



Billerica Board of Health

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

Kristel Bennett, Director

BOARD OF HEALTH MINUTES May 3, 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, Kristel Bennett, Director and Joanne White, Recording Clerk.

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

Mrs. O'Rourke made a motion to accept the Meeting Minutes of April 5, 2021 as presented.

Mr. Reader 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.

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

Mr. Grady stated the first activity report is from the Public Health Nurse, Christine West.

Mrs. Bennett explained that Christine West is still busy with the COVID cases and contact tracing. Shelagh has started maternity leave so she is not available to help out with contact tracing.

The Board Members did not have any questions regarding the Public Health Nurses report.

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

Mrs. Bennett explained that the courts are now scheduling sessions so some of Phavy's cases have been closed. Phavy continues to help with contact tracing as needed.

Mrs. Giroux commented that the case at 40 Tower Farm Road has been ongoing since 2019. What are the chances that the judge will give the owner another extension?

Mrs. Bennett replied that this case was held up because of COVID. It is in the hands of the court. I have spoken with the Building Commissioner, Mark LaLumiere about the code violations and there is nothing we can do at this time.

Mrs. Giroux stated that it shouldn't take this long to clean up the property. Mrs. Giroux asked about the status of the rodents at 5 Andover Road.

Mrs. Bennett replied that she would look into the status of that complaint.

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

Mrs. Giroux commented that the restaurants are trying their best to enforce the COVID requirements.

Mrs. Bennett explained that Gary will follow up on the anonymous complaints at Purple Bamboo and Steve's Pinehurst Tavern. There was a complaint that pizza was being delivered to the Purple Bamboo because they could not keep up with the food needed for their customers. Gary is back helping out with inspections. I will have him address those complaints.

Mr. Grady asked has an inspection been done at night at the Purple Bamboo.

Mrs. Bennett replied a long time ago Shelagh did an inspection at night when the Health Department received a lot of complaints regarding the crowd at Purple Bamboo.

Mr. Grady asked the Board Members if they had any 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 Tighe & Bond is working on an update of the Stormwater Regulations. The draft will be presented at the June 7, 2021 meeting. There is a new committee moving forward with the Farmers Market. The plan is to have the Farmers Market ready to go in late June. The COVID restrictions for the Farmers Market have been rescinded. A summer intern from UMass Lowell will be helping out with the Marijuana Regulations, the program for permitting and the application. I would like to request that the August Board of Health meeting be rescheduled from August 9th to August 2nd. Mrs. Bennett explained the newest restrictions that the Governor has rescinded.

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

The Board Members did not have any questions.

Review Draft Marijuana Regulations

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

Mrs. Bennett explained that the regulations have been reviewed by K&P Law. Nicole has provided comments. I wanted to make the Board aware of Nicole's comments. The regulation should just be for Marijuana only. Mrs. Bennett recommended the removal of the sale and all Hemp and CBD comments from the regulation.

The Board agreed to have all the Hemp and CBD comments from the regulation removed.

Mrs. Bennett also recommended to change the Statement of Purpose to be more simplified. Mrs. Bennett asked the Board if they want to eliminate the delivery of Marijuana into Billerica from the regulation. The Board stated yes. All delivery comments will be eliminated. As for the fee, I will look into a fee that would be appropriate for the establishment. A discussion was held on what kind of information should be included in the annual report. The Permit will expire on December 31st. Another discussion was held on whether or not to license individuals that sell the marijuana products.

Mrs. O'Rourke recommended that the individuals do not need a license from the Billerica Board of Health as long as they get one from the State.

Mrs. Bennett replied that only a license from the State will be required. When the annual report is submitted a list of licensed operators should be included.

Mrs. Bennett asked the Board for their comments on the sale or distribution of any flavored combustible or vaped marijuana products which would include edibles.

Mr. Grady commented that there is no vaping being sold in Billerica, so if you can't get vaping for cigarettes then vaping for marijuana shouldn't be allowed.

Mrs. Bennett asked the Board Members if they wanted to review the regulation again or just have the public hearing.

The Board Members agreed to just have a public hearing however they want a copy at least one week in advance to the meeting so that they can review the regulation.

Next Meeting – June 7, 2021

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 June 7, 2021.

Mrs. Bennett explained at this time I do not know if the meeting will be via zoom or in person. I will be speaking with John Curran, the Town Manager and I will let the Board know what John has decided. If the meeting is in person it will be held at 7:00 p.m. in Room 210.

Mrs. Bennett requested that the August 9th meeting be rescheduled to August 2nd because she has planned a family vacation.

The Board stated that would not be a problem.

5:15 p.m. MJA Realty – 79-81 Andover Road – Request for a Waiver of Stormwater Management Regulations

Mr. Grady stated the first virtual hearing is MJA Realty requesting a Waiver of the Stormwater Management Regulations for 79-81 Andover Road.

Mrs. Bennett explained that MJA Realty is requesting a Waiver for any considerations of the Stormwater Management Regulations beyond those shown on the initial proposal and agreed upon in the response letter that was sent out on Friday, April 30th. The letter from BETA Group on April 16th outlines their findings, comments and recommendations. The letter from April 28th is Steve Dresser's response.

Stephen Dresser, Dresser, Williams and Way, representing MJA Realty, identified himself. Mr. Dresser explained that this hearing is a continuation from the April 5th Board of Health meeting. Mr. Allan is building two (2) residential homes on the site. One is for Mr. Allan and the other will be for sale. As we discussed at that meeting Mr. Allan has cleared over an acre of land on that site. When you clear over an acre of land you need to comply with the stormwater management by-law. At the hearing we discussed that there are three (3) different levels of compliance for Massachusetts Stormwater Standards. We felt that our design has met a certain goal for stormwater standards. We submitted our design to BETA Group to review for full compliance. The response from BETA Group came back with additional comments. Per the Board of Health's Regulation we are requesting a waiver from full compliance of the stormwater standards. We feel that would be appropriate. We would like to discuss our response and the response from BETA Group.

Mrs. Bennett explained that there are components that Mr. Dresser should have provided however we have not received them yet. There are three different levels of stormwater management for design of the system. We used our peer review to review the plans for full compliance and what should be met. Our by-law is stricter than the stormwater handbook for properties that have cleared over an acre of land. The peer review from Phil Paradis, BETA Group lists a few things that should be included and should not be waived. A drainage plan should be provided for the proposed driveway for the house in the rear of the property. Mr. Dresser's response is great however a few

things need to be addressed. A few of the items from Mr. Paradis should not be waived.

Phil Paradis, BETA Group identified himself. Mr. Paradis explained this is a situation where the project is not part of a subdivision and does not require a Notice of Intent. However, it does require a little more attention when clearing or disturbing greater than an acre of land. There is a potential for greater impacts to both the residents next door and down gradient properties relative to erosion and sediment controls. Also due to the increase of stormwater there needs to be a plan to redirect the stormwater. It is practice to utilize stormwater standards that are not typical of subdivisions with low impact opportunities. Portions of the impervious areas can be used for rain gardens or vegetated swales so that they can be treated and/or mitigate small increases of runoff. That is what my comments are referring to. The applicant is providing an infiltration system for the lot closest to Andover Road. The rear lot looks like there is an opportunity to put in a swale on one side of the driveway and grade the driveway so it would provide opportunities to infiltrate as well as provide treatment that will probably mitigate most of the issues. The project is within "D" Soils so it only requires infiltration to the maximum extent as practical as well as treatment. A low flow outlet needs to be provided, if the soils do not allow infiltration. The infiltration systems would drain between storms. Those are the two (2) main items that need to be addressed and they are not very costly. The driveway could be moved slightly so that there is room for a drainage swale. The drainage swales will provide protection for the abutting properties.

Mr. Grady asked Mr. Dresser if Mr. Allan would have an issue with these suggestions.

Mr. Dresser replied that there would not be a problem with the trench along the driveway. The plan is to add pea stone along the driveway. The infiltration system should catch the 100-year storm so I am not sure where the low flow would be directed. We typically put a drain on the gutter line so it goes over land. There is a significant amount of 100-year capacity. I don't know why we need anything beyond relying on the infiltration system that has been designed for this project.

Mrs. O'Rourke asked will this have an impact on the springs that are owned by the Whiffle Tree.

Mr. Dresser replied no, there is quite a bit of overland flow beyond that. The family who sold Mr. Allan the property is well aware of what Mr. Allan is proposing to do. I do not anticipate any problems.

Mr. Reader asked Mr. Dresser if he was okay with the swale.

Mr. Dresser replied yes.

Mr. Reader asked Mr. Dresser what is the applicant not okay with.

Mr. Dresser replied that he is not sure what Mr. Paradis is looking to get with the low flow outlets.

Mr. Paradis explained that the soils are rated as "D" soils on site. There is a reason why they are rated as "D" soils and we want to make sure the drainage will work.

Mr. Dresser explained that the Hydrologic Soil Group (HSG) has classified the “D” soil as Scituate soils but further identifies the C horizons as loamy fine sand which was found at the site. The surface soil is “D” soil and the subsurface soil is “C” soil. Loamy sand has a well drained infiltration rate.

Mr. Paradis explained that it has been our practice and experience that there is a reason why “D” soils are rated “D” soils. That is why we are asking for more test pits to be performed. Unless the applicant has infiltration rates that show us something different. If the swales fill with water and do not empty you do not have a system. It will be holding water all the time.

Mr. Dresser replied that what we have designed is what is expected and found in the Massachusetts Stormwater Handbook. The “D” soil is only surface soil.

Mr. Paradis stated that BETA Group disagrees.

Mr. Dresser read a paragraph from his report regarding the determination of the Hydrologic Soil Group and that the Competent Soils Professional may not rely on the classification by NRCS. The NRCS provides the soil logs. Loamy fine sand has been found on the site. Volume 3, Chapter 1 of the Massachusetts Stormwater Regulations states that the soil classification for the receiving layer must be determined by a Competent Soils Professional.

Mr. Reader stated if the Board makes a motion to grant the waiver and it doesn’t work will you make the necessary corrections.

Mr. Dresser replied yes, we will have to. Based on my experience I am confident that it will work. The soil has a good infiltration rate.

Mrs. Giroux asked Mr. Paradis, what is the difference between what you are proposing and what Mr. Dresser is proposing including the cost of the work and how much time will it take.

Mr. Paradis explained that we are expecting much less of an infiltration rate based on the soil texture and profile. Mr. Paradis explained that the low flow outlet would make sure it would have an outlet and empties between storms. Mr. Paradis stated that he is not sure of the cost.

Mr. Dresser replied that there will be less attenuation and there will be a higher flow out of that. There will be different pre and post development conditions.

Mr. Paradis stated that the best way to remedy this is to have an infiltration test done where the systems are to be located to be sure of the infiltration rate.

Mr. Dresser stated that my problem is that the Massachusetts Stormwater Handbook does not specify what level it is and we are asked to go beyond the Massachusetts Stormwater Standard in this case. It doesn’t ask for an infiltration test. It asks that a Competent Soils Professional determine the soil classification of which I am one and it matches the NRCS expectations.

Mr. Grady asked Mrs. Bennett what has the Board done in the past.

Mrs. Bennett replied that we do not have a past precedence for waiving requirements for Stormwater Regulations and a Stormwater Management Permit.

Mr. Grady stated we could be setting a precedence.

Mrs. Bennett replied yes, we could be setting a precedence.

Mr. Grady asked the Board Members for their comments.

Mrs. Giroux stated that she is leaning towards caution.

Mr. Grady agreed. Mr. Grady explained that if we could observe the drainage test, then the project can continue.

Mr. Dresser stated you are going beyond the Massachusetts Stormwater Standards and you are not allowed to do that.

Mr. Grady stated the Board of Health is allowed to do that.

Mr. Reader stated that he does not understand what precedence means. Every project should be handled as an individual case.

Mr. Grady explained that land courts in Massachusetts do not see it that way. If we reject something and we have set a precedence they can come back with that argument for another project.

Mr. Reader stated every situation is different.

Mrs. O'Rourke asked is this happening because of all the trees that have been taken down.

Mr. Dresser explained that essentially when more than an acre of land is cleared the applicant needs to comply with the Massachusetts Stormwater Standards.

Mr. Grady stated isn't this similar to the situation on Concord Road.

Mr. Dresser replied this is not similar to the Concord Road situation. We have taken steps to comply with the stormwater standards. The only thing we have not agreed to is that we take steps to go beyond what the Massachusetts Stormwater Standards requires.

Mrs. Giroux stated we have a consultant for a reason.

Mr. Dresser stated that he does not understand why surface conditions are not the underlining conditions.

Mr. Grady stated if having the soils test done is simple so that you can prove your theory why can't you just do that.

Mr. Dresser stated that it is not a simple test. It takes about six to eight weeks for the results.

Mr. Paradis explained that there is a website that a test can be done and you can get the results immediately. BETA Group uses a website for soil evaluators in the field to get a good identification of the soils. It gives a soil profile of what you would expect. The soil profile is typical of some tills that look good when dry but do not function when wet. That is why we are cautious. I did not see the soils. I tend to lean on the conservative nature of the NRCS map.

Mr. Dresser explained that the Massachusetts Stormwater Standards require you to use the Rawls rate for loamy sand. That is what we used.

Mr. Paradis stated that he is speaking from experience and there have been too many projects in the past that have failed. Too many engineers have been over generous with their reporting.

Mr. Dresser stated that he has been doing this in Billerica for 35 years and I have not had one failed system.

Mr. Paradis stated that it is rated as a "D" soil and I am just looking out for the Town to make sure that it works.

Mr. Dresser stated I did the test, and it is in Rawls rate. It is loamy sand. The Board of Health Regulations are already conservative because this is only a two (2) lot project that stormwater standards do not normally apply. The Board of Health is being too conservative, and it is not fair.

Mr. Paradis recommended that Mr. Dresser just do the test and assume that your theory is going to work.

Mr. Dresser continued to discuss the "D" soil rate with Mr. Paradis.

Mr. Paradis stated just do the test. I do not understand how you can go from "D" soils to "A" soils. I want to make sure it works. For septic systems you provide a perc test.

Mr. Dresser stated "D" soil is a surface condition. We used the Rawls rate, and it is way below the perc rate.

Mrs. Giroux suggested that this discussion be held offline and come back before the Board next month.

Mr. Dresser stated we are not interested in prolonging this hearing another month. Mr. Allan is going to be living there if anything goes wrong.

Mr. Paradis suggested a condition that the soils be observed during construction by an agent of the Town.

Mr. Grady asked Mr. Dresser if he could live with that.

Mr. Dresser replied he could however it is going to come back as loamy sand.

Mrs. Giroux stated then there should not be an issue.

Mr. Dresser replied no that is not an issue.

Mr. Reader made a motion to grant a Waiver of the Stormwater Management Regulation for 79-81 Andover Road with the Board of Health standard conditions, Mr. Dresser's proposal to test the soils and the additional conditions recommended by BETA Group. The soils are to be observed by an agent of the town.

Mr. Paradis stated that he does not think it should be a waiver because you will be complying except for the soils.

Mr. Reader changed the motion to grant approval instead of granting a waiver.

Mr. Reader made a motion to grant approval for a Stormwater Management Permit for 79-81 Andover Road with the Board of Health standard conditions, Mr. Dresser's proposed conditions, the additional conditions recommended by BETA Group and soil testing is to be observed by an agent of the town. These conditions are 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 6.
- 2) The Board of Health conducted a public hearing on May 3, 2021 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 single family residential homes, driveways and stormwater management systems on a partially developed site. The project proposes to disturb greater than an acre of land through the clearing of trees.
- 4) The project was reviewed by Philip Paradis of BETA Group, Inc., the Board of Health's Consulting Engineer, for compliance with applicable drainage regulations and the Board of Health Rules and Regulations, Chapter 6.
- 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 and as well as the conditions listed in BETA Group's peer review letter dated April 16, 2021 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, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 24, 25, 27 and 28.

- A) All construction must be in accordance with plans submitted for review and approval and shall incorporate BETA Group's conditions listed in the peer review letter date April 16, 2021:
 - a) Site Plan entitled Stormwater Management Plan Part of 79 Andover Road (Lot 2-B) dated March 26, 2021 prepared by Dresser, Williams & Way, Inc. and stamped by Stephen Dresser RPE# 49202.
- B) The applicant shall submit a cash bond to the Board of Health prior to the preconstruction meeting. The amount of the cash bond will be determined by the Director of Public Health. The cash bond shall be deposit in a bank selected by the Board of Health with release signed by the applicant. The bond shall be kept for a minimum period of one (1) year after the date of issuance of a certificate of compliance. Said bond shall be posted and used by the Board of Health correct any violations as determined by the Board of Health, if an applicant refuses to correct a violation or public health nuisance after notice has been provided. The bond shall be posted prior to the approval of permits. The applicant has an existing cash bond of \$5,000.00 with the Board of Health, this bond amount will be applied to this project.
- C) The applicant shall pay the cost of the scope of services fee for stormwater monitoring provided by the Board of Health Consulting Engineer/Consultant for the duration of the project, said fee shall be paid to the Board of Health prior to the preconstruction meeting.
- D) The owner shall provide the signed Illicit Discharge Statement to the Board of Health prior to the approval of the stormwater management system.
- E) The stormwater drainage and infiltration systems shall not be back filled until an inspection has been conducted by Board of Health's Consulting Engineer/Consultant or a representative of the Board of Health and permission has been granted to backfill.
- F) The applicant must provide final approved plans for any project covered by the conditions. Final plans are considered plans approved by all town departments.
- G) Any approval, variance or waiver granted by the Board will not become effective until all outstanding invoices from the Consulting Engineer/Consultant have been paid by the applicant.
- H) An as built plan shall identify the new existing conditions of the site as they relate to the as-built conditions, be submitted to the Board of Health before the approval of any occupancy permit, or other documentation to satisfy the intent of the Board of Health's approval of any project. A certification from the design engineer should be shown on the plans identifying that the plan is within substantial conformance with the approved plans. If not, then the design engineer should state the differences on the as-built plan vs. the approved plans along with a description in writing to the Board of Health about the changes.
- I) The Board of Health Consulting Engineer/Consultant shall review the as built to ensure compliance with approved plans and conditions. The applicant shall pay the cost of the scope of services fee for the stormwater as built, said fee shall be paid to the Board of Health prior to issuance of an occupancy permit or Certificate of Compliance.

- J) The Operations and Maintenance Plan shall be recorded with the Middlesex Northern Registry of Deeds prior to the issuance of a Certificate of Compliance with the Board of Health. The applicant shall provide the recorded copy to the Board of Health.
- K) The applicant shall address all the conditions listed in the BETA Group peer review letter dated April 16, 2021. These conditions include:
1. *Revise Drainage Analysis narrative. It seems the last 3 paragraphs of the post-development drainage system describe a different project.*
 2. *Revise rainfall data from 1-day to 24 hours by multiplying graphical data for 1 day by 1.13 (6.7.006(2)(a)).*
 3. *Provide a summary table of peak rates and total volume of runoff for each watershed (6.6.011(2)(q)iv & ix).*
 4. *Project is not a cluster development, uncheck "Site Design Practices" on Stormwater Checklist.*
 5. *Consider including LID techniques for lot 2-B to reduce runoff and provide treatment. Consider (country drainage) sloping the driveway to one side to an infiltration swale with check dams. Installing a pea stone diaphragm along the edge of the pavement would provide some pretreatment.*
 6. *Provide additional BMP(s) to mitigate peak rate of runoff for 2-year storm event. Consider LID technique(s) - see SW6.*
 7. *Clarify soil test data with locations on the plan, test pit number labels are not consistent.*
 8. *The number and location of test pits do not meet the MassDEP Stormwater Handbook requirements. Provide additional test pits - see also 30)9.*
 9. *Use a Rawls rate more consistent with the hydrologic group rating for Scituate soils or provide in-situ saturated hydraulic conductivity tests. See SoilWeb: An Online Soil Survey Browser | California Soil Resource Lab (ucdavis.edu) to see additional information on soils.*
 10. *Include access ports and groundwater monitoring wells for infiltration system.*
 11. *Since systems are proposed in "D" soils, recommend including low flow outlets to subsurface infiltration systems to make sure these systems empty between storm events.*
 12. *An agent of the Board of Health shall observe native soils after excavation for the infiltration basin to confirm design assumptions. If as a result of condition 30)-11 the agent agrees with the design assumption, that the native soils are not classified as "D" soils, low flow outlets will not be required.*
 13. *Provide TSS removal rate calculations.*
 14. *Provide pretreatment to obtain TSS removal credit for infiltrations system (for driveway).*
 15. *Provide stone construction exit, location of stockpile areas, notes regarding seeding and slope stabilization and construction sequence on plan. Plan should include street sweeping if necessary. Note tracking of soil on Andover Road was observed during the site visit.*
 16. *Update straw wattle detail to provide a minimum of 12-inch diameter wattle.*

17. *Provide a completed, signed SWPPP including all information requested by the SWPPP template that is obtainable on the EPA website.*
18. *Provide the following items:*
 - a. *A map showing the location of the systems and facilities, including all structural and nonstructural stormwater best management practices (BMPs) and snow storage areas.*
 - b. *Inspection form.*
 - c. *Maintenance Agreement with the Board of Health (6.13.002).*
 - d. *Means of conveying maintenance responsibilities to any future property owners.*
 - e. *Estimated operations and maintenance budget.*
19. *Provide inspection/maintenance procedures for any additional BMPs provided to address other standards.*
20. *The Operations and Maintenance Plan shall be recorded with the Middlesex Northern Registry of Deeds prior to the issuance of a Certificate of Compliance with the Board of Health (BOH 6.6.012(2)(b)).*
21. *The Illicit Discharge Compliance Statement shall be completed, signed and provided prior to the issuance of certificate of occupancy.*

Mrs. Giroux seconded.

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

5:25 p.m. RSY, LLC – 258-260 Nashua Road – Request a Variance for Work within the Flood Plain

Mr. Grady stated the next virtual hearing is RSY, LLC, 258-260 Nashua Road requesting a Variance for work within the Flood Plain.

Attorney John McKenna, representing the applicant, Paul Marcus, identified himself. The applicant has received approval and an order of conditions from the Conservation Commission. The applicant is requesting a variance for work within the flood plain to demolish the existing house at 258-260 Nashua Road and replace it with another two (2) unit duplex. The compensatory flood plain storage will be increased by 290 cubic square feet. The proposed plan will increase and enhance the buffer zone for the Conservation Commission. This project will provide better drainage, enhance the buffer zone, and increase compensatory storage.

Mrs. Bennett explained that this project will be an improvement to the neighborhood. I discussed this project with Isabel Tourkantonis, Director of Environmental Affairs and this project will benefit the community.

Mrs. O'Rourke asked is the applicant proposing to use the same footprint.

Attorney McKenna replied that it is not the same footprint but in that area.

Mrs. Giroux asked what the size difference of the footprint is.

Attorney McKenna replied that he does not have the exact dimensions however it is very similar in size.

Mrs. Giroux stated that the current driveway is part of the lawn. Is the plan to pave over the lawn?

Attorney McKenna replied that the driveway will be smaller. There will be a retention pond in the center for the drainage system to help capture and infiltrate roof runoff from the new dwelling driveways.

Mrs. Giroux made a motion to grant a Variance for work within twenty-five (25) feet of Flood Plain at 258-260 Nashua 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 demolish an existing duplex dwelling, an abandoned foundation and shed followed by construction of a new duplex dwelling with pervious driveways and utilities on property within the FEMA Flood Plain. In addition, the design includes a subsurface drainage system to help capture and infiltrate roof runoff from the new dwelling driveways. The project will include compensatory flood storage mitigation.
- 3) The FEMA Flood Plain elevation associated with 258-260 Nashua Road is depicted at 119.0 feet NAVD88 on the site plan. The original duplex dwelling is located within the FEMA Flood Plain. The designed project will result in approximately 1,261 cubic feet of flood storage replacement.
- 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, 13, 14, 15, 24 and 25.

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Gala Simon Associates Inc. dated October 29, 2018; revised January 29, 2019, October 8, 2019, January 23, 2020, February 17, 2020, February 28, 2020 and stamped by Alberto Gala RPE #36434.
- B) In conjunction with the Conservation Commission and/or the Director of Environmental Affairs the applicant shall retain the services of an independent Environmental Monitor to monitor critical stages of construction, overall compliance with this approval.

Mrs. O'Rourke seconded.

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

6:00 p.m. Dana Sacca – 101 Pizzeria LLC – 816 Boston Road - Request for a Waiver of Regulations, 2.2.001

Mr. Grady stated the last virtual hearing is Dana Sacca, 101 Pizzeria, LLC, 816 Boston Road, requesting a Waiver of Regulations 2.2.001.

Dana Sacca, representing 101 Pizzeria LLC d/b/a Parlor Pizzeria identified himself. Mr. Sacca explained that he is requesting a waiver of an exterior grease trap because the menu is going to be limited and will not create a lot of grease.

Mrs. Bennett explained that Mr. Sacca is only going to be making wood fired pizza and salads with pre-cooked items. Mr. Sacca has an internal grease trap and has hired Rooter-Man to clean and remove the grease every two (2) months.

Mr. Sacca explained that Rooter-Man told me that he usually cleans and removes grease every three (3) months however I decided that I wanted to go with every two (2) months.

Mrs. O'Rourke asked where you are getting your wood from and where will it be stored.

Mr. Sacca replied from a local distributor based out of Billerica. There will be a container with a lock located out back to store a weeks' worth of wood.

Mrs. Giroux asked will there be seats inside.

Mr. Sacca replied it is take-out and delivery only.

Mr. Reader made a motion to grant a Waiver of the Board of Health Regulation that requires the installation of an exterior grease trap to serve the food service establishment located at 816 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 5, Section 2.2.001.
2. The applicant proposes to build out a food service establishment specializing in wood fire pizza and salads. There will be no seating and all food products will be available for take-out service only.
3. The applicant has installed a 70 lb. Great Basin Grease Interceptor. The interior grease interceptor will be monitored and cleaned every two months. Maintenance records will 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. The applicant has provided a copy of a maintenance agreement with Rooter-Man, a qualified service company to pump and maintain the interior grease trap.
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 Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

CONDITIONS

Special Conditions #10, 14, 15 and 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 applicant shall keep all interior grease trap pumping and maintenance records and make them available for inspection by the Board of Health.
- C. The Food Service Establishment (FSE) shall continue to 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 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.

Mrs. O'Rourke seconded

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

Mrs. O'Rourke made a motion to adjourn.

Mrs. Giroux seconded.

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

The Board adjourned at 6:35 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording clerk