



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 September 10, 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 joined the meeting at 7:05 p.m.

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 July 2, 2018.
Mr. Reader seconded. Four (4) voted in favor. Dr. Villar joined the meeting late.

CORRESPONDENCE

Dr. Dina Guyetsky Retirement

Mr. Berube explained that Dr. Guyetsky is retiring as the Town of Billerica Physician due to the recent changes in the health care system and new reimbursement policies from insurance companies. These changes have made it difficult for her to continue in a private practice.

Mrs. O'Rourke asked is Dr. Guyetsky completely retiring.

Mr. Berube replied yes. The Board of Health will need to find a replacement for her to sign off on our orders for vaccines to be administered.

Mrs. Giroux suggested that a letter and maybe flowers or a plant be sent to Dr. Guyetsky thanking her for her years of service.

Mrs. O'Rourke made a motion to send Dr. Guyetsky a letter and a plant.

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 months of July and August are included in the Board's package.

Mr. Berube explained that the Public Health Nurse, Christine West continues with her routine activities, Communicable Disease Case follow-ups, Camp Inspections and the Flu Clinic schedule. The first Flu Clinic will be held on Wednesday, October 3, 2018 at the Council On Aging from 9 – 11:30 a.m. for ages 60 and older and pregnant women. A second flu clinic will be held at the Housing Authority on Thursday, October 11, 2018 from 10-11:00 a.m. The third Flu Clinic will be held on Saturday, October 13, 2018 at the Billerica Town Hall from 9-11:30 a.m. for residents over the age of 18. Senior flu vaccine and regular flu vaccine will be available.

Mrs. Giroux asked about the case that Christine worked on at Kitty's Restaurant in North Reading.

Mr. Berube explained that a Billerica resident was a worker at Kitty's Restaurant and she had to adhere to protocol and be released from work. Christine followed up on the case.

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 commented that Crescio Company on Billerica Avenue is using the property as a transfer station. Crescio Company is using Billerica Avenue the same as the former Irish American Club on the Middlesex Turnpike.

Mr. Berube replied that the Board of Health has been working with Mr. Crescio on cleaning up the property. Mr. Crescio has removed the roll-off containers full of debris from the site. This has been an ongoing issue for seven (7) years. We have requested that Mr. Crescio submit plans to redevelop the site. The site is disturbed and there is a problem with stormwater management. The Building Commissioner is also aware of the problems. Mr. Berube explained that Mr. Crescio does not own the Irish American Club anymore. He sold the property. The current owner is trying to redevelop the property. At first he wanted to construct a hotel and that plan got rejected. Now he is looking into constructing an assisted living facility. The only issue is that the property is not zoned for that type of facility. He is trying to get the required zoning changes necessary to construct

an assisted living facility.

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

The Board Members did not have any questions.

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

Mrs. Giroux commented that she was surprised that Chipotle's had another complaint.

Mrs. Giroux commented that she was at Cumberland Farms the other day and was surprised that the clerk would not sell tobacco products to a gentleman without an ID.

Mrs. Giroux asked about the status of Java Brewin.

Mr. Berube replied that he met with the owner of the Plaza and according to him Nick (owner of Java Brewin) was burnt out and needed a break. At some point he is going to complete the renovations and reopen.

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

The Board Members did not have any questions.

Mosquito Control Update

Mrs. Giroux stated the next item is Mosquito Control Update.

Mr. Berube explained that the West Nile Virus (WNV) has made quite an impact across the State. There are about ten (10) human cases mostly in the Metro Boston area. Fortunately, we do not have any human cases of WNV in Billerica. However, WNV was discovered in North Billerica last week. That area was sprayed on Thursday, September 6, 2018 and it went very well. A number of residents requested that their area be sprayed and Central Mass Mosquito Control (CMMCP) was able to accommodate those residents. CMMCP also sprayed Chelmsford and Tewksbury on the same day. We are approaching the season where cooler night time temperatures tend to predominate and spraying is not effective. We need to exercise protection when outside, using repellents, wearing long sleeved shirts and long pants and avoid going out after sunset.

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

The Board Members did not have any questions.

Mid-Year Beaver Management Report

Mrs. Giroux stated the next item is the Mid-Year Beaver Management Report.

Mr. Berube explained that Mike Callahan, Beaver Management has submitted a Mid-Year Report for the work he has done in the last six (6) months. Mike has done quite a bit of trapping on

Donna Road, Glad Valley Drive and Iron Horse Park along the Middlesex Canal. Iron Horse Park/Middlesex Canal seems to be a chronic area. Lately, Donna Road in North Billerica along Black Brook has also been a problem. Glad Valley Drive has been quiet for a number of years however the beavers are back so we did some trapping there. The water level control devices on Boston Road by Enterprise Bank and 79 Treble Cove Road have been upgraded. Despite all the rain we have received this summer the water levels are pretty low.

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

The Board Members did not have any questions.

Proposed 2019 Board of Health Meeting Schedule

Mrs. Giroux stated the last item under Board of Health Business is the Proposed 2019 Board of Health Meeting Schedule.

Mrs. Giroux asked if the Board Members were interested in changing the Board of Health meeting time to 7:30 p.m.

The Board Members were not in favor of changing the meeting time.

Mr. Berube asked if the Board Members had any questions regarding the schedule.

Mr. Berube asked if the Board would like to make a motion to accept the meeting dates as scheduled. If a change needs to be made the Board can do that as needed.

Mr. Reader made a motion to accept the 2019 Board of Health Meeting Schedule.

Mr. Grady seconded. So voted unanimously.

7:15 p.m. Cross Properties, LLC – Fitzpatrick Woods – Definitive Subdivision Approval

Mrs. Giroux stated the first hearing is Cross Properties, LLC, Fitzpatrick Woods, Definitive Subdivision Approval.

Stephen Dresser, provided the Board Members with a large scale drawing of the proposed Fitzpatrick Woods Definitive Subdivision to be located off of Oak Street.

Stephen Dresser, Dresser, Williams & Way, Inc., identified himself. Mr. Dresser explained that he is representing Cross Properties, LLC. This is an eight (8) lot subdivision that has been approved by the Planning Board. The plan has been reviewed and approved by the Board's peer consultant, Woodard & Curran as well as the Department of Public Works (DPW), the Fire Department and other town boards. The applicant has submitted a Stormwater Management Maintenance Manual and the Homeowner's Association documents. The soil is very sandy. Everything runs down from Oak Street. The proposed project will be lower than Oak Street. There will be three (3) proposed infiltration basins with sediment forebays that will handle the majority of drainage. Mr. Dresser pointed to the natural depression and explained how the drainage would be handled. No trees will be cut down. The applicant is proposing six (6) new homes to be constructed.

The two (2) existing homes will remain. All the proposed work is greater than one hundred (100) feet from the wetlands. The applicant is also proposing a twenty-four (24) foot wide roadway within a fifty (50) foot wide right-of-way. Jon Metivier, Cross Properties is present tonight to answer any questions that the Board may have.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube replied that included in the Boards packet is the report from Woodard & Curran. The conditions are ideal for drainage. I recommend granting approval and include the conditions that Woodard & Curran has suggested in their report.

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

Mr. Grady asked will they be connected to town sewer.

Mr. Dresser replied yes, the most recent DPW project provided sewer easements down in that area.

Mr. Reader asked has this project come before this Board previously.

Mr. Dresser replied no. The applicant tried to get the area rezoned for a 30,000 square foot lot. However Town Meeting did not grant approval.

Mrs. Giroux asked if any abutters were present.

Robert Amiro, 58 Oak Street identified himself. Mr. Amiro stated that his lot abuts Upton Street. He does not have any problems with this project.

Mr. Grady made a motion to grant Cross Properties, LLC, Definitive Subdivision and Stormwater Management Approval for Fitzpatrick Woods to be located off Oak Street and to include the recommended conditions from Woodard & Curran 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 Board of Health Rules and Regulations, Chapter 1, Section 3 and Chapter 6 inclusive.
2. The Board of Health conducted a public hearing on September 10, 2018 and properly notified abutters in accordance with the Billerica Health Regulations, Chapter 1, Section 1.2.007.
3. The applicant proposes to construct an eight (8) lot subdivision abutting Oak Street. The project includes the construction of six (6) single family dwellings (two existing dwellings to remain) with associated driveways, utilities, stormwater infrastructure and approximately 1,275 linear feet of proposed roadway to access the new development. Stormwater infrastructure includes manholes, catchbasins, subsurface conveyance pipes

and infiltration basins with sediment forebays.

4. The project was reviewed by Woodard & Curran, Inc. the Board of Health's Consulting Engineer, for compliance with applicable stormwater management regulations.
5. The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
6. 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, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29.

- A. All construction must be in accordance with plans submitted for review and approval, prepared by Dresser, Williams & Way, Inc. dated April 14, 2018 revised to July 9, 2018 and stamped by Stephen R. Dresser, RPE#49202.
- B. An agent of the Board of Health or its designees (i.e. the Board of Health Consulting Engineer) shall observe the subsurface soil conditions in the areas of excavation for the subsurface stormwater infiltration systems. The systems shall not be constructed until the soils are deemed suitable for infiltration and the high groundwater elevation is determined. Documentation of soil testing shall be submitted to the Board of Health.
- C. The applicant shall submit a Maintenance Agreement for the operation and maintenance of the stormwater management facilities to the Board of Health and the Board of Health's Consulting Engineer for review and approval prior to the approval of any occupancy permits.
- D. The applicant shall establish a Homeowner's Association which will assume responsibility for the long term operation and maintenance of the stormwater management facilities after the project is completed and a Certificate of Compliance is issued by the Board of Health for said project. Homeowner's Association documents shall be submitted to the Board of Health for review and approval prior to the approval of any occupancy permits. Said documents must include language covering the association's responsibility for maintaining the stormwater management system and shall reference the Operation and Maintenance Plan for the stormwater management system. Upon establishment of the Homeowner's Association, the applicant shall submit a list of the members of the Board of Trustees and their contact information.
- E. All potential homeowners must sign an acknowledgement statement regarding the stormwater management system and are responsible for notifying future owners and future owners are responsible for notifying subsequent future owners and so on. (see Attachment "A").

The undersigned Purchasers acknowledge that I/We have been informed by the Seller about the responsibility of the Homeowner's Association for the long-term operation and maintenance of the stormwater Management system that serves Fitzpatrick Woods Subdivision in accordance with the Stormwater Management Permit issued by the Board of Health. I/We agree to provide this notification to any potential buyers if I/We choose to sell the property in the future. The future buyers will also be informed that they must notify any potential buyers.

This acknowledgement must be submitted to the Board of Health.

- F. The Board of Trustees for the Homeowner's Association must report all office holders and their contact information (i.e. address, phone number and email address) to the Board of Health on or before December 31st of each year.
- G. The Applicant shall not compact or conduct any activity that may compromise the infiltration capacity of the infiltration systems. The Board of Health Consulting Engineer may request post-construction infiltration testing to verify that the systems have been constructed in accordance with the approved plans and drainage reports

Mrs. O'Rourke seconded. So voted unanimously.

7:20 p.m. Richfield Company, LLC – 43 Elsie Avenue – Request for a Variance for work within 25 feet of the Flood Plain

Mrs. Giroux stated the next hearing is Richfield Company, LLC, 43 Elsie Avenue, requesting a Variance for work within 25 feet of the Flood Plain.

Gary Litchfield, Richfield Company identified himself. Mr. Litchfield explained that he is proposing to construct a new single family dwelling on a lot on Elsie Avenue. The proposed house will not be constructed in the flood plain however, a portion of the lot is in the flood plain. I am seeking a variance for construction within twenty-five (25) feet of the flood plain. I will be appearing before the Conservation Commission for their approval and an Order of Conditions.

Mr. Berube explained that this lot is near the end of Elsie Avenue that borders Old Middlesex Turnpike. It is one of the few high spots in that area. The house will be outside of the flood plain. As Mr. Litchfield explained he will be appearing before the Conservation Commission this week. The applicant has complied with everything I have asked him to do so I recommend granting the variance.

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

Mr. Grady stated that there are three (3) or four (4) other houses in that area that are on stilts, will this house be on stilts.

Mr. Berube replied no. This house will be outside of the flood plain. Stilts will not be necessary. However the foundation will be higher than the flood plain.

Mr. Litchfield explained that the house will be constructed slab on grade at the elevation of 120.5. It will be almost 2 feet higher than the flood elevation.

Mr. Reader asked will this house be serviced by town sewer.

Mr. Litchfield replied yes.

Mrs. Giroux asked does it flood in that area.

Mr. Litchfield replied that area does not flood. This is a corner lot and as the street goes up the elevation goes up. As you go down Elsie Avenue it dips down.

Mr. Berube explained there are three (3) lots in that area that are above the flood plain, one lot on Elsie Avenue and a couple of lots on Braemore Road. The lot that Mr. Litchfield is building on is dry.

Mrs. Giroux asked will this construction affect anyone else.

Mr. Berube replied no.

Mrs. O'Rourke asked why will this house have a grinder pump.

Mr. Litchfield replied the grinder pump is because of the elevation. My engineer worked with DPW and designed the plan.

Mr. Berube explained that everyone on Elsie Avenue has a grinder pump because they are in a low area.

Mrs. Giroux asked if any abutters would like to comment or express their concerns.

Kristina Forsyth, 44 Elsie Avenue identified herself. Ms. Forsyth stated that there should not be any more construction on Elsie Avenue. I think you are damaging the river's edge. I feel very strongly about it.

Lindsay Little, 46 Elsie Avenue identified herself. Ms. Little stated that she just moved in and does not want more construction on the street. I agree that there are a lot of new houses being constructed. We are having a hard time putting up a fence because of the Conservation Commission. I wasn't notified of the Conservation Hearing on Wednesday. I would also like to see the plans for the construction of the proposed house. I would like to see where the house will be located, what it will look like and where the driveway would come out.

Mr. Litchfield stated that the driveway will come out to Braemore Road.

Mr. Berube suggested that Mr. Litchfield show Ms. Forsyth and Ms. Little the plan.

Ms. Little asked who will be living in the house.

Mr. Litchfield explained that he does not know. Mr. Litchfield pointed to the plan and explained the layout of the proposed house and the location of the driveway.

Ms. Little asked what type of house is being built.

Mr. Litchfield explained the house will be a split cape 26 ft. x 36 ft. with a one (1) car garage.

Ms. Little asked when is the Conservation Meeting being held.

Mr. Litchfield replied the Conservation Meeting will be held on Wednesday, September 12, 2018 at 6:00 p.m.

Mr. Reader made a motion to grant a Variance for work within twenty-five (25) feet of the Flood Plain at 43 Elsie Avenue for Richfield Company based upon the following facts 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 Billerica Health's Rules and Regulations, Chapter 5, Section 5.5.005 (1).
- 2) The applicant proposes to construct a single family dwelling on an undeveloped lot of land. FEMA Flood Plain and the Green Engineering Flood Plain (GEFP) encroach upon a portion of the property. However, the proposed dwelling will be located upland approximately three (3) feet outside the Flood Plain at its closest point. Furthermore, the proposed dwelling will be constructed on a slab foundation elevated two (2) feet above the flood elevation. Stormwater management will be addressed through the installation of infiltration structures for roof and driveway runoff.
- 3) 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, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 24 and 25.

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Eastern Land Survey Associates, Inc., dated May 14, 2018 and revised to May 31, 2018 and stamped by Christopher R. Mello, RLS #31317.

Mrs. O'Rourke seconded. So voted unanimously.

7:25 p.m. Razy's Baking and Catering – 265 Boston Road – Request for a Waiver of Regulations

Mrs. Giroux stated the last hearing is Razy's Baking and Catering, requesting a Waiver of Regulations for an exterior grease trap.

Nancy Maiullari, Razy's Baking and Catering, identified herself. Ms. Maiullari explained that we are requesting a Waiver of Regulations for an exterior grease trap. All the equipment will be new. There is an empty space in the block of stores at 265 Boston Road and we would like to occupy it. We are aware that we will have to put in a new interior grease trap. I attended the FOG Class. Every three (3) months John's Sewer & Drain cleans out the interior grease trap and in between I clean the grease trap.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube stated that Gary has included a report with his recommendations. Razy's has been before this Board for their operation at 131 Boston Road and the Board granted a waiver. The Board of Health has not had any problems with them. It is going to be the same operation. The building at 265 Boston Road is on a slab foundation and it would be impossible to put in an exterior grease trap. This is the same building that Livingstone's Restaurant occupies and there have not been any problems. Mr. Berube recommended granting the waiver.

Mrs. Giroux asked Ms. Maiullari if she was in agreement to water testing and implementing the Best Management Practices provided by the Health Department for grease removal.

Ms. Maiullari replied yes.

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

Dr. Villar made a motion to grant a Waiver of Regulations that requires the installation of an exterior grease trap at Razy's Baking and Catering to be located at 265 Boston Road based upon the following facts 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 applicant proposes to relocate a small bakery that specializes in cake decorating, baked goods and cold lunches from its current location at 131 Boston Road to 265 Boston Road. All foods will be available for takeout service only. There will be no seating. The limited menu will not generate any significant grease discharge nor will there be any equipment (e.g. fryolators, grills, etc.) that will contribute to any grease discharge into the sewer system.
3. The site conditions of 265 Boston Road make it physically and economically unfeasible to install an exterior grease trap. An interior grease interceptor will be installed within the proposed food service establishment. The interior grease interceptor will be monitored and cleaned every month. A maintenance record shall be kept and made available for

inspection by the Board of Health. In addition, the applicant agrees to implement the Best Management Practices (BMP's) provided by the Billerica Health Department.

4. Razy's was granted a similar request for a Waiver of Regulations in March 2015 for its current location at 131 Boston Road, Suite 2. They have complied with the Order of Conditions for the waiver including participation in the FOG Control Program. There has been no history of violations related to the waiver.
5. 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

CONDITIONS

Standard Conditions # 10, 14, 15, 25,

- 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. The interior grease trap/interceptor shall be equipped with a test port at the outlet to provide access for monitoring activities.
- C. 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.
- D. 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.
- E. This waiver shall be subject to periodic review by the Board of Health to ensure compliance with applicable rules and regulations.
- F. 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.
- G. 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.

- H. 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.

Mr. Reader seconded. So voted unanimously.

Mrs. Giroux asked if there was anything else the Board would like to discuss.

Mr. Grady stated that he went to the Royal Tavern, 786 Boston Road a couple of weeks ago and when he walked in the stench was so bad that he could not stay. If you go into the bathroom you do not smell anything. Mr. Grady explained that he has been approached by numerous people about the awful stench as you walk in the front door of the Royal Tavern. The smell reminded him of when Garrisons had their grease trap problem.

Mr. Berube asked how would you describe the odor.

Mr. Grady stated it smells like poop.

Mr. Berube stated that he would have Gary check it out tomorrow.

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

The Board adjourned at 7:40 p.m.

Respectfully submitted,

Mike Grady
Secretary

Joanne M. White
Recording Clerk