



# ***Billerica Board of Health***

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

Kristel Bennett, Director

## **BOARD OF HEALTH MINUTES July 27, 2020**

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 5:30 p.m. Also in zoom attendance were Robert Reader, Vice Chairman, Sandra Giroux, Secretary, Marie O'Rourke, Dr. Elizabeth Villar, 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 June 22, 2020.  
Mr. Reader seconded.

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes and Marie O'Rourke yes. Dr. Elizabeth Villar abstained.

### **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 the month July are included in the Board's package.

Mr. Grady stated the first activity report is from Christine West, Public Health Nurse. Mr. Grady asked if the Board Members had any questions regarding Christine's report.

The Board Members did not have any questions.

Mr. Grady stated the next activity report is from Health Agent, Phavy Pheng. Mr. Grady asked if the Board Members had any questions regarding Phavy's report.

Mrs. Giroux commented that Phavy has done a great job in handling the closed cases considering the problems with COVID 19.

The Board Members did not have any questions.

Mr. Grady stated the last activity report is from Health Agent, Shelagh Collins. Mr. Grady asked if the Board Members had any questions regarding Shelagh's report.

The Board Members did not have any questions.

Mrs. Bennett explained that COVID 19 has kept the department staff very busy in addition to our normal tasks that we do on a daily basis. The Health Department receives numerous calls every day regarding complaints about people not wearing masks in establishments. We have a lot of questions from establishments about what Phase are we currently in and where does my establishment fit in.

Mrs. Giroux stated that there is a new trend where homeowners are renting out their pools by the hour. The charge is 60 to 85 dollars an hour. How sanitary is that?

Mrs. Bennett replied that she has not heard of that in Billerica however I am concerned. These are residential pools that are not required to follow the minimum sanitation standards. I will look into this and request that the town managers office put something on social media advising residents to discontinue the practice of renting out their pool because they are not licensed and there is a safety concern.

Mrs. Giroux stated that the ads she has seen states must be ten people or under.

Mrs. Bennett requested that Mrs. Giroux forward the link for the ads for pool rentals.

Dr. Villar stated isn't there a safety issue from a lifeguard standpoint.

Mrs. Bennett replied yes.

Mr. Grady replied that the insurance company would not be happy with the pools being rented out.

Dr. Villar asked what the current limit of people for social gatherings is.

Mrs. Bennett replied the States Order #44 has been updated that you can have no more than 25 people indoors, 8 people per thousand square foot room and no more than 100 people outdoors. In a parking lot there is no capacity limitation. The State is putting in place a regulation for wearing masks.

### **Health Director Update**

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

Mrs. Bennett explained that the Town Manager, John Curran tested positive for COVID. He had to take the test 72 hours prior to going to Maine for vacation. His 10 day isolation period is up and he has returned to work. The close contacts had to self-quarantine for 14 days. They will be able to return to work on Thursday. I have just finished a draft of the Standard Protocol that the town should follow in response to an employee that tests positive.

Mrs. Bennett explained that she is in the process of checking the Portable Toilets guidance to see if it has been updated. There is a problem with the leagues that are renting the fields from the town. The town has been providing a Portable Toilets to the leagues however the town does not want to pay for cleaning them out. The leagues do not want to pay. I have been working with the Town Manager, John Curran and the Recreation Director, David Grubb to help resolve this matter.

Dr. Villar asked is the town having employees fill out contact tracing logs in case an employee tests positive. The logs are implemented in the company that I work for to trace who an employee has been in contact with for greater than 15 minutes.

Mrs. Bennett replied we have not implemented that practice.

Dr. Villar explained that if someone tests positive you already have the information.

### **Plastic Bag Ban Update**

Mr. Grady stated the next item is the Plastic Bag Ban Update.

Mrs. Bennett explained that the plastic bag ban order for Grocery Stores has expired. People can now use their own bags. I am suggesting that the plastic bag ban can be effective as of October 1, 2020. It will give stores time to spend down and use up their plastic bags. A notice will be sent out to all establishments informing them of when the change will occur.

Mrs. Giroux suggested that it would be more beneficial to wait until January 1, 2021 to implement the plastic bag ban in case we have a second wave of COVID.

The Board Members agreed.

Mrs. Bennett stated that she is also in favor of postponing the plastic bag ban until January 1, 2021.

Mrs. Giroux made a motion to implement the plastic bag ban on January 1, 2021.

Mr. Reader seconded.

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

**Next Meeting – August 17, 2020**

Mr. Grady stated the last item under Board of Health Business is the schedule for the next meeting. The next meeting is scheduled for August 17, 2020.

The Board discussed and agreed to having the Board of Health Meeting on August 17, 2020 at 5:00 p.m. Due to the current situation it will also be a Zoom Meeting.

**5:45 p.m. Millstone Village – 27-29 Rogers Street & 1-9 Millstone Way – Request for a Stormwater Management Permit**

Mr. Grady stated the first virtual hearing is Millstone Village, 27-29 Rogers Street & 1-9 Millstone Way requesting a Stormwater Management Permit.

Mr. Dresser shared a large scale drawing of the proposed project on the screen via Zoom.

Stephen Dresser, Dresser, Williams & Way, Inc. representing 1 Millstone , LLC identified himself. The proposed project is to tear down a duplex, a three-plex and a six-plex at the end of Rogers Street. Mr. Dresser pointed to the plans and explained where the new project would be located. The plan is to replace the existing units with eleven (11) new units. The drainage design consists primarily of deep-sump catch basins and infiltration structures including an approved Isolator Row by Stormtech, LLC. Mr. Dresser explained that the Isolator Row is a row of Storm Tech chambers that is completely encased in geotextile filter fabric and acts as a sediment trap. This overflow option provides a way to fill the system quickly during large storm events. Drainage calculations are included in the submittal showing that there is no increase in post development flow rates for the project. As a result of the excess capture of stormwater, there is a reduction from the predevelopment conditions to the post development conditions in not only the rate of runoff, but also the volume of runoff. The applicant is seeking a Stormwater Management Permit. The drainage design is in compliance with MADEP Stormwater Management Standards as required. Access will be provided to the proposed homes with a horseshoe shaped driveway Three (3) parking spaces will be provided per unit. The project will be serviced by Town Water and Sewer. The Stormwater Management standards have been met and reviewed by BETA Group. The project is forty (40) feet from the Green Engineering Flood Plain so an Administrative Determination of Applicability is also being requested. Mr. Dresser stated that he would answer any questions that the Board may have.

Mrs. O'Rourke asked how close to the Old Middlesex Canal is this project going to be located.

Mr. Dresser replied the Middlesex Canal is to the north of this project. We will not be disturbing the canal.

Phil Paradis, Project Engineering, BETA Group identified himself. Mr. Paradis explained that this is a site that is already disturbed. There are a significant number of impervious areas and a significant amount of trash and debris structures in the buffer zone. As part of the Notice of Intent, Mr. Dresser has included provisions to remove all that. Mr. Dresser has provided a new state of the art water system that will provide full compliance with the ten (10) standards of the stormwater management program, including no new discharges, no increase in peak rate of runoff, it will also provide groundwater recharge, water quality will be protected and other provisions relative to construction and long term maintenance. This has been reviewed and approved by the Conservation Commission. This will be a great improvement to this parcel. Relative to the flood plain the grading behind all the houses will be as existing and will have little to no impact to the flood plain.

Mr. Grady asked if one of Beta's recommendations is regarding the maintenance plan that Mr. Dresser was discussing.

Mr. Paradis replied a maintenance agreement is required as part of the regulations for the Board of Health.

Mr. Dresser explained that the Operation and Maintenance Plan was reviewed however there needs to be a specific condition included in the Stormwater Management Plan stating that the applicant will enter into an agreement with the Board of Health.

Mr. Grady asked Mrs. Bennett for her comments.

Mrs. Bennett replied that the process has been reviewed and completed it will be an improvement to the site.

Mr. Reader asked will there be more or less pavement with this project.

Mr. Dresser replied there will not be a reduction in pavement however there is an increase in impervious area but it will all be treated under the stormwater management regulation.

Mrs. Giroux commented that there are 3 buildings on that property and you will be taking them down and constructing 11 buildings.

Mr. Dresser explained this project will consist of 6 buildings, 5 duplexes and one single unit. It will be the equivalent of 11 units.

Mrs. O'Rourke asked are these units going to be owner occupied.

Mr. Dresser replied no the plan is for them to be rentals.

Mrs. O'Rourke asked are any of the units going to be for low income.

Mr. Dresser replied that is not a requirement for this project.

Mr. Grady asked if any abutters would like to comment.

No abutters were present.

Mrs. O'Rourke made a motion to grant the approvals for the Stormwater Management System and the Administrative Determination of Applicability for work within one hundred (100) feet of the Green Engineering Flood Plain for Millstone Village, 27-29 Rogers Street and 1-9 Millstone Way 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 1, Section 1.2.003, Chapter 5, Section 5.5.005(2) and Chapter 6 inclusive.
- 2) The Board of Health conducted a public hearing on July 27, 2020 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
- 3) The property is located along the Mill Pond at the Faulkner Mills and near the Old Middlesex Canal. The existing site of the project consists of a duplex at 27-29 Rogers Street, a three-plex at 7-9 Millstone Way and a six-plex at 1-6 Millstone Way.
- 4) The applicant proposes to remove the existing structures and construct 11 new homes (5 duplexes and one single family dwelling) with associated utilities and driveways. The proposed stormwater management system includes the installation of deep sump catch basins and infiltration structures, including a MAStep approved Isolator Row by Stormtech, LLC.
- 5) 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 for environmental impacts to the Flood Plain.
- 6) The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
- 7) 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, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 22, 23, 25, 26 and 29

- A) All construction must be in accordance with the following plans submitted for review and approval:
  - a) Site Plan entitled: Notice of Intent Site Plan Millstone Village, Rogers Street/ Millstone Way in Billerica, Massachusetts, prepared by Dresser, Williams & Way, Inc. dated December 17, 2019, revised to March 23, 2020, May 12, 2020, June 2, 2020, June 9, 2020 and June 10, 2020 and stamped by Stephen R. Dresser, RPE#49202.

- B) Erosion and sediment control measures shall be implemented and maintained in all areas disturbed by construction activity including but not limited to construction and waste material storage areas. Erosion and sediment control structures shall be installed prior to beginning construction. The Board of Health and/or Conservation Department staff must inspect and approve of the erosion controls prior to work on the drainage systems.
- C) If dewatering is determined to be necessary during work, the applicant shall submit a dewatering plan to the Board of Health for review and approval prior to any dewatering activity occurring;
- D) The approved Operation and Maintenance Plan for the stormwater management system must be submitted to the Board of Health prior to the approval of an occupancy permit.
- E) The owner shall maintain maintenance records for the Stormwater Management Operations and Maintenance in accordance with the approved plan and provide them to the Board of Health upon request.
- F) An Agent of the Board of Health or its designees shall observe the subsurface soil condition in the area of excavation for the stormwater surface and subsurface infiltration systems. The system shall not be constructed until the subsurface soils have been deemed suitable for infiltration.
- G) The applicant shall provide copies of the Stormwater Pollution Prevention Plan (SWPPP), Notice of Intent and EPA letter of Approval (Section 6.6.013(1)) per NPDES General Permit for Stormwater Discharges from Construction Sites including all requirements of Section 6.6.013 of the Board of Health Rules and Regulations, Chapter 6 prior to the pre-construction meeting.
- H) Signed Operations and Maintenance Plan and Maintenance Agreement shall be recorded with the Middlesex Northern Registry of Deeds prior to the issuance of a Certificate of Compliance with the Board of Health.
- I) Verify that the demolition will meet the Board of Health requirements in accordance with the Billerica Rules and Regulations, Chapter 5, Section 7.
- J) Revise Operation and Maintenance Plan to include Maintenance Agreement with the Board of Health.
- K) Provide a copy of the final SWPPP report to the Board of Health for review and approval prior to the commencement of construction.

Mr. Reader seconded.

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

**6:00 p.m. You Dirty Dog – 131 Boston Road – Appeal Hearing for a Notice of Violation**

Mr. Grady stated the next virtual hearing is You Dirty Dog, 131 Boston Road, Appeal Hearing for a Notice of Violation.

Mrs. Bennett explained that You Dirty Dog, 131 Boston Road, is appealing a Notice of Violation. You Dirty Dog is a dog grooming facility. The owner is virtually present. She is appealing the Notice of Violation and citation that was issued on April 2, 2020 by Health Agent, Shelagh Collins for operating her business when only essential services were allowed to operate per order of Governor Baker. We received a complaint that You Dirty Dog was operating after the Governor issued the order. On April 1, 2020 Health Agent, Phavy Pheng, taped a copy of the COVID 19 Order No. 13 on the door of the establishment. On April 2, 2020 a call was made to You Dirty Dog and the owner was advised by the Health Department staff to stop operating and comply with the COVID 19 Order. The citation has not been paid and the request to appeal the Notice of Violation has exceeded the 21 days.

Jennifer Caetano, owner of You Dirty Dog identified herself. Mrs. Caetano explained that she received the order to stop working. So I stopped working for the first two weeks after I was told not to work. I was getting repeated calls from my clients informing me that the other dog groomers were open so I will be going there instead. I called the other groomers in town on April 1, 2020 and they told me that they were still open. I called the Police Department a couple of weeks prior and they told me I could be open. So on April 2, 2020 I opened for a few of my customers. That morning I went in through the back door and did not see any signs on the outside of the front door. I was working on a dog and I received a call that told me to stop working. I explained that I spoke to other dog groomers and they were operating. I explained that I was just going to finish the dog that I was working on and then I would close. She told me to shut down immediately. The next thing I knew someone was at my door and issued me a fine for not shutting down. The fine was for three hundred dollars which I thought is a lot of money. A few weeks later I received a call and was informed me that I had not paid the fine. I was informed that if I wanted I could send a letter requesting to appeal the fine. I wasn't trying to be a jerk. I just opened for that one day because the other dog groomers told me that it was okay to be open. I am a very compliant person. Other groomers were open so that is the only reason I opened. There is a dog groomer running a business out of her house.

Mr. Grady asked Mrs. Bennett if there were other groomers operating.

Mrs. Bennett replied that she checked with one other groomer on Boston Road and they were closed. I was not aware that a dog grooming business was operating out of a private house. The Department of Labor Standards sent out a number of cease orders to Pet Co and Pet Smart in other towns. At that time it was difficult to determine what was essential and was not essential.

Mrs. Caetano explained that Diamond Dog and Grooming Dales were taking dogs. When I called other groomers on April 1, 2020 they told me that they were taking dogs. I don't know what they were thinking. I only know that my clients told me that they were going to take their dog elsewhere. I have lost clients because other groomers were open.

Mrs. Giroux stated if you had a concern about the rules why you didn't call the Board of Health to get the facts.



Mrs. Caetano replied that she called the Police Department and they told her it was okay for her to be open. I don't know why I did not call the Board of Health. I called the other groomers in town and they said they were open.

Mrs. Giroux stated that all the rules were coming from the Board of Health so it would have made sense to call the Board of Health.

Mr. Reader asked how many days were you actually open that you shouldn't be open.

Mrs. Caetano replied just the one day, April 2, 2020. I didn't even finish the day.

Mr. Reader asked was it just one day?

Mrs. Bennett replied that she would have to look at when the order was put in place. Mrs. Bennett stated the Health Department received a complaint from another groomer informing us that You Dirty Dog was open.

Mrs. Caetano explained that one of her clients told her that she called the Health Department and they told her that I should not be open.

Mr. Reader stated that he thought the fine was a little expensive.

Mrs. Giroux stated that she can agree to reduce the fine but she should have contacted the Board of Health.

Mrs. O'Rourke made a motion to reduce the Notice of Violation fine to one hundred fifty (150) dollars.

Mr. Reader seconded.

Dr. Villar stated that she thought it should only be one hundred (100) dollars.

Mr. Grady asked what is the scale for the fines.

Mrs. Bennett replied it started at three hundred (300) dollars and that was consistent throughout the state. But after a month the state said we could start with a warning and then issue fine starting at 50, 100, and up to 300 dollars.

Mrs. Giroux asked Mrs. O'Rourke if she would like to amend the fine to one hundred (100) dollars.

Mrs. O'Rourke replied no.

Robert Reader, yes, Sandra Giroux, yes, Marie O'Rourke yes, Dr. Elizabeth Villar, no and Mike Grady, no.

Mrs. O'Rourke has to leave the meeting.

**6:10 p.m. Danny's Cheese Bread – 326 Salem Road – Request for a Waiver of Regulations**

Mr. Grady stated the last virtual hearing is Danny's Cheese Bread, 326 Salem Road, requesting a Waiver of Regulations.

Mrs. Bennett explained that the applicant is requesting a waiver of regulations for the installation of an exterior grease interceptor. In Billerica all new Food Establishments are required to install an exterior grease interceptor. The applicant, Danielle has completed the Food Plan Review. This is a change of ownership at 326 Salem Road. The restaurant was formerly a Thai restaurant. The applicant would like to open a small bakery specializing in Brazilian cheese bread. There will be three (3) varieties. All food will be available for takeout only. There is an existing interior grease trap in the establishment. There is no new equipment that will contribute to additional grease discharge into the sewer system. The applicant will monitor and clean the interior grease interceptor on a monthly basis. Maintenance records will be available for the Board of Health. The applicant will attend the Billerica FOG Program Training once it is offered. The applicant will follow the Best Management Practices provided by the Board of Health. I recommend granting the waiver with the conditions that are included in the Boards packet.

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

The Board members did not have any questions.

Mr. Grady commented that this protocol has been used for smaller restaurants that want to use an interior grease trap.

Mr. Reader made a motion to grant the Waiver of Regulations for the exterior grease trap for the Danny's Cheese Bread at 326 Salem Road based upon the following conditions:

**CONDITIONS**

Standard Conditions# 6, 10, 14, 15 and 25.

- A. The interior grease trap/interceptor shall be equipped with a test port at the outlet to provide access for monitoring activities.
- B. 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.
- C. 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.
- 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 (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.
- 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.

Dr. Villar seconded.

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes, and Dr. Elizabeth Villar, yes

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

Mrs. Giroux asked are nicotine tobacco pouches allowed in convenient stores or should they be sold in the tobacco only establishments.

Mrs. Bennett explained the flavored pouches are not to be sold in convenience stores. If the pouches are just a tobacco flavor that is acceptable. Ron Beauregard, Healthy Community Coordinator, will be sending out information to all tobacco retailers regarding the new changes in the regulations.

Mrs. Giroux asked is there an update on the face mask order.

Mrs. Bennett replied that the Department of Public Health is in the process of incorporating a regulation for masks.

Dr. Villar stated that she is in the process of looking for a house and is informing the Board that she will be resigning soon.

Mrs. Bennett stated that she has talked to John Curran, Town Manager about this. If anyone knows of a person that would be interested in filling the position, please let me know.

The Board Members wished Dr. Villar good luck

Mrs. Giroux made a motion to adjourn. Dr. Villar seconded.

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes, and Dr. Villar, yes.

The Board adjourned at 6:30 p.m.

Respectfully submitted,

Sandra Giroux  
Secretary

Joanne M. White  
Recording Clerk