



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 June 11, 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, Secretary, Robert Reader, Richard Berube, Director and Joanne White, Recording Clerk. Dr. Elizabeth Villar was absent.

OPEN MICROPHONE

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

No one was present for open microphone.

ACCEPTANCE OF MINUTES

Mr. Reader made a motion to accept the Meeting Minutes of May 7, 2018.
Mr. Grady seconded. So voted unanimously.

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 month of May are included in the Board's package.

Mr. Berube explained that Christine West, Public Health Nurse continues with her routine activities (i.e. blood pressure and blood sugar checks, lead testing for children, communicable disease reporting/follow ups and weekly visits to the Council On Aging for blood pressure checks).

Christine is reviewing camp applications and preparing the paperwork for inspections. Inspections will begin in June. Health Agent, Phavy Pheng will be assisting Christine with the camp inspections.

Mrs. Giroux asked Mr. Berube if an Epi Pen is needed, does the Board of Health have pens available to give out.

Mr. Berube replied no, they have to see a doctor.

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 the next report is from Health Agent, Phavy Pheng.

Mr. Grady stated that it appears that Phavy is making progress with a lot of her continued hearings.

Mrs. Giroux asked about the court case at 72 Forest Park Avenue where a warrant to arrest was issued and nothing has taken place since the warrant was issued.

Mr. Berube explained that until a person is picked up for a violation or taken to court or goes to renew their license, nothing can be done.

Mrs. Giroux asked about 574 Boston Road, Unit 14 where an occupant is using the business as a residential unit.

Mr. Berube explained that is a zoning issue. The Board of Health does not have any control over that. The Building Department asked for Board of Health assistance.

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 Gary has been very busy with complaints and inspections. Gary has conducted the food plan reviews for Panera Bread, OM Hindu Temple and also a mobile food truck for the Shawsheen Valley Technical High School Culinary Department. Gary Courtemanche, John Morris and myself conducted a culinary class and mock inspections for the students at Shawsheen Valley Technical High School. It is a good education for the students and they enjoy learning about food safety.

Mrs. O'Rourke asked why Mr. Morris helped out with the inspections.

Mr. Berube replied that we requested his help.

Mrs. Giroux replied that Mr. Morris has been helping with the inspections for a long time.

Mr. Berube thanked Augusta Market, Eurest at EMD Serono and Market Basket, 700 Boston Road for helping with the inspections.

Mr. Grady asked about the heating fuel tank removal from the Jade Pacific Restaurant, 770 Boston Road.

Mr. Berube explained that as part of the Allen Road reconstruction project, some stormwater management was being done right beside the Jade Pacific Restaurant. While some excavating work was being done the tank was discovered. The tank was on Town property. We traced it back to the Jade and requested that they remove the tank. It was an old heating oil tank.

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

The Board Members did not have any questions.

Central Mass Mosquito Control Project (CMMCP)

Mrs. Giroux stated the next item is Central Mass Mosquito Control Project.

Mr. Berube stated that a list of dates for mosquito spraying has been posted on the Town's website and on the CMMCP's website at www.cmmcp.org. The spraying dates in June are 13, 19, 25 and 28. All dates are subject to change due to weather conditions, mosquito population and mosquito virus activity. Spraying has not occurred because temperatures at night have been too cool. We are working with the Recreation Department and the School Department to spray the fields. Because of the cool temperatures spraying has not been done.

Tobacco Control Letter

Mrs. Giroux stated the next item is the Tobacco Control Letter.

Mr. Berube explained that last month I talked about the budget cuts in the Tobacco Control Program hosted by the Town of Andover. Some of the communities that participate in the program sent a letter to the State House. I also sent a letter. I have heard from Senator Cindy Friedman's office but not from Representative Marc Lombardo's office.

Mrs. Giroux asked what is Juuling.

Mr. Grady explained that Juuling is the use of a nicotine delivery device with no other additives. You have to purchase the product out of state.

Mrs. Giroux asked how do you use it.

Mr. Grady explained that you put it in your mouth just like you are taking a vape.

Mr. Berube explained that looks like a thumb drive. It can be concealed easily.

Reappointment of the Board of Health Representative to the Substance Abuse Prevention Committee

Mrs. Giroux stated the next item is the Reappointment of the Board of Health Representative to the Substance Abuse Prevention Committee. Mrs. Giroux asked the Board Members if they know of anyone that is interested in being on the Substance Abuse Prevention Committee.

At this time the Board Members did not know of anyone that was interested.

Mr. DeLucia explained that we will be discussing the vaping problem at our forum this year. Most of the kids are vaping marijuana. There is a method of finding it in the blood system. However, the test costs a lot of money. It is a major problem that is catching up to alcohol. The #1 problem in Billerica is alcohol, the 2nd greatest problem is vaping with marijuana and the 3rd problem is Heroin. Vaping is going to be a big problem because they are enhancing it to have a nice smell. Mr. DeLucia explained the different types of vaping devices. Mr. DeLucia stated that he would be willing to come before the Board twice a year to keep the Board informed, updated and explain the changes. The changes are happening rapidly in Tewksbury, Wilmington and Billerica. It is not happening as often in Lowell, Chelmsford, Woburn or Burlington.

Mrs. Giroux asked why.

Mr. DeLucia replied we do not know. It could be the culture of the town. A report came out in May from Minnesota that if you vape marijuana more than three (3) times a week your brain starts to shrink. Mr. DeLucia requested that the Board reappoint him as a representative for the Board of Health to the Substance Abuse Prevention Committee.

The Board thanked Mr. DeLucia for the update.

Mrs. Giroux asked the Board Members if they had any questions about reappointing Michael DeLucia as the Board of Health Representative for the Substance Abuse Prevention Committee.

The Board Members did not have any questions.

Mrs. O'Rourke made a motion to reappoint Michael DeLucia as the Billerica Board of Health Representative for the Substance Abuse Prevention Committee.

Mr. Reader seconded. So voted unanimously.

7:15 p.m. OM Hindu Community Center – 240 Boston Road – Request for an Extension of Variance and Stormwater Management Permit #14-22-19-006

Mrs. Giroux stated the first hearing is OM Hindu Community Center, 240 Boston Road, requesting an extension of Variance and Stormwater Management Permit.

Mark Bobrowski, Counsel for OM Hindu Community Center, identified himself. Attorney Bobrowski explained that an application was submitted to the Building Department a year ago regarding the construction of a mixed use facility. We did so under the Dover Amendment, Chapter 48 Zoning Act, Church, school and child care center is entitled to special treatment under

the law. We worked with the Zoning Board of Appeal (ZBA) to put some conditions together that they could live with and would fit into the neighborhood. In November/December, 2017 the ZBA requested that we work directly with Town Counsel and the Building Commissioner to review the concerns regarding the parking count. We met several times and were able to resolve the parking issue by developing a valet parking plan. Attorney Bobrowski read the list of conditions that were negotiated with the ZBA, Town Counsel and the Building Department. Tom Kearns will further explain the details.

Tom Kearns, Dewing Schmid Kearns, Architects and Planners identified himself. Mr. Kearns reiterated that since the order of conditions was negotiated in November/December 2017, the Building Inspector asked us to review the order of conditions with the Fire Department, the Board of Health and the Department of Public Works (DPW). The Fire Department signed off on the revised plans for the parking spaces. We had an outstanding fee with DPW. We paid that fee. In March 2018 our client received a letter from the Board of Health stating that there were outstanding issues. We submitted an updated summary letter to the Board of Health on the current state of the project. We met with the Conservation Commission to resolve their outstanding issues. We resubmitted an updated plan for the kitchen. We believe that we have met all the requirements. We are present tonight to request an extension of the Variance and Stormwater Management Permit that will expire soon.

Attorney Bobrowski explained that this matter is still pending with the ZBA however we think it will be resolved if we receive the extension that we are requesting from the Board of Health. These conditions will be documented on the Certificate of Occupancy.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube explained that we met with the client to discuss the current status of the project. Nothing has changed since the Board granted approval in 2014. The only substantial change is to the building itself. The overall impact is not much different from what the Board granted. The footprint is slightly smaller and the impervious area is still the same. I recommend granting their request for three (3) years because of the how long the process has taken. Typically the Board grants a two (2) extension but in this case I recommend granting their request.

Mrs. O'Rourke asked what the building will be used for.

Attorney Bobrowski replied that the building will be used mainly for religious services. The main floor will be used for Hindu Services. There will be a second floor and that will be used for Yoga and a dance area, which is a religious function. There will be classrooms for students under 16.

Mrs. O'Rourke stated that originally weddings and other religious events were going to be held there.

Attorney Bobrowski replied that they agreed to go off site because weddings and some of their religious events usually last a long time. No alcohol will be served because that is part of their culture.

Mr. Reader asked when do you plan on starting construction.

Mr. Kearns stated that they hope to resubmit the revised plans to the Building Department in the near future. They are hoping to start this project by the end of 2018.

Mrs. Giroux stated the conditions are for a minimum of 61 parking spaces. However you stated that if more than 61 spaces are needed valet service would be available. What is the maximum amount of parking spaces that you think you will need?

Attorney Bobrowski replied that there will only be 61 parking spaces on the site.

Mr. Kearns explained that there are will be 41 regular parking spaces, 12 valet spaces and 8 valet compact spaces. If there is a need for additional parking there will be a valet parking program. Parking will be allowed on other paved areas around the back of the building and in the aisles.

Mrs. Giroux asked what will happen if you exceed the 61 parking spaces. How will you get the cars out of the aisle if there is an emergency?

Mr. Kearns replied the other parking spaces are away from the building. The plan is not to exceed 61 parking spaces.

Mrs. O'Rourke asked have they secured something off site.

Mr. Kearns replied yes they have secured off site spaces. Town Counsel negotiated the language for the parking spaces.

Mr. Berube stated that it should have been a maximum of 61 parking spaces.

Mrs. Giroux asked if anyone in the audience would like to ask any questions.

No one in the audience had any questions.

Mrs. O'Rourke made a motion to grant a three (3) year extension for the Variance and Stormwater Management Permit #14-22-19-006 to the OM Hindu Community Center located at 240 Boston Road.

Mr. Grady seconded. So voted unanimously.

7:20 p.m. Panera Bread – 188 Boston Road – Request a Variance to the Requirement for Employee Restroom Facilities

Mrs. Giroux stated the last hearing is Panera Bread, 188 Boston Road requesting a Variance to the requirements for Employee Restroom Facilities.

Dan Brennan provided the Board Members with a drawing of the layout of the proposed plan for the employee restroom facility.

Dan Brennan, dpb Consulting Services, identified himself. Mr. Brennan explained that Panera Bread is seeking a variance from the Employee Restroom Facilities Regulations. The

restaurant is laid out in such a way so that the employees will not be walking through the dining area to enter the restrooms. The capacity of the proposed restaurant is eighty (80) seats.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube explained that they are constricted by the amount of space that they have. If they tried to put in an employee bathroom it would affect the operation. They would lose seating capacity. This would have a detrimental impact upon the operation. I think they have done the best they could to meet the intent of the regulation. Mr. Berube explained that the Board has previously granted a similar request to Mooyah Burgers located at 199 Boston Road.

Mrs. O'Rourke asked why didn't they construct the building big enough to accommodate this situation.

Mr. Brennan replied that Panera Bread is not constructing the building. We are only leasing a portion of the building.

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

The Board Members did not have any questions.

Mrs. Giroux asked if any abutters would like to comment.

No abutters were present.

Mr. Grady made a motion to grant a Variance that requires separate toilet facilities for employees for the proposed food service establishment Panera Bread to be located at 188 Boston 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 2, Section 2.3.002.
2. The applicant proposes to construct a new food service establishment (FSE) as part of a mixed use development. The overall size of the space and configuration of the proposed FSE does not allow for an employee restroom without having a detrimental impact upon the operation.
3. The applicant shall provide access from the food service area (back of the house) to the restrooms so that employees will not enter the dining area as an alternative to full compliance with Board of Health Rules and Regulations Chapter 2, Section 2.3.002. The restrooms will comply with the Americans with Disabilities Act and the State Plumbing Code.
4. The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health 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 #10, 14 and 15.

- A. These conditions, imposed by the Board of Health, cannot be changed without the written approval by the Board of Health and only after a proper public hearing is held.
- B. A sign or poster that notifies food employees to wash their hands shall be provided at all hand washing lavatories used by food employees and shall be clearly visible to food employees.
- C. This variance shall not be construed as an approval of the food service establishment (FSE) plans. The FSE plan review will be addressed in a separate letter.
- D. This variance cannot be transferred from one person to another, from one food establishment to another or from one type of operation to another.

Mr. Reader seconded. So voted unanimously.

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

The Board adjourned at 7:35 p.m.

Respectfully submitted,

Mike Grady
Secretary

Joanne M. White
Recording Clerk