did not have any questions.

Miscellaneous

Mr. Berube explained that a number of proposed projects will be coming before this Board. A new "Over 55 Development" is being built on Nashua Road.

A discussion was held regarding the new projects. Alpine Village is moving right along.

Mr. Reader asked when is Aspen Apartments going to be available for occupancy.

Mr. Berube replied that he does not know. They have already come in for a signoff for occupancy of one of the buildings. The plans for an outdoor swimming pool have been submitted for review. The place is very impressive.

The 40B project on Oak Street is moving right along.

7:15 p.m. Sterling Road, LLC – Sterling Road – Request for Stormwater Management Approval and a Variance

Mrs. Giroux stated the first hearing is Sterling Road, LLC requesting Stormwater Management Approval and a Variance.

Brian Huntley provided the Board with large scale drawing of the proposed project.

Mr. Berube asked Mr. Huntley if he had the certified white slips and green cards.

Mr. Huntley replied that he did not have the certified white slips and green cards with him.

The Board discussed whether or not they could continue with the hearing.

Mr. Berube explained that the Board could continue with the hearing however a motion for Stormwater Management Approval and a Variance could not be made.

Mrs. Giroux stated that he could go forward with the hearing however a decision cannot be made. The project would be rescheduled for the April 2, 2018 Board of Health Meeting.

Brian Huntley, Project Engineer identified himself. Mr. Huntley explained that he is present on behalf of the Sterling Road, LLC for the W.L. French Headquarters Project. Mr. Huntley pointed to the plans and explained where the two (2) proposed buildings were going to be constructed. One of the buildings is going to serve as the Corporate Office Headquarters and the other will serve as the Operations Center for the maintenance facility. The project was started last summer. We submitted plans to the Planning Board for Site Plan Approval, the Zoning Board of Appeal for approval of a Special Use Permit and the Conservation Commission because there are jurisdictional wetlands in the back as well as they reviewed all the stormwater analysis pertaining to the project. We are requesting Stormwater Management Approval and a Variance for the septic system design from the Board of Health. We are requesting two (2) waivers for the septic system design. The request is to waive the requirement to clear the reserve area for the septic system and the other is to have a slight reduction in the septic tank size from what the Billerica Board of Health By-Laws require for this particular size building. Tighe & Bond has worked with BETA on this project and met all the required standards that have been raised through the review process. There is one outstanding issue with the Department of Public Works (DPW) regarding the existing drainage connection in the street. We originally proposed a catch basin connection. The proposal is to change it to a manhole connection. A downstream analysis will be done to ensure that it won't have an adverse impact on the design. Mr. Huntley stated that he would answer any questions that the Board may have. Mr. Huntley provided the Board Members with a Noise Evaluation Memorandum. The memorandum explains that the noise impact statement is slightly revised. Mr. Huntley pointed to the plans and explained the site, site uses and where the truck storage area would be. Mr. Huntley explained that the wooded jurisdictional wetland won't be touched and the proposed building will provide an additional buffer between where the trucks will be parked and the noise receptors. The anticipated noise levels from parked vehicular traffic will be adequately reduced by Building 2 in addition to the existing wooded wetland area at the property line and residential use.

Matt Crowley, Project Engineer for BETA Group, identified himself. Mr. Crowley explained that he conducted the peer review for the project. The project review began in August 2017 and after a number of revisions all the major issues have been addressed. There are some minor outstanding issues that BETA recommends be properly addressed in the Order of Conditions. BETA Group reviewed Stormwater, the Soil Absorption System, Noise Impacts and the Washwater Recycling System. There are two (2) issues that require additional coordination with the project. The Washwater Recycling System will require Department of Environmental Protection (DEP) approval and Board of Health approval. DPW has some minor concerns requesting additional information regarding the drainage system tying into the Town's drainage system. Both of these requirements have been included in the Order of Conditions along with other minor issues. Mr. Crowley stated that he would answer any questions regarding the project that the Board Members may have.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube replied that this is a good project. Schmidt Equipment is located to the right of this project that the Board recently approved. Matt Crowley also reviewed the Schmidt Equipment project for the Board.

Mr. Grady asked if this is the property that the gas company from Cambridge was looking to relocate to.

Mr. Crowley replied no, that was the Schmidt Equipment property.

Mr. Berube stated that this is a good location for this operation. W.L. French is looking to consolidate their operations and this property falls within an industrial zone. The review has been very comprehensive. Noise was one of the issues however Tighe & Bond has addressed that adequately. The Washwater Recycling System requires DEP review and approval. From the information that has been provided I am comfortable with the proposed project.

Mrs. Giroux asked the Board Members if they had any questions.

Mr. Grady asked will there be any drilling and blasting in that area.

Mr. Huntley replied that based on the soil testing that has been done in that area we did not hit any refusals in the borings. We do not anticipate that there will be any drilling or blasting associated with the project. However, I cannot guarantee what we will run into. The borings were fairly deep and we did not run into any refusals.

Mrs. Giroux asked if any abutters would like to ask any questions.

No abutters were present.

Mr. Huntley asked if he was able to produce a copy of the email with the scanned white slips that were sent out by certified mail before the end of the meeting, would that be sufficient for the Board. Mr. Huntley thanked the Board for considering his request.

Mrs. Giroux replied yes, you have until the meeting closes. Mrs. Giroux stated that if you cannot find a copy of the white slips, the hearing will be continued.

Mr. Berube stated that the approval is for the Stormwater as well as the Septic System. The septic system design that is provided is more than adequate.

Mrs. Giroux asked Mr. Berube if he was comfortable with the septic system even though it is smaller than the regulations require.

Mr. Berube replied that the leaching system meets our local regulations. We suggested that they may want to get a variance and design it strictly by Title 5 standards. The leaching area is way over designed for this type of operation. However they wanted to stick with the large leaching area. The only reduction that they are looking for is the size of the septic tanks which still exceed Title 5 standards.

7:25 p.m. Thao Lay – Couture Day Spa – 884 Boston Road - Request for a Variance from Body Art Regulations Relative to Cosmetic Tattooing

Mrs. Giroux stated the next hearing is Thao Lay, Couture Day Spa, 884 Boston Road – requesting a Variance from Body Art Regulations relative to Cosmetic Tattooing.

Mrs. Giroux requested that Thao Lay come forward for this hearing.

Thao Lay was not present.

Mr. Berube suggested that the Board go forward with the next hearing in order to allow Thao Lay additional time.

7:30 p.m. Georgio’s Liquors – 446 Boston Road – Show Cause Hearing for Permit Suspension – Second Violation of Tobacco Control Regulations

Mrs. Giroux stated the next hearing is Georgio’s Liquor, 446 Boston Road – Show Cause Hearing for Permit Suspension – Second Violation of Tobacco Control Regulations.

Zannis Mamounas, one of the owners of Georgio’s Liquors, 446 Boston Road identified himself. Mr. Mamounas stated that it was their second violation and apologized for it happening. We take this matter seriously. Present with me is the employee that made the sale. We have been in business for six (6) years and have had no violations with the Town relative to selling alcohol. Tobacco sales to a minor is just as important as alcohol sales to a minor. We have reminded all our employees that they have to check IDs for all our customers that look under 30 years of age. We have also posted bright red signs at the registers to let everyone know that they have to check all IDs.

Mr. Berube explained that the age to check IDs is 40 years of age and under.

Brad Bowden identified himself. Mr. Bowden admitted that he was the one who made the sale of cigarettes to a minor. Mr. Bowden stated that there is no excuse for the sale and he takes full responsibility for what happened. Mr. Bowden stated that after the sale was made he realized that he should have never sold the cigarettes. Mr. Bowden explained that he has been doing this for 12 plus years and has never sold to any minors. Mr. Bowden stated that he is very regretful. Extra steps will be taken to check IDs for all customers.

Mrs. Giroux stated that if you check all IDs for alcohol, why wouldn’t you check all IDs for tobacco products.

Mr. Bowden replied that it was just a lapse of judgment. I thought he looked of age so I sold him the pack of cigarettes. A few minutes later I realized he was under age and I should not have sold cigarettes to him.

Ron Beauregard, Program for Healthy Communities Tobacco Control Program, identified himself. Mr. Beauregard explained that he has reviewed Georgio’s Liquors history over the past four (4) years from the period of June 27, 2013 to March 4, 2017 and there have been six (6) tobacco checks with no sales. There was a sale to a minor in January 2013. Mr. Beauregard explained that

he has attended many Board meetings when a sale has occurred and he was very impressed that the employee that actually made the sale accompanied the owner of the establishment to the hearing. The only thing that I can reiterate is to check all IDs. Mr. Beauregard asked when did Georgio's open for business.

Mr. Mamounas replied we opened for business in August 2012.

Mr. Beauregard replied that there was a sale back in early 2013 and since then there has been six (6) checks with no violations. This particular check was a recheck. The State encourages us to conduct rechecks. It is encouraging to know that when a mistake is made that it is recognized by the establishment.

Mrs. Giroux asked the Board Members if they had any questions or comments.

Mr. Reader asked if Georgio's was fined.

Mrs. Giroux replied yes.

Mr. Reader asked how much the fine was.

Mrs. Giroux replied two (200) hundred dollars.

Mr. Berube asked Mr. Beauregard if this was the same clerk that made the sale in August.

Mr. Beauregard replied no, but I don't remember who it was. I think it was someone filling in. My notes are in the office.

Mr. Mamanous replied it was a female employee that was filling in. We were short -handed that day and my mother filled in.

Mrs. Giroux asked the Board for their decision.

Mr. Grady made a motion to suspend the sale of tobacco products for two (2) days for Georgio's Liquors, 446 Boston Road to be implemented at the discretion of Richard Berube, the Director of Public Health.

Mrs. O'Rourke seconded. Four (4) voted in favor, one (1) vote opposed (Robert Reader).

Mr. Berube suggested that Mr. Mamanous review the regulations because there have been changes over the past few years. If you have any problems contact Ron Beauregard.

7:35 p.m. Zestys – 240D Nashua Road - Request for a Waiver of Regulations

Mrs. Giroux stated the last hearing is Zestys, 240D Nashua Road, requesting a Waiver of Regulations.

Daniel Rokas, 4 Buckman Drive, Chelmsford, identified himself.

Ted Rokas 180 High Street, Chelmsford, identified himself.

Mr. Daniel Rokas explained that he is requesting a Waiver of Regulations for an exterior grease trap. The previous tenant had a waiver for the exterior grease trap for a similar style restaurant. The restaurant will sell pizza and subs. It is mostly takeout. We do not use dishes. We use all plates that are thrown away. The Asian Restaurant next door was granted a waiver as well. We will not produce much grease. We have installed a new interior grease trap.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube explained that in the Board's package is a copy of the report from Health Agent, Gary Courtemanche along with his recommendations. This operation is not much different from the ones that have been operating there in the past. I don't expect an increase in grease. As long as the same conditions are implemented as in the past, I do not see any issues. The new interior grease trap is superior to the one that was previously there. Significant renovations are being done to the interior of the building so it should be an improvement over what is currently there.

Mrs. O'Rourke asked about Gary's recommendation that the property owners explore the feasibility of installing an exterior grease trap to service both restaurants.

Mr. Berube explained that has been recommended to the owner in the past. I don't know if they are willing to make that investment. It is a huge expense for the QQ Asian Grill and Zestys to undertake.

Mrs. O'Rourke asked Richard Berube if could send a letter to the owners of the property suggesting that an exterior grease trap be installed to service both the restaurants.

Mr. Berube replied that he would do that.

Mrs. Giroux asked the Board Members if they had any questions.

The Board Members did not have any questions.

Dr. Villar made a motion to grant a Waiver of Regulations for the installation of an exterior grease trap to serve the proposed food service establishment Zestys located at 240D Nashua Road based upon the following findings of fact and subject to the following conditions:

FINDINGS OF FACT

1. The work described in the applicant's request is within an area subject to protection under the Board of Health's Rules and Regulations, Chapter 5, Section 2.2.001.
2. The new owner will be renovating the existing food service establishment (FSE) including significant capital improvements. The new FSE will have a menu similar to the previous FSE. The FSE is primarily a takeout food service. There is limited seating. All foods will be served on single service articles. It will not be economically feasible to install an exterior grease trap.

3. The applicant has replaced the existing alternative grease recovery unit (GRU) located within the food service establishment. The interior grease recovery unit will be monitored and cleaned every month. A maintenance record shall be kept and made available for inspection by the Board of Health.
4. The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

CONDITIONS

Standard Conditions # 6, 10, 14, 15, 25, 13, 14, 15,

- A. The interior grease trap/interceptor shall be equipped with a test port at the outlet to provide access for monitoring activities.
- B. The applicant shall provide a copy of a maintenance agreement with a qualified service company to pump and maintain the interior grease trap every month or more often to ensure proper functioning of the grease recovery system. The applicant shall keep all pumping and maintenance records and make them available for inspection by the Board of Health.
- C. The food service establishment (FSE) shall work with the Board of Health to implement Best Management Practices (BMP's) to prevent or reduce the discharge of Fats, Oil and Grease (FOG) to the building drain and the sewage disposal system. The FSE shall train the staff to ensure that the BMP's are followed. The owner and employees of the FSE shall sign an acknowledgement of BMP's for Food Service Employees and submit the acknowledgements to the Board of Health.
- D. This waiver shall be subject to periodic review by the Board of Health to ensure compliance with applicable rules and regulations.
- E. The Board of Health in conjunction with the Town of Billerica Department of Public Works (DPW) Wastewater Division shall periodically monitor the grease discharge from said Food Service Establishment for any violations of the Town of Billerica Sanitary Sewer Rules and Regulations and the Board of Health Rules and Regulations. All costs associated with the monitoring shall be paid for by the applicant.
- F. In the event of a grease blockage or other significant violations relative to the maintenance of the grease recovery system, this waiver shall be **immediately** revoked. The applicant shall be required to install an exterior grease trap to serve the food establishment. The exterior grease trap shall be designed and constructed in accordance with the State Environmental Code, Title 5.
- G. This waiver cannot be transferred from one person to another person, from one food establishment to another or from one type of operation to another.
- H. Any change or expansion of the food service operation (e.g. menu change, etc.) requires prior approval of the Board of health.

Mrs. O'Rourke seconded. So voted unanimously.

7:15 p.m. Sterling Road, LLC – Sterling Road – Request for Stormwater Management Approval and a Variance

Mrs. Giroux explained that this is against the Board's better judgment to have you come back tonight. Since you have produced copies of the certified white slips and you came from Westfield, MA to make this presentation the Board will make an exception and vote on this hearing. Everything is contingent upon receiving the white slips and green cards.

Mr. Huntley apologized and thanked the Board. Mr. Huntley stated that he would send the certified white slips and green cards overnight.

Mrs. Giroux stated that receiving the decision will be contingent upon the Board of Health receiving the white slips and green cards.

Mrs. Giroux asked the Board Members if they had any further questions.

The Board Members did not have any questions.

Mr. Grady made a motion to grant the request for Stormwater Management Approval and a Variance for Sterling Road, LLC, Sterling Road and include the conditions as recommended by BETA Group and contingent upon receiving the white slips in a timely manner based on the following findings of fact and pursuant to the following conditions:

FINDINGS OF FACT

1. The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 5, Section 5.3.011 and Chapter 6 inclusive.
2. The Board of Health conducted a public hearing on March 5, 2018 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
3. The applicant proposes to construct two (2) new commercial buildings on an undeveloped site to serve as the W. L. French Headquarters and Operations Center. The proposed development includes the installation of a stormwater management system, a private well, septic system, associated vehicular access, parking areas, outdoor equipment staging areas and utilities. The stormwater management system consists of the installation of deep sump hooded catch basins proprietary water quality devices (Stormceptors), a bio-retention area and infiltration basins.
4. The proposed soil absorption system has been designed in accordance with Board of Health Rules and Regulations Chapter 5, Section 5.3.001. However the remaining components (tanks) of the subsurface sewage disposal system have been designed to meet or exceed the standards of the State Environmental Code, Title 5.
5. In addition, the applicant seeks relief from preparing the reserve area during construction of the subsurface sewage disposal system in accordance with Board of Health Rules and Regulations, Chapter 5, Section 5.4.003 (5). Systems for new construction must include a reserve area to

replace the primary soil absorption system. Title 5 does not require that the reserve area be prepared during construction of the primary system. It is highly unlikely that the system will fail due to the fact that the soil absorption system is over designed by Title 5 design standards and probably will not receive a high rate of daily flows.

6. The plans for the proposed subsurface sewage disposal system were reviewed by the Board of Health's Consulting Engineer, BETA Group for compliance with the State Environmental Code, Title 5 and the Board of Health Rules and Regulations, Chapter 5, Sections 3 and 4.
7. The project was reviewed by Matt Crowley of BETA Group, Inc., the Board of Health's Consulting Engineer, for compliance with applicable drainage regulations.
8. The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
9. The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

CONDITIONS

Standard Conditions # 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28 and 29.

- A) All construction must be in accordance with the following plans submitted for review and approval:
 - a) Site Plan entitled W. L. French Headquarters Project, Sterling Road, Billerica Massachusetts prepared by Tighe & Bond, dated July 21, 2017, revised to January 12, 2018 and stamped by Brian S. Huntley, RPE#46273 and Francis J. Hoey III, RPE#40111.
- B) If dewatering is determined to be necessary during work, the applicant shall submit a dewatering plan to the Board of Health for review and approval prior to any dewatering activity occurring;
- C) The owner shall maintain maintenance records for the Stormwater Management Operations and Maintenance in accordance with the approved plan and provide them to the Board of Health upon request.
- D) The applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) and copy of the EPA Notice of Intent to the Board of Health for review and approval at least fourteen (14) days prior to beginning construction.
- E) An Agent of the Board of Health or its designees shall observe the subsurface soil condition in the area of excavation for the subsurface stormwater infiltration systems. The system shall not be constructed until the subsurface soils have been deemed suitable for infiltration.

- F) All outstanding comments issued by the Town of Billerica Department of Public Works (DPW) in a letter dated August 16, 2017 and via email dated January 5, 2018, shall be fully addressed to the satisfaction of the DPW prior to beginning construction.
- G) The mechanically stabilized earth berm design shall be reviewed and stamped by a Massachusetts Registered Professional Geotechnical or Structural Engineer.
- H) Catchbasin to catchbasin connections shall be eliminated within Sterling Road where the site drainage system proposes to directly tie into the Town's drainage system.
- I) The designer shall evaluate if the excess freeboard in Infiltration Basin 1 can be utilized for additional stormwater retention/infiltration to mitigate increases to stormwater volume discharging from the site.
- J) A spill kit shall be kept on site at all times.
- K) All salt storage shall be conducted in accordance with MassDEP Guideline No. DWSG97-1.
- L) A plan depicting all erosion and sedimentation controls to be installed as part of compliance with EPA regulations shall be submitted to the Board of Health at least fourteen (14) days prior to beginning construction.
- M) Mulch logs or compost filter tubes shall be used in place of straw wattles.
- N) Control panels and audio/visual alarms required for the components of the Sewage Disposal System shall be provided in both buildings.
- O) The final design of the wash water recycling and storage system will be provided to the Board of Health for review following approval of MassDEP.

Mr. Reader seconded. So voted unanimously.

7:25 p.m. Thao Lay – Couture Day Spa – 884 Boston Road - Request for a Variance from Body Art Regulations Relative to Cosmetic Tattooing

Mrs. Giroux asked the Board Members how they would like to vote on the request for a variance by Thao Lay, Couture Day Spa, 884 Boston Road. Mrs. Giroux asked can we deny Thao Lay's request.

Mr. Berube explained that Thao Lay requested the hearing and was notified.

The Board reviewed the documentation supporting the variance request and the notes provided by the Director and briefly discussed the matter.

Mr. Berube suggested that the Board deny the variance. Based on the information that I have researched it appears that she is currently conducting this activity. I also recommend that the Board

issue an order to Cease and Desist this activity immediately. I will also notify the State Board of Cosmetology.

Mrs. O'Rourke made a motion to deny the request for a Variance from Body Art Regulations relative to Cosmetic Tattooing and failure to appear.

Mr. Reader seconded. So voted unanimously.

Mrs. O'Rourke made a motion to adjourn. Mr. Grady seconded.

The Board adjourned at 7:50 p.m.

Respectfully submitted,

Mike Grady
Secretary

Joanne M. White
Recording Clerk