



# ***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 August 17, 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 5:00 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.

Ed Camplese, 22 New Foster Avenue, identified himself. Mr. Camplese stated that he is concerned that people who do not wear masks because of medical reasons are being harassed. The signs posted in establishments read that everyone is required to wear face coverings. Mr. Camplese requested that language be available and clearly posted for people to see so that if you have a medical condition you are not required to wear a mask and it does not need to be reported to the manager. I think there is a lack of understanding on the part of some of the customers that some people are handicapped and/or have a disability so a mask is not a requirement for them. So maybe a line could be added on the signs.

Mrs. Bennett replied that at the April 2020 Board of Health Meeting the Board voted on a mandate order requiring that face coverings be worn. At the July 27, 2020 meeting the order was rescinded because of the Governor's state mandate. There are medical conditions that people have and therefore they are exempt from wearing a face covering. Mrs. Bennett stated that she could put something on the Town's website explaining about people that are exempt from wearing a face covering because of their medical conditions.

Dr. Villar stated that Mrs. Bennett is trying to explain that the current language that is being posted at establishments is being dictated by the State. So she cannot change the signage locally. However, the Board of Health can post information on the website.

Mrs. Bennett explained that she would look into drafting something educational to post on the website. However it will take time to develop.

Mr. Campese replied that would help. People could download the information from the website. Mr. Campese thanked Mrs. Bennett for looking into his concern.

### **ACCEPTANCE OF MINUTES**

Mrs. O'Rourke made a motion to accept the Meeting Minutes of July 27, 2020.  
Mr. Reader seconded.

Mike Grady, yes, Robert Reader, yes, Sandra Giroux, yes and Marie O'Rourke, yes and Dr. Elizabeth Villar, 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 the month August are included in the Board's package.

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

The Board Members did not have any questions.

Mrs. Bennett explained that Christine and myself are currently working with Lee Ann David, the School Head Nurse on plans for students returning to school and how to educate the parents on the protocol for handling students if they become sick. Christine is still working on COVID cases. Christine is also working on a schedule for the upcoming flu clinics.

Mr. Grady asked the Board Members if they had any questions regarding Christine's report.

Mrs. O'Rourke asked do we have any new cases and how many active cases do we currently have.

Ms. White replied that there are a total of 9 current positive cases, 5 new cases and 6 cases have recovered.

Mr. Reader asked why is Care Well always busy.

Ms. White replied because the people come from surrounding companies for the rapid testing. They are not just Billerica residents.

Mrs. Giroux asked what places are doing the rapid testing.

Ms. White replied Care Well and Circle Health in North Billerica.

Mrs. Giroux stated that the last time she checked Circle Health was not doing rapid testing.

Mrs. Giroux asked what is the involvement of the school nurses for going back to school.

Mrs. Bennett replied that Lee Ann David, Head School Nurse is developing a plan for the school nurses. We are going to review the plan next week.

Mrs. Giroux asked how the parents will be notified of the protocol that will be used.

Mrs. Bennett explained that all schools will have a quarantine room for the nurse to use for students that have symptoms. If the symptoms are COVID the student will be sent home. It will be a separate room next to the nurse's room. Christine and I reviewed the plan and it meets all the requirements of the Department of Elementary Education which are based off of the States requirements. Mrs. Bennett explained the proposed plan.

Mr. Grady stated the next activity report is from Health Agent, Phavy Pheng. Mr. Grady asked Mrs. Bennett for her comments regarding Phavy's report.

Mrs. Bennett explained that the courts are opening back up so Phavy will be following up with the pending court cases. Phavy has been responding to nuisance and mask complaints.

Mr. Grady asked the Board Members if they had any questions regarding Phavy's report.

Dr. Villar stated isn't the broken glass complaint at Ocean Glass, 306 Boston Road a repetitive violation. It seems like they do not take the complaint seriously. Broken glass can be very hazardous. Is there something else that can be done?

Mrs. Bennett replied that Phavy sent a Notice of Violation to the owner to inform him of the order. The order states that the dumpster needs to be relocated and placed on a concrete pad with a locked enclosure.

Ms. White explained that a two hundred (200) dollar fine has been issued along with an order to relocate the dumpster and be placed on an enclosed concrete pad. The owner of Ocean Glass is giving Phavy a hard time. The owner of the dumpster (Crescio Trucking) came to the Board of Health office to talk to Phavy about the issue. Phavy told him this is the second fine and the next fine will be more. The owner is supposed to put a plan together to satisfy the order.

Mr. Grady stated the last activity report is from Health Agent, Shelagh Collins. Mr. Grady asked Mrs. Bennett for her comments regarding Shelagh's report.

Mrs. Bennett explained that Golden Crown Restaurant has been closed. Shelagh was doing a routine inspection and observed several food safety violations. Shelagh found 4 buckets of raw chicken at room temperature out in front of the freezer. Shelagh felt as though the staff did not have enough food knowledge to operate safely so they are required to have at least one person take the Food Serv Safe Course and be certified.

Mrs. O'Rourke asked is Golden Crown still closed.

Mrs. Bennett replied yes. Mrs. Bennett explained that she has also been working with Shelagh on Residential Kitchens. The state allows only certain types of food products to be prepared. We had a couple of applications, one for cakes and custard filled pastries and another one for a Caribbean sauce. I am trying to educate Shelagh on the process of how to issue a license for residential kitchens in Billerica.

Mrs. Giroux asked how many requests for residential kitchens are you getting.

Mrs. Bennett replied currently I have three (3) applications.

Mrs. O'Rourke asked Mrs. Bennett if she could explain what a residential kitchen is.

Mrs. Bennett replied it is someone who is making food in their home and planning on selling directly to a customer or at a farmers market. Food items such as jams, jellies, cakes, pastries or cookies. They could also be selling online. The Board of Health licenses someone who is making food in their own kitchen. If they obtain a license from us they can manufacture and sell directly to the customer. They cannot sell to a store. If they go through a wholesale license process with the state they can sell to a retailer that sells to customers.

Mrs. O'Rourke asked do we check their kitchens.

Mrs. Bennett replied yes. Minimally Residential Kitchens are checked once a year.

Mr. Grady asked if the Board Members had any questions regarding Shelagh's report.

### **Health Director Update**

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

Mrs. Bennett explained that she wanted to update the Board with the information regarding school openings. The school committee voted on the plan last week and it will be coming out soon. I will also be working with Shawsheen Valley Technical High School on their plan for re-opening.

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

### **Next Meeting – September 14, 2020**

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 September 14, 2020 at 5:00 p.m.

**5:15 p.m. 313 Boston Road Realty, LLC – 313 Boston Road – Request for a Stormwater Management Permit**

Mr. Grady stated the first virtual hearing is 313 Boston Road Realty, LLC, requesting a Stormwater Management Permit.

Mr. Dresser shared a large scale drawing of the proposed project at 313 Boston Road on the screen via Zoom.

Stephen Dresser, Dresser, Williams & Way, Inc. representing 313 Boston Road Realty, LLC identified himself. The applicant/owner is Rick Soly, R & D Custom Exhaust. Mr. Soly is proposing to construct a Morton style garage (pre-fab metal building) at the rear of the property for the storage of vehicles. It will be a significant environmental improvement. Mr. Dresser pointed to the plans and explained where the proposed garage would be located. An infiltrator system will be installed to collect roof runoff and a drainage swale and stone berm will also be installed to improve the drainage system. A basin will be installed for pre-treatment before it goes into the stream. There will be a little pond to the rear of the property. The applicant is within thirty-eight (38) feet of the flood plain so an Administrative Determination of Applicability is also needed. The proposed garage is intended to reduce the amount of outdoor storage of vehicles thus lowering the potential for higher pollutant loads from onsite storage of vehicles. We are not changing anything. We have appeared before the Conservation Commission and they have approved this project. Phil Paradis from BETA Group has reviewed this project. Mr. Dresser stated he would answer any questions that the Board may have.

Mr. Reader asked is the garage a metal building.

Mr. Dresser replied yes.

Phil Paradis, Project Engineering, BETA Group identified himself. Mr. Paradis explained that the applicant is going to install a recharge system for the roof runoff. The new development will meet the standards for both recharge and treatment. The upgrades to the existing drainage will provide improvements. BETA is in agreement with the design. In BETA's letter dated May 27, 2020 we identified four (4) conditions that should be included in the Board's decision. Mr. Paradis explained the four (4) conditions, the first condition is that a spill kit be provided on site, the next condition is that the excavation area be observed by an agent of the Town to confirm for the soils for the infiltration system, the third condition is that the Operations and Maintenance Plan shall be recorded with the Middlesex Northern Registry of Deeds prior to the issuance of a Certificate of Compliance and the last condition is that the owner will sign the Illicit Discharge Statement prior to approval.

Mrs. O'Rourke asked what are they planning on doing inside the building.

Mr. Dresser replied the purpose of the building is to store vehicles under cover.

Mrs. O'Rourke asked is there going to be a floor drain in case a car leaks.

Mr. Dresser replied that whatever is required under the code will be in the garage. Not sure a floor drain is required for just storage.

Mrs. Giroux asked how many vehicles are currently on site.

Mr. Dresser replied approximately 20 vehicles.

Mrs. Giroux asked how big is the garage going to be.

Mr. Dresser replied 80 feet by 48 feet approximately 4,800 square feet.

Mrs. Giroux how many cars will the garage hold.

Mr. Dresser replied approximately 20 cars.

Mrs. Giroux asked will there still be parking outside or will all the cars be contained inside.

Mr. Dresser replied there will still be parking outside. The intent of the garage is to reduce the amount of vehicles parked outside not eliminate it.

Mrs. Giroux asked will there be a spill system inside the garage in case a car has been in an accident and is leaking fluids.

Mr. Dresser replied as a garage you are required to have a spill cleanup on site however the Board can make that a condition.

Mrs. O'Rourke asked will there still be cars outside for sale.

Mr. Dresser replied I don't know for sure.

Mrs. Bennett stated that her only concern was the requirement for a spill kit on site which has already been addressed. The applicant has submitted a complete plan. I recommend granting the Stormwater Management Permit and the Administrative Determination of Applicability and also include the conditions recommended by Phil Paradis, BETA Group.

Mr. Grady asked if any abutters were in attendance and would like to ask a question.

No abutters were in attendance at the Zoom Meeting.

Mr. Reader made a motion to grant approval for the Stormwater Management System and the Administrative Determination of Applicability for work within one hundred (100) feet of the Green Engineering Flood Plain at 313 Boston Road, R & D Custom Exhaust. The decision will also include the four (4) conditions recommended by BETA Group 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) and Chapter 6 inclusive.

- 2) The Board of Health conducted a public hearing on August 17, 2020 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
- 3) The applicant proposes to construct a garage at the rear of the developed portion of the site to store vehicles that will be 38 feet from the flood plain. The applicant proposes the installation of a subsurface infiltration system that will collect roof runoff only and the installation of a stone berm and drainage swale.
- 4) The project was reviewed by Philip Paradis of BETA Group, Inc., the Board of Health's Consulting Engineer, for potential impacts to the Flood Plain as well as compliance with applicable drainage regulations and the Board of Health Rules and Regulations, Chapter 5 & 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 are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

### **CONDITIONS**

Standard Conditions# 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 22, 25, 27 and 29

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Dresser, William & Way, Inc. dated August 21, 2015 and revised to June 27, 2016 and stamped by Conor P. Nagle RPE#46302.
  - a) Site Plan entitled Notice of Intent Plan entitled **313 Boston Road**, dated November 19, 2019, revised April 8, 2020, May 11, 2020, and May 27, 2020 prepared by Dresser, Williams & Way, Inc. and stamped by Stephen Dresser RPE# 49202.
- B) An as built plan shall identifying 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.
- C) The excavation area shall be observed by an agent of the Town to ensure work will not exacerbate contamination of a closed disposal site with a Class A-2 Response Action Outcome Statement (RAO).
- 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 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.
- F) The applicant shall pay the cost of the scope of service fees 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.
- G) The Board of Health's 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.
- H) Any Order of Conditions issued by the Billerica Conservation Commission and special conditions for the project apply to this permit. Any and all conditions of the Order of Conditions shall be met in order to obtain a Certificate of Compliance under this permit.
- I) The applicant shall provide a Spill kit on site as part of a Long-Term Pollution Prevention Plan,
- J) The applicant shall revise the Checklist for Stormwater Management Report to indicate the project is a mix of new and redevelopment only and provide revised checklist with stamp and signature to the Board of Health.

Mrs. O'Rourke seconded.

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

**5:30 p.m. David Giannetta – 4 Republic Road – Request for a Stormwater Management Permit**

Mr. Grady stated the next virtual hearing is 4 Republic Road, requesting a Stormwater Management Permit.

Brian Geaudreau, Project Manager, Hancock Associates, representing David Giannetta, 4 Republic Road identified himself. The project has been approved by the Planning Board for a site plan approval and a special permit. The applicant proposes to construct an 800 square foot Recreational Marijuana Dispensary with a 48 space parking lot. The site slopes from the rear of the property down to Republic Road. The proposed design includes the installation of deep sump hooded catch basins and a subsurface infiltration system with an isolator row. During the special permit process BETA Group reviewed the stormwater management design. Hancock Associates addressed all of BETA's comments. We are in full compliance with the stormwater management standards as well as the local regulations. Mr. Geaudreau stated that he would answer any questions that the Board may have in regards to the design.

Phil Paradis, Project Engineering, BETA Group identified himself. Mr. Paradis explained that BETA Group has reviewed this project on three (3) different occasions. The project as designed meets the current stormwater standards. They are providing an infiltration system to mitigate



increases in impervious area from the project. They are also providing the treatment needed for the system. In BETA's letter dated July 27, 2020 four (4) conditions were identified that should be included in the Board's decision. The first condition is that a signed final copy of the O & M plan is required, the second condition is that the applicant is required to provide a signed copy of the Stormwater Pollution Prevention Plan (SWPPP) prior to beginning construction, the third condition is that an Operations and Maintenance Plan shall be recorded with the Middlesex Northern Registry of Deeds prior to the issuance of a Certificate of Compliance and the last condition should state that an agent from the town will observe the excavation for the infiltration system prior to installation of the system to verify the soils.

Mrs. Bennett explained this has been a confusing process for Mr. Giannetta. The project had been going on before approval. It is currently stopped so we can ensure that the Board approves the plan for the stormwater management infiltration system, the runoff and the treatment. The plan is for the Recreational Marijuana Dispensary. The applicant has met all the requirements for stormwater. I recommend granting the permit with the conditions that Phil Paradis, BETA Group has recommended.

Mrs. O'Rourke asked how many retaining walls will be installed.

Mr. Geaudreau replied two (2) retaining walls, one at the front of the site and one in the rear of the site.

Mrs. O'Rourke commented that it states that work will exceed one (1) acre of disturbance. Why?

Mrs. Bennett replied that the Stormwater Management Team which includes Engineering and I decided when we were reviewing the plan that the work needs to exceed one (1) acre for a stormwater permit. Conservation Commission is also helping out. The minimum requirement for a stormwater permit is anyone that is disturbing over (1) acre of land.

Mr. Reader asked was there a building on that site before.

Mr. Geaudreau replied no. There is a concrete parking lot.

Mr. Reader stated isn't there a sports complex for children in that area. Is the facility going to be far enough away from the sports complex?

Mr. Geaudreau replied yes. As part of the Town of Billerica's By-Law there is a regulation that states the distance the facility needs to be located away from children.

Mr. Grady asked if any abutters were in attendance and would like to ask a question.

No abutters were in attendance at the Zoom Meeting.

Mr. Reader made a motion to grant the Stormwater Management Approval for the proposed Recreational Marijuana Dispensary to be located at 4 Republic Road, Billerica and include the conditions recommended by BETA Group 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 6.
- 2) The Board of Health conducted a public hearing on August 17, 2020 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
- 3) The applicant proposes to construct a new 800 square foot building, parking, utilities and a stormwater management system on an undeveloped site. The proposed building will be a recreational marijuana dispensary. The project proposes to clear cut the site and perform major earthwork operations, and to regrade the site to construct the facility and construct a retaining wall.
- 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.
- 5) The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
- 6) The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

**CONDITIONS**

Standard Conditions# 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 22, 23, 25, 26, 27 and 29.

- A) All construction must be in accordance with the following plans submitted for review and approval:
  - a) Site Plan entitled *Proposed Marijuana Dispensary 4 Republic Road, Billerica MA* dated August 5, 2019, revised July 9, 2020 prepared by Hancock Associates and stamped by Brian G. Geadreau RPE# 54495.
- B) The signed Illicit Discharge Compliance statement shall be submitted prior to the start of construction.
- 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 applicant shall provide operation and maintenance requirements for erosion and sediment control in the final signed Operations and Maintenance (O&M) Plan.
- E) The applicant shall provide the approximate annual maintenance budget in the final O&M Plan.

- F) The approved Operations and Maintenance Plan shall be recorded with the Middlesex Northern Registry of Deeds and a recorded copy shall be submitted to the Board of Health prior to the issuance of a Certificate of Compliance with the Board of Health
- G) The owner shall provide the maintenance agreement for the Stormwater Management Permit to the Board of Health. Maintenance records shall be maintained in accordance with approved plans and provide them to the Board of Health upon request.
- H) The applicant shall provide a description of possible pollutant sources and pollutant control measures in the final Stormwater Pollution Prevention Plan (SWPPP) and provide a copy to the Board of Health for review and approval at least fourteen (14) days prior to beginning construction.
- I) An Agent of the Board of Health or its designees shall observe the subsurface soil condition in the area of excavation for the subsurface stormwater infiltration systems. The system shall not be constructed until the subsurface soils have been deemed suitable for infiltration.
- J) An as built plan shall identifying 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.
- K) The applicant shall pay the cost of the scope of service fees for stormwater monitoring provided by the Board of Health's Consulting Engineer/Consultant for the duration of the project, said fee shall be paid to the Board of Health prior to the preconstruction meeting.

Mrs. O'Rourke seconded.

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

**5:45 p.m. Adam Goldberg, Seerfried Properties – 495R Billerica Avenue – Request for a Stormwater Management Permit**

Mr. Grady stated the next virtual hearing is Seerfried Properties, 495R Billerica Avenue, requesting a Stormwater Management Permit.

Mr. Black shared a large scale drawing of the proposed facility to be located at 495R Billerica Avenue on the screen via Zoom.

Jeff Black, Senior Project Engineer with VHB representing Seerfried Properties identified himself. Mr. Black explained that the property is the former Raytheon Building and consists of 118 acres however the redevelopment area consists of 46 acres. The applicant has received approvals

from the Planning Board and the Conservation Commission from Billerica and Tewksbury. The existing site will be demolished and rebuilt. We are proposing to construct a 715,000 square foot facility. All the existing utilities will be used. BETA Group and the Town of Tewksbury's consulting engineer have reviewed the design of the stormwater system for the site. Mr. Black pointed to the plans and explained the five (5) subsurface infiltration systems that will collect all the runoff from the impervious areas on site. The system has been designed to meet all the Massachusetts stormwater standards. We have provided adequate water quality volume, recharge volume and we are meeting all the TSS requirements prior to infiltration. The Operation and Maintenance plan is in place. Mr. Black stated that he would answer any questions that the Board may have.

Phil Paradis, Project Engineering, BETA Group identified himself. Mr. Paradis explained that BETA Group has reviewed this project on multiple occasions. The existing site is entirely paved and currently has no stormwater management system. The project is fully compliant with the stormwater management standards. They are going to provide ground water recharge. The five (5) infiltration basins have been tested. VHB has provided 2 saturated conductivity tests per system to verify the infiltration rate. BETA has requested that one more deep hole test and one conductivity test be provided for each system to confirm the infiltration rate that is designed. VHB has provided additional improvements related to wetland resource areas. In the last letter BETA is recommending seven (7) conditions in the Board's decision. Mr. Paradis explained the conditions. C2 is to provide one additional saturate soil conductivity test per system prior to construction, C3 is that an agent of the town should observe the proposed surface and subsurface infiltration basins to verify soils, C4 is provide the final SWPPP and water prevention plan and C6 is to provide a signed and recorded O & M Plan.

Mrs. Bennett explained that she met with the Director of Environmental Affairs, Isabel Tourkantonis and discussed this project. The applicant meets the requirements of the Conservation Commission. I recommend granting the permit and the variance with the additional conditions recommended by BETA Group.

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

Mrs. O'Rourke asked what the building will be used for.

Mr. Black replied for a Home Depot logics center.

Mrs. Giroux asked will that be a distribution center versus a customer service center.

Mr. Black replied it will be a facility used to supply other stores.

Mr. Reader asked how many acres of the site are in Billerica.

Mr. Black replied the building is split evenly in Billerica and Tewksbury.

Mr. Grady asked if any abutters were in attendance and would like to ask a question.

No abutters were in attendance at the Zoom Meeting.

Dr. Villar made a motion to grant the Stormwater Management Permit and Variance to Seerfried Properties for 495R Billerica Avenue and include all of the conditions outlined by BETA Group 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) and Chapter 6 inclusive.
- 2) The Board of Health conducted a public hearing on August 17, 2020 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
  - 1) The applicant proposes to redevelop the site with a new 775, 263 square foot industrial building, new pavement around the perimeter of the facility, landscaping area and re-grading. The applicant proposes to remove pavement, re-paving, install drainage utilities, construction/ adjustment of drainage outfalls, re-grading, wetland replication, and construction of a retaining wall within 100 feet of the floodplain.
  - 2) The project was reviewed by Philip Paradis of BETA Group, Inc., the Board of Health's Consulting Engineer, for potential impacts to the Flood Plain as well as compliance with applicable drainage regulations and the Board of Health Rules and Regulations, Chapter 5 & 6.
  - 3) The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
  - 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**

Standard Conditions# 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 25, 26, 27 and 29.

- A) All construction must be in accordance with the following plans submitted for review and approval:
  - a) Site Plan entitled ***Proposed Facility 495 Woburn Street Tewksbury, MA*** revised July 8, 2020 by VHB, Watertown MA and stamped by Conor Nagle RPE# 46302.
- B) The applicant shall pay the cost of the scope of services fee for stormwater monitoring provided by the Board of Health's Consulting Engineer/Consultant for the duration of the project, said fee shall be paid to the Board of Health prior to the preconstruction meeting.

- C) The Board of Health's Consulting Engineer/Consultant shall monitor all stormwater activities and conduct inspections to ensure compliance with approved plans and conditions. All inspections shall be conducted in accordance with an inspection schedule approved by the Director of Public Health.
- D) The applicant, or his agent, shall notify the Board at least forty-eight (48) hours in advance of scheduled inspections, or completion of construction operations requiring inspection, and prior to starting work on the succeeding construction operation.
- E) 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.
- F) An as built plan shall identifying 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.
- G) 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.
- H) A Certificate of Compliance will not be issued until all outstanding invoices from the Board of Health Consulting Engineer/Consultant for inspections or other services rendered during construction have been paid by the applicant.
- I) The approved Operations and Maintenance Plan shall be recorded with the Middlesex Northern Registry of Deeds and a recorded copy shall be submitted to the Board of Health prior to the issuance of a Certificate of Compliance with the Board of Health
- J) An Agent of the Board of Health or its designees shall observe the subsurface soil condition in the area of excavation for the subsurface stormwater infiltration systems. The system shall not be constructed until the subsurface soils have been deemed suitable for infiltration.
- K) The applicant shall provide to the Board of Health two (2) sets of complete approved plans and an electronic PDF copy of any approved plans for any project covered by these conditions. Final plans are considered plans approved by all town departments.
- L) An Agent of the Board of Health or its designees shall be present to observe the excavated footprint of the systems an addition conductivity test for each system to confirm infiltration design assumptions.

- M) The applicant shall provide final Stormwater Pollution Prevention Plan (SWPPP) prior to the preconstruction meeting.

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. Turnpike Market – 509 Middlesex Turnpike – Request for a Variance for work within the Green Engineering Flood Plain**

Mr. Grady stated the last virtual hearing is Turnpike Market, 509 Middlesex Turnpike, requesting a Variance for work within the Green Engineering Flood Plain.

Sam Patel, owner of Turnpike Market, 509 Middlesex Turnpike, Billerica identified himself. Mr. Patel explained that he is requesting a variance for work within the Green Engineering Flood Plain. I applied for a variance for this project approximately two (2) years ago with the previous director however I did not record the variance so it has expired and I cannot go ahead with this project. I spoke with Mr. Dresser and he advised me to explain to the Board what happened and submit a new set of plans. Nothing has changed with the plans. I have received approval from the Zoning Board of Appeal (ZBA) and the Conservation Commission. I need approval from the Board of Health. Mr. Patel stated that he would answer any questions that the Board may have.

Mrs. Bennett explained that the variance was approved in 2016. The work was for a deck addition and a variance for work within the flood plain. As for the stormwater plan, Mr. Dresser plans to install an infiltration system underneath the deck. That has not been completed. I recommend granting the variance with conditions regarding the Food Plan Review application. I could not locate the original plans from 2016 for the deck addition and bar that Mr. Patel wants to add. Mr. Patel needs to complete the Food Service Plan Review application, submit all the plans associated with that, a written plan for food safety to ensure minimum sanitation standards are being met during construction and any renovations to the establishment. Mr. Patel informed me that he is going to have a small hole in a window. I could not determine that from the plans that he dropped off with the application.

Mr. Patel asked Mrs. Bennett if she saw the bar area where the drinks and the sink and the service window are on the plan

Mrs. Bennett explained that the plans are too small to read. I have a letter that will be sent out explaining the details of what you need to do.

Mr. Patel stated that he went to Staples and dropped off a larger copy of the plans.

Mrs. Bennett stated that originally you were going to have seats and now you are planning on having seats and dining that is a change of use of the facility. So now you need to do a Food Plan Review because that is a change in the food code. I am going to send you a detailed letter explaining what you need to submit to me.

Mrs. Bennett replied that she is requesting that Mr. Patel complete the Food Plan Review Process as a condition of the variance.

Mrs. Giroux asked did the ZBA and the Conservation Commission permits expire as well.

Mr. Patel replied that he received an extension from the Conservation Commission in May or June 2020. As for the ZBA I went before them for the first time July 1, 2020.

Mrs. Giroux stated that she has a concern that if you are having a take-out window and serving alcohol what is to prevent under age people from being served. Are you trying to have an outside restaurant or a take-out place?

Mr. Patel explained his plan. A customer will not have access to go from the inside of the existing building to the outside patio. If anyone wants to sit on the patio, they park and walk to the deck. There will be steps and a handicap ramp. There will be table service. If a drink is requested the ID's will be checked before they can order. The food service will be done from the deck. There will be a service area to store beer and wine that will be locked.

Mrs. Giroux stated that you are now requesting to be a full sit down restaurant.

Mr. Patel replied yes, it will be full service for breakfast, lunch and dinner and serve beer and wine.

Mrs. Giroux stated doesn't that change the rules of the permit?

Mrs. Bennett replied yes. Mr. Patel is working through all the requirements and the alcohol license.

Mr. Patel explained that he needs to get permission from the town departments and Jerry Roach from the Police Department before he can work on the alcohol license. I am working with Attorney Stephen Lentine for the alcohol license.

Mrs. O'Rourke stated that this was supposed to be an outdoor patio closed for the winter. Now it seems like it is going to be a year round restaurant.

Mrs. Bennett explained the application is for a deck addition. I do not know what type of operation year round Mr. Patel is planning on. He has not completed the Food Plan Review process with us.

Mr. Patel explained that it is going to be a seasonal deck with outdoor seating because there will be no heat. The plan is to open in late March, April or early May depending on the weather and close in late fall.

Mrs. Giroux asked will there be walls and a roof.

Mr. Patel replied there will only be a roof for the bathrooms. The bathrooms are for the customers to use.



Mr. Grady stated that there seems to be a lot of loose ends and unanswered questions that need to be resolved. Mr. Patel should complete all the plans before he comes back before this Board.

The Board agreed.

Mr. Patel stated that he does not know what he needs to do.

Dr. Villar stated isn't this hearing just to build the deck.

Mr. Grady replied that he is changing his operation and does not have the plans for the Director.

Mrs. Giroux made a motion to continue the hearing until the September 14, 2020 Board of Health Meeting allowing Mr. Patel the time to complete all the requirements that the Director of Public Health has requested.

Mrs. O'Rourke seconded.

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

Mr. Grady thanked Dr. Villar for her participation as a Board of Health Member.

The Board wished Dr. Villar the Best of Luck with her new home.

Mrs. O'Rourke made a motion to adjourn. Dr. Villar seconded.

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

The Board adjourned at 6:20 p.m.

Respectfully submitted,

Sandra Giroux  
Secretary

Joanne M. White  
Recording Clerk