



# ***Billerica Board of Health***

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Mike Grady, Chairman  
Robert Reader, Vice Chairman  
Sandra Giroux, Secretary  
Marie O'Rourke  
Amit Gandhi, Ph.D.

Kristel Bennett, Director

## **BOARD OF HEALTH MINUTES January 10, 2022**

Mike Grady, Chairman called the meeting to order at 7:00 p.m. Also in attendance were Robert Reader, Vice Chairman, Sandra Giroux, Secretary, Marie O'Rourke, Amit Gandhi, Ph. D., Kristel Bennett, Director and Joanne White, Recording Clerk.

### **OPEN MICROPHONE**

Mr. Grady asked if anyone would like to comment on Open Microphone.

No one was present to comment on Open Microphone.

### **ACCEPTANCE OF MINUTES**

Mrs. Giroux made a motion to accept the Meeting Minutes of November 8, 2021.

Dr. Gandhi seconded. So voted unanimously.

Mrs. Giroux made a motion to accept the Meeting Minutes of December 6, 2021.

Mr. Reader seconded. 4 voted in favor (1 vote abstained, Marie O'Rourke)

### **BOARD OF HEALTH BUSINESS**

Mr. Grady asked Mrs. Bennett to comment on the email she received from Jonathon Shaer, the Executive Director of New England Convenience Store & Energy Marketers Association.

Mrs. Bennett explained that she received an email from Jonathon Shaer regarding the draft amended Billerica Tobacco Control Regulations. I informed Mr. Shear that at this time the Board of

Health was not discussing the Billerica Tobacco Control Regulations. However, if there is a change in the Regulations, I will notify the public and I will also notify Mr. Shaer and he is welcome to attend the hearing.

**Beaver Solutions 2021 Report**

Mr. Grady stated the first item under Board of Health Business is the Beaver Solutions 2021 Report.

Mr. Grady asked the Board Members if they had any questions.

The Board Members did not have any questions.

Mrs. Bennett commented that there was a lot of beaver activity in 2021.

**Board of Health Activity Reports**

Mr. Grady stated the first item under Board of Health Business is the Health Department Activity Reports.

Copies of the Health Department Activity Reports for December are included in the Board's package.

Mr. Grady stated the first activity report is from Health Agent, Phavy Pheng.

Mrs. Bennett replied she had no additional comments. Mrs. Bennett informed the Board that Phavy changed the complaint regarding the porta potty on Kohlrausch Avenue. The complaint stated that the porta potty was in the dog park and Ms. Pheng clarified the complaint so that it reads that the porta potty is located on Kohlrausch Avenue. Mrs. Bennett explained that the court case for Ocean Glass has dragged on for a long time because the owner has a head injury. The business is being taken over by the family and the property has been cleaned up.

Mrs. O'Rourke asked why is the fine being voided.

Mrs. Bennett explained that the fine is being withdrawn because of the long wait for a court hearing. The family will be taking over and Phavy and I discussed this situation and felt that the family members will be given the opportunity to take care of the property. If the Board of Health receives a complaint then the fine process will be instituted. The dumpster area has been addressed and cleaned up.

Mrs. Giroux thanked the town for the quick response on 52 Pollard Street regarding the emergency gas leak. Mrs. Giroux asked about the bed bug situation at Kenmar Drive.

Mrs. Bennett replied that Ms. Pheng is investigating the problem.

Dr. Gandhi stated that the new members of Ocean Glass should be trained on the proper protocol for maintaining the property and the dumpster area.

Mr. Grady complimented Phavy on closing out a lot of junk and debris and nuisance cases.

Mr. Grady stated the next activity report is from Health Agent, Shelagh Collins.

Mrs. Bennett replied no additional comments. Mrs. Bennett commented that Shelagh was out a lot in the month of December for COVID.

Mrs. O'Rourke requested that Mrs. Collins provide more details on the State Conferences that she participates in.

Mrs. Giroux stated that something needs to be done about businesses not wearing masks. Mrs. Giroux stated that she knows it is not easy but something has to be done and she does not know what that should be.

Mr. Reader commented that he does not know what can be done but some people are just sick of wearing a mask.

Dr. Gandhi asked if it would be possible to implement an education program for owners of businesses that have repeat citations so that future compliance can be achieved. Are premises with repeat mask citations either due to owners/employees not following the mask order or is it customers.

Mrs. Bennett replied it is both business owners and customers.

Mr. Grady asked the Board Members if they had any other comments or concerns.

### **Health Director Update**

Mr. Grady stated the next item under Board of Health Business is the Health Director's Update.

Mrs. Bennett explained that COVID Cases are surging. The numbers do not include the positive cases that are being done with the use of home testing kits.

Mr. Grady asked the Board Members if they had any questions.

The Board Members did not have any questions.

### **Next Meeting – February 7, 2022**

Mr. Grady stated the last item under Board of Health Business is the schedule for the next meeting. The next Board of Health Meeting is scheduled for February 7, 2022.

### **7:15 p.m. Marc Lombardo – 9 Eubar Circle – Request for a Variance for Work within the Flood Plain**

Mr. Grady stated the first hearing is Marc Lombardo, 9 Eubar Circle requesting a Variance for work within the Flood Plain.

Stephen Dresser provided the Board with a large scale drawing of the project at 9 Eubar Circle.

Stephen Dresser, Dresser, Williams & Way, Inc. identified himself. Mr. Dresser explained that Mr. Lombardo is proposing to construct an addition with a garage and an associated driveway at 9 Eubar Circle. Mr. Lombardo has appeared before the Conservation Commission and was granted approval with an Order of Conditions. The improvements will increase the impervious area within the buffer zone. The proposed mitigation measures include the addition of twenty (20) plants and shrubs in the Buffer Zone area behind the detached garage. In 2013, Mr. Lombardo built a garage on the other side of his home and the Board of Health granted him a variance. It was determined that the Green Engineering Flood Plain (GEFP) has been altered by drainage improvements in the River Pines area. Storage will be provided in the stone drainage trench that will attenuate any potential loss of storage in the Flood Plain. The gutters will be contained to the drainage system. Mr. Dresser stated he would answer any questions that the Board may have.

Mrs. Bennett replied that she discussed this project with Isabel Tourkantonis, Director of Environmental Affairs and the project was approved by the Conservation Commission. I support this project. The drainage mitigation will include infiltration trenches for the new driveway. The shed will be relocated to the other side of the property.

Mrs. O'Rourke asked about the shed.

Mr. Dresser pointed to the plans and explained where the addition would be located and where the shed would be relocated to the other side of the house. Mr. Dresser explained that the intent for the in-law apartment and garage is so that the parents will not have to go outside to enter the garage.

Mrs. Giroux asked Mr. Dresser to explain what was the addition for that the Board approved in 2013.

Mr. Dresser replied that the original addition was for an in-law apartment and a detached garage. Mr. Dresser pointed to the plans and explained what was built before and what is being proposed.

Mr. Reader asked will the room above the garage be just a room.

Mr. Dresser explained no, it would be an addition.

Mr. Grady asked if any abutters were present.

No abutters were present.

Mrs. Giroux asked how much space will there be above the garage.

Mr. Dresser explained it will be a 26 ft. x 20 ft. addition attached to the house. The applicant's parents who currently live in the house have found it too difficult to access the detached garage that was built in 2013, therefore the addition/garage needs to be attached to the existing house.

Mr. Reader made a motion to grant a Variance for work within the Green Engineering Flood Plain at 9 Eubar Circle based upon 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 5.5.005 (1).
- 2) The applicant proposes to relocate an 18’ x 10’ shed and construct a 20’ x 26’ addition with a garage and pervious driveway on the north side of the existing dwelling. Stormwater features to capture and infiltration stormwater runoff from the new addition/garage and driveway are included in the design, which includes the gutter and downspout drainage to a 2’ x 2’ stone trench along the northern side of the proposed driveway. The shed will be relocated to the south side adjacent to the garage and will be placed on top of a crushed stone base. The relocation of the shed and the addition with the garage will be constructed within the Green Engineering Flood Plain (GEFP).
- 3) The GEFP associated with this property has been altered by development in the River Pines Area (i.e. Baniulis Road and Charles Anna Lane) and the installation of drainage/stormwater infrastructure upstream, of the subject property, which has been noted in the September 9, 2013 Board of Health Variance Letter of Approval. The applicant proposes to install stormwater improvements to mitigate any potential flood plain impacts.
- 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**

Special Conditions#1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 15, 24 and 25.

- A) All construction must be in accordance with plans submitted for review and approval, entitled Board of Health Plan 9 Eubar Circle prepared by Dresser, Williams & Way, Inc. dated December 14, 2021 and stamped by Stephen Dresser RPE #49202.

Mrs. O’Rourke seconded. So voted unanimously.

**7:25 p.m. Philip Dunnigan – 23 Fourth Avenue – Request for a Variance for Work within the Flood Plain**

Mr. Grady stated the last hearing is Philip Dunnigan, 23 Fourth Avenue requesting a Variance for work within the Flood Plain.

Philip Dunnigan, 23 Fourth Avenue, identified himself. Mr. Dunnigan explained that he is requesting a variance to construct a garage, dripline trench and associated utilities with 100 feet of the

buffer zone. Mr. Dunnigan explained that he has appeared before the Conservation Commission. Mike Devito, Conservation Land Use Assistant has been very helpful explaining what I need to do for this project. John Noonan, Hancock Associates has prepared the Plot Plan for me. The garage is for me to have a workshop. The garage will have electricity. No work is being done in the Flood Plain.

Mrs. O'Rourke asked how close are you to the Shawsheen River.

Mr. Dunnigan replied not close at all. Mr. Dunnigan explained the location of his property. The garage will have gutters so that my wife can capture the rain water for her garden.

Mr. Reader asked if the shed will still exist.

Mr. Dunnigan replied yes.

Mrs. Giroux asked will there be heat in the garage.

Mr. Dunnigan replied yes just heat and electricity, no bathroom facilities.

Mrs. O'Rourke asked how big is the chicken coop.

Mr. Dunnigan explained the size of the chicken coop. 6 ft. x 7 ft.

Mrs. O'Rourke asked how many chickens do you have.

Mr. Dunnigan replied my wife currently has 3 chickens but plans on getting more in the spring.

Mr. Grady asked if any abutter were present.

Joseph Hoover, 47 Charger Street, Revere identified himself. Mr. Hoover asked if he could see the Plot Plan.

Mr. Reader asked if there was sewer in that area.

Mr. Dunnigan replied no.

Mr. Grady asked Mr. Hoover if he had any questions.

Mr. Hoover replied that he just wanted to see the Plot Plan and what Mr. Dunnigan was planning on constructing.

Mrs. O'Rourke made a motion to grant a Variance to construct a garage within twenty-five (25) feet of the Flood Plain at 23 Fourth Avenue, 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 5.5.005 (1).

- 2) The applicant proposes to construct a 40' x 28' garage on the southern side of the property, approximately nineteen (19) feet from Green Engineering Flood Plain. In addition, the construction of a dripline trench to capture and infiltrate runoff from the proposed garage.
- 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**

Special Conditions#1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 15, 24 and 25.

- 1) All construction must be in accordance with plans submitted for review and approval, entitled DEP File No. 109-1471, BBL No. BBL-1471 #23 4<sup>TH</sup> AVENUE prepared by Hancock Associates dated October 14, 2021, revised date November 30, 2021, and stamped by John Lawrence Noonan RPE #35821.

Dr. Gandhi seconded. So voted unanimously.

**7:35 p.m. Review of Board of Health COVID-19 Public Health Order**

Mr. Grady stated the last item is the Review of the Board of Health COVID-19 Public Health Order. The Board reviewed the Board of Health COVID-19 Public Health Order and the health data to determine when to lift the order. The Board reviewed the current number of cases, the level of community transmission for Middlesex County and the town's vaccination rate.

Mr. Reader made a motion to continue with the Public Health Order for the Mask Mandate until further notice.

Mrs. O'Rourke seconded. So voted unanimously.

Dr. Gandhi complimented the Board of Health and the Town for their efforts with the COVID vaccination clinics. The clinics are definitely one of the factors that contribute to trending in the right direction. Dr. Gandhi stated that he is hearing a lot of positive feedback regarding the clinics. Great work by all.

**Miscellaneous Discussion**

Mrs. Giroux asked what is the status of Java's Brewin.

Mrs. Bennett stated that it is now reopened. There were cleanliness issues and they have been resolved.

Mrs. O'Rourke asked what is going on with Jon Ryan's Pub.

Mrs. Giroux replied that they have staffing issues.

Mr. Reader stated that Liberty Bell was closed the other day, does anyone know why.

Mrs. Bennett replied staffing issues.

Mrs. Giroux asked what happened at the Emerald Rose.

Mrs. Bennett explained there were 5 staff members that had COVID. Also members behind the bar were not wearing masks. Management is addressing the situation.

Mrs. Giroux stated that she got a complaint regarding the staff at Purple Bamboo were not wearing masks.

Mrs. Bennett replied that she will check into that.

Mr. Grady asked when is Mike's Place (formerly Rick's Café) going to open.

Mrs. Bennett replied that she has not heard anything.

Mr. Reader made a motion to adjourn.

Mrs. Giroux seconded.

The Board adjourned at 8:00 p.m.

Respectfully submitted,

Sandra Giroux  
Secretary

Joanne M. White  
Recording Clerk