



Billerica Board of Health

Town Hall
365 Boston Road
Billerica, MA 01821
Phone: 978-671-0931
Fax 978-671-0919
Web Site www.town.billerica.ma.us

Mike Grady, Chairman
Robert Reader, Vice Chairman
Sandra Giroux, Secretary
Marie O'Rourke

Kristel Bennett, Director

BOARD OF HEALTH MINUTES January 11, 2021

Due to required Social Distancing as a result of the COVID-19 Pandemic the Billerica Board of Health held a Virtual Meeting on a Zoom Platform.

Mike Grady, Chairman called the meeting to order at 5:00 p.m. Also in zoom attendance were Robert Reader, Vice Chairman, Sandra Giroux, Secretary, Marie O'Rourke and Kristel Bennett, Director. Joanne White, Recording Clerk was absent.

OPEN MICROPHONE

Mr. Grady asked if anyone has joined the Virtual Meeting and would like to comment on Open Microphone.

No one joined online to comment on Open Microphone.

ACCEPTANCE OF MINUTES

Mr. Reader made a motion to accept the Meeting Minutes of December 14, 2020.
Mrs. O'Rourke seconded.

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes and Marie O'Rourke, yes.

BOARD OF HEALTH BUSINESS

Board of Health Activity Reports

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

**BOARD OF HEALTH MINUTES
JANUARY 11, 2021 PAGE 2**

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 explained that Health Agent, Phavy Pheng has been helping the Public Health Nurse, Christine West with contact tracing of COVID 19 cases. The court system is closed. Phavy continues to check on her ongoing cases to see if there have been any improvements. No improvements have been made. Phavy has been helpful following up with mask and COVID complaints.

Mr. Grady asked are restaurants required to post on Facebook when they have a positive case.

Mrs. Bennett explained that there have been a lot of restaurants that have closed due to positive cases and close contacts. The establishments need to close for at least 24 hours and do a thorough cleaning. If they have staffing capacity that hasn't been affected by the close contacts they can open after the cleaning has been done. Shelagh has also responded to mask complaints that the Health Department has received.

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

Mrs. Bennett explained that Shelagh was only at work for half a month because she was a close contact and had to be quarantined. Shelagh has responded to mask complaints, conducted some inspection and is also helping with contact tracing. The Town Hall shut down and we were working with a skeleton crew.

Mrs. Giroux asked how many people are employed by Harley Davidson in North Billerica.

Mrs. Bennett replied that she is not sure. They should be at reduced capacity.

Mrs. Giroux commented that it seems like there are a lot of people in the facility for a place that should be at reduced capacity.

Mrs. Bennett replied that she would have Shelagh check into it.

Mr. Reader asked do you get many complaints about restaurants having over 25% capacity.

Mrs. Bennett replied yes, we had a few issues over New Year's Eve. We received several complaints regarding the Purple Bamboo and Jade Pacific being packed on New Year's Eve. We usually do not get many complaints about the capacity of a restaurant during the week.

Mr. Reader explained that he has received text messages and driven by Garrisons, Jade Pacific, Steve's Pinehurst Tavern and Purple Bamboo. I feel that they are not even trying to follow the rules. Mr. Reader explained that Jade Pacific was packed on Christmas Eve. I informed Mr. Liu, the owner that it was deplorable. He informed me that it wouldn't be like that on New Year's Eve. Mr. Reader commented that someone should be paid overtime to check on the restaurants over the weekend.

Mrs. Bennett replied that everyone should be following the 25% capacity order to ensure that no more people get sick. The police have been very helpful.

Mr. Grady stated he heard that Stelio's had an outbreak and shutdown. Mr. Liu sent his employees to work at Jade Pacific. Mr. Grady suggested that Mr. Liu come before the Board and answer any questions that the Board may have.

Mrs. Bennett stated that she would talk to Shelagh and get more information on these restaurants.

Mr. Reader asked is Steve's Pinehurst Tavern cooperating with the Board of Health.

Mrs. Bennett replied before Christmas Eve we received four (4) complaints about Steve's Tavern regarding the mask situation and six (6) foot distancing. I notified Attorney McKenna. Steve sent me an email and was very upset about getting complaints.

Mr. Grady stated that he stopped by and Steve would not let him in. Steve stated that he was at his 25% capacity and could not let anyone else in. Steve feels that the customers should confront him instead of complaining. Steve feels like he is being singled out.

Health Director Update

Mrs. Bennett explained that the Town Hall closed to the public on December 23, 2020. On December 22, 2020 clerks and several staff members had to be quarantined due to a COVID employee. We have been working with a skeleton crew to meet the 25% capacity. Six (6) people from the Library and COA have gone through Maven Training and are working with Christine to do contact tracing. COVID vaccine is being given to first responders on Tuesday January 12th, Wednesday, January 13th, and Thursday, January 14th. It is by appointment only. Christine will work on additional clinics as we move through the other phases. The court system will not open until April. Suppa's Pizza is in compliance with the Board of Health's Order and provided all the required information to the Board of Health. The Health Department has been receiving numerous calls about the vaccine and when it will be available for the elderly.

Mr. Grady asked did the employees from the COA and Library have to sign an agreement to not break the HIPAA Laws.

Mrs. Bennett replied they went through Maven Training which covers confidentially. Mrs. Bennett explained to the Board the process that Christine uses to assign the cases and if there are too many cases Christine sends them off to the State. We have applied for the vaccine and are waiting for approval for clinics from the State.

Mrs. Giroux thanked Christine for helping out the hockey team because of the positive test of one of the hockey players. Mrs. Giroux asked when is the town going to hold a vaccine clinic.

Mrs. Bennett replied when the State issues us the vaccine. Phase 2 covers a lot of municipal employees. No date has been given.

Mrs. Giroux stated that the food pantry has moved to the Mason's Hall on Concord Road. Does Shelagh have to conduct an inspection?

Mrs. Bennett replied yes and she would talk to Shelagh about that.

Review Draft Marijuana Regulations

Mr. Grady stated the next last item under Board of Health Business is the review of the Draft Marijuana Regulations.

Mrs. Bennett explained that this is the same regulation that the Board reviewed in November. Two (2) things have been added. The Board of Selectmen are looking for a trash disposal and odor plan. I have also been asked about a repackaging plan. I am looking to have the Board vote on the regulations in March.

Mr. Reader asked how many facilities are going to operate in town?

Mrs. Bennett replied just one at this time, however there could be another one in that area in the future. Mrs. Bennett stated that if the Board has any comments, please feel free to contact me.

Mr. Grady asked the Board Members if they would like to review and vote on the Marijuana Regulation in March and post it on the April Agenda.

The Board Members agreed.

Next Meeting – February 1, 2021

Mr. Grady stated the last item under Board of Health Business is the schedule for the next meeting. The next Board of Health Zoom Meeting is scheduled for February 1, 2021 at 5:00 p.m.

5:15 p.m. Daniel Lee – 18 Lakeview Drive – Request for a Variance for work within the Flood Plain

Mr. Grady stated the first virtual hearing is Daniel Lee, 18 Lakeview Drive requesting a variance for work within the Flood Plain.

Attorney John McKenna representing Daniel Lee and the Lee Family identified himself. We are requesting a variance for work within the flood plain. Attorney McKenna explained that this house was destroyed by a fire in November 2019. There is a lot of ledge on this property. The existing house was closer to the lake by twenty (20) feet. There is no other spot on this lot to put this house.

Stephen Dresser, Dresser, Williams and Way, identified himself. Mr. Dresser stated the house was supposed to be built on the original foundation. We found that we could not do that. We rotated the house 90 degrees which will reduce the impervious area. The plan is to add a 2 x 2 stone trench that will provide some groundwater recharge. The Conservation Commission is recommending that we provide additional plantings between the house and the lake. The new house

will be 27 +/- feet from the FEMA flood plain as opposed to the original plan of 12 feet. Mr. Dresser stated that he would answer any questions that the Board may have.

Mr. Grady asked Mrs. Bennett for her comments.

Mrs. Bennett replied that she spoke with Isabelle Tourkantonis, Director of Environmental Affairs about the resubmittal. There is a lot of ledge however they are providing measures for additional drainage. I recommend granting the variance. They are putting in plantings to improve the property.

Mr. Reader commented by moving the house 27 feet away from the lake is a plus for this project.

Mrs. O'Rourke asked are you removing the retaining walls.

Mr. Dresser replied one retaining wall will stay. The old stairs and concrete walkway are being removed.

Mrs. Giroux asked are the stairs structurally sound.

Mr. Dresser pointed to the stairs and explained that the stairs will be removed and new ones will be constructed.

Mrs. Giroux asked Mrs. Bennett if the plans met her approval.

Mrs. Bennett replied yes.

Mr. Grady asked if any abutters were present and wanted to comment.

No abutters were present.

Mr. Reader made a motion to grant a Variance to construct an existing single family dwelling within the Green Engineering and FEMA Flood Plains at 18 Lakeview Drive, 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 demolish a single family dwelling that was lost to a fire that is located approximately twenty-two (22) feet from the FEMA Flood Plain and reconstruct a new single family dwelling that will be rotated ninety (90) degrees and moved away from the flood plain to be approximately thirty-three (33) feet from the FEMA Flood Plain associated with Nuttings Lake. The applicant will also be removing the concrete stairs, walkway and retaining wall to allow space for new single family dwelling. In addition, the applicant proposes to construct stone trenches to capture runoff from the roof and paved driveway surfaces.

- 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

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Dresser, Williams & Way, Inc. dated October 28, 2020, revised January 4, 2021 and revised January 13, 2021 and stamped by Stephen R. Dresser, RPE#49202.
- B) Proposed dwelling must be serviced by town water and sewer.

Mrs. O'Rourke seconded

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes and Marie O'Rourke, yes.

Attorney McKenna thanked Mrs. Bennett for sending the email on December 23, 2020 regarding Steve's Tavern. Steve is thankful that Mrs. Bennett keeps him informed. Mrs. Bennett is very helpful to him.

5:25 p.m. Joseph Stanton – 33 Great Elm Road – Request a Variance for work within the Flood Plain

Mr. Grady stated the next virtual hearing is Joseph Stanton, 33 Great Elm Road, requesting a Variance for work within the Flood Plain.

Matt Hamor, Landplex Engineering and Surveying representing Joseph Stanton identified himself. Mr. Hamor pointed to the plans and explained that the proposed 16 x 28 foot addition is to be located in the rear of the existing single family dwelling at 33 Great Elm Road. The plan shows the hill that grades down to the wetlands in the back. Mr. Hamor pointed to the plans and explained the Green Engineering and FEMA Flood Plain in the back of the property. The flood plain elevation is approximately 14 feet below the proposed work. The applicant has received approval and an order of conditions from the Conservation Commission. A dry well will be installed for the mitigation of the proposed addition and the impervious area. Erosion and sedimentation controls will prevent disturbance to the wetland buffer areas. Mr. Hamor stated that he would answer any questions that the Board may have.

Mr. Grady asked Mrs. Bennett for her comments.

Mrs. Bennett explained that she recommends granting the variance. The applicant is proposing a dry well to address the additional runoff. This will be an improvement to the property. The erosion control is on the plans to ensure that they are protecting the flood plain.

Mr. Grady asked where is the garage going to be relocated to.

Mr. Hamor replied that it is a shed. Mr. Hamor replied that if the garage is relocated it will be outside of the 50 foot buffer zone however I believe it is going to be removed.

Mr. Grady asked if any abutters were present.

No abutters were present.

Mr. Reader made a motion to grant a variance for work within the Flood Plain at 33 Great Elm Road 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 sixteen (26) by twenty-eight (28) foot addition to an existing single family dwelling approximately twenty-five (25) feet from the FEMA Flood Plain and the Green Engineering Floodplain. In addition, the applicant proposes to construct a drywell to capture runoff from the roof of the proposed addition.
- 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

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Landplex dated September 30, 2020 and stamped by Robert M. Gill RPE #24181, RPLS #29867

Mrs. O'Rourke seconded

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes and Marie O'Rourke, yes.

5:35 p.m. Todd Brunner – 9 Allen Road – Request for a Variance for Work within the Flood Plain

Mr. Grady stated the last virtual hearing is Todd Brunner, 9 Allen Road, requesting a variance for work within the Flood Plain.

Matt Hamor, Landplex Engineering and Surveying representing Todd Brunner identified himself. Mr. Hamor pointed to the plans and explained that along the property line is a stream that flows through a culvert system beneath Allen Road. The proposed addition is 16 1/2 x 34 feet with a 12 x 22 foot deck in the rear. This project will have 2 dry wells for the roof runoff. Soil testing has been done. The soil is well drained gravel mix and will function well. The proposed work will be

outside the Green Engineering Flood Plain. Mr. Hamor pointed to the plans and explained the area that will not be disturbed. The lawn area within twenty-five (25) feet of the no alteration zone will be protected by a split rail fence. Wetland restoration and the twenty-five (25) foot buffer zone that was currently being mowed will now be left alone. There will be no grading that will affect the Green Engineering Flood Plain area. The work would not adversely affect that current flood plain area. Mr. Hamor stated that he would answer any questions that the Board may have.

Mr. Grady asked Mrs. Bennett for her comments.

Mrs. Bennett explained that she recommends granting the variance based on the dry wells being provided, the restoration of the area, straw wattles that will be installed during the work, no change in grade and improvement to the flood plain that exists. The infiltration of the dry wells will be an improvement.

Mr. Reader asked does this lot of land go out to Allen Road Ext.

Mr. Hamor replied no and pointed to the plans and explained the lot line.

Mrs. O'Rourke asked are they going to make an apartment in the addition.

Mr. Hamor replied the plan is to expand the current living area.

Mrs. Giroux asked are additional people going to be living in the household.

Mr. Hamor replied not beyond the immediate family. The house is small and the new owner wants to expand the property.

Mr. Grady asked about the garage that is on the plans.

Mr. Hamor stated that Mr. Brunner wants the Board to know that in the future his intention would be to construct a garage. Mr. Brunner is not sure if he can afford the garage at this time.

Mr. Reader made a motion to grant a motion to grant a Variance for work within the flood plain at 9 Allen Road 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 sixteen and one half (16.5) foot by thirty-four (34) foot addition with a 12 x 22 deck to an existing single family dwelling approximately twenty-three (23) feet from the Green Engineering Flood Plain. In addition, the applicant proposes to construct a roof leader dry well to treat stormwater runoff from the proposed addition.

- 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

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Landplex dated October 14, 2020, revised November 20, 2020 and revised December 1, 2020 and stamped by Robert M. Gill RPE #24181.

Mrs. O'Rourke seconded.

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes and Marie O'Rourke, yes.

Mr. Hamor asked Mrs. Bennett if she could draft an email to the Conservation Commission indicating that the Board of Health approved the Variance for 9 Allen Road. The applicant is having a hearing before the Conservation Commission on Wednesday, January 13, 2021.

Mrs. Bennett replied that she would talk to Isabel Tourkantonis, the Director of Environmental Affairs.

Mrs. O'Rourke made a motion to adjourn.

Mr. Reader seconded.

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes and Marie O'Rourke, yes.

The Board adjourned at 6:10 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk