

BOARD OF HEALTH MINUTES
September 12, 2011

Marie O'Rourke, Chair, called the meeting to order at 7:00 p.m. Also in attendance were Robert Reader, Vice Chair, Sandra Giroux, Secretary, Daniel Kane, Mike Grady, Richard Berube, Director, and Joanne White, Recording Clerk.

ACCEPTANCE OF MINUTES

Mrs. Giroux made a motion to accept the Meeting Minutes of August 8, 2011. Mr. Grady seconded. Three voted in favor, one vote abstained (Marie O'Rourke).

BOARD OF HEALTH BUSINESS

Health Department Activity Reports

Mrs. O'Rourke 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 of August are included in the Boards package.

Mr. Berube stated that he would first talk about Christine West, the Public Health Nurse's report. Christine has received nine hundred fifty (950) doses of flu vaccine from the Department of Public Health which is a significant decrease from what was received last year. The Department of Public Health is not giving out as many doses as it has in prior years. Priority will be given to those that do not have insurance or are underinsured. Christine purchased two hundred (200) doses of flu vaccine with the grant reimbursement money that was received last year. In the past, the reimbursement money that we received from giving out flu shots was deposited into the Town's general fund, now that money goes into a revolving account to be used for town services for the residents.

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Mrs. O'Rourke requested that Christine give specific numbers for the amount of vaccines and the services that she performs in a month, such as how many TB tests she gives out, how many pregnant mothers she sees and how many lead tests are done, etc.

Mrs. Giroux requested that she also report on how many insurance billings are being done versus the free care services.

Mr. Berube explained that typically the residents that come to this office do not have any insurance or their insurance plan will not cover the services that are needed.

Mrs. O'Rourke asked how many Back to School Physicals Christine has done.

Mr. Berube explained that at this time she is only scheduling appointments. The physicals are being done on Friday, September 30, 2011.

Mrs. O'Rourke stated that she would like to see numbers for the services that she performs.

Mrs. Giroux asked how much does each flu shot cost.

Mr. Berube replied that he did not know.

Mr. Reader asked if the Health Department was going to receive any more vaccine this year from the Massachusetts Department of Public Health (MDPH).

Mr. Berube replied that he does not know at this time. Last year we received from the MDPH a total of 2100 doses of vaccine. Christine is seeing a decrease in the number of flu shots being given out. CVS, Walgreen's and Rite Aid are offering the flu shots earlier than the Health Department and a lot of the people are going there.

Mrs. O'Rourke asked the Board Members if they had any questions regarding Christine's report. The Board Members did not have any questions.

Mr. Berube stated the next report is from Health Agent, Gary Courtemanche. Gary has completed sixty-four (64) total inspections, 6 complaints, 36 routine, 10 re-inspections and 2 site visits for septic systems and conservation inspections and 2 Farmers Market inspections and 2 Septic Plan Reviews. Micozzi Beach was closed on August 25th due to a high bacteria count. Since it was the last week of the season the Recreation Department decided to close the beach early rather than retest. Billerica Realty Trust Property located on Billerica Avenue failed to comply with the Order for Correction for illegal dumping so the case was filed in Lowell District Court. That property was formerly known as the Tradesman's Industrial Park and was sold to David Crescio. David Crescio has not responded so we decided to take legal action. Jade Pacific was given an order to correct the grease trap overflow in the sewer lines. A one thousand (1,000) dollar fine was issued to reimburse the Sewer Department for cost recovery for the cleanup of the sewer lines. The fine has been

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paid. Jade Pacific hired Dresser, Williams & Way to design an exterior grease trap. Once the plans have been approved by the Board of Health the exterior grease trap will be installed.

Mrs. O'Rourke asked Mr. Berube if he had heard from John's Septic and Sewer.

Mr. Berube replied no. However we issued a Cease and Desist Order and notified the Department of Environmental Protection (DEP).

Mr. Reader asked where the signs were posted.

Mr. Berube replied that when he was inspecting the road work on Pond Street he noticed that the signs were posted on the utility poles. It is against the Town By-Laws to post signs on utility poles.

Mr. Berube asked if the Board Members had any questions regarding Gary's report. The Board Members did not have any questions.

Mr. Berube stated that the next activity report is from Health Agent, Phavy Pheng. Phavy had a total of forty-seven (47) active cases. Twenty-one (21) cases are new complaints. Fourteen (14) cases have been closed. The new septic system was installed at 8 Alrose Drive and the case has been closed. There was a probate hearing in August for 78 Pinedale Avenue and we have not received any information from Mr. Mitchell's attorney. I contacted Town Counsel to follow up. The court hearing for the failing septic system at 78 Pinedale Avenue has been continued to September 19, 2011. The septic system is being pumped every month to abate the nuisance. The property at 141 Pond Street has been sold. The existing house is going to be demolished. The new owner will provide the Board of Health with the septic plans for the new house. The applicant, Jon Metivier has done a great job with building the new house at 16 Hancock Street. Mr. Berube explained that a new foundation was in the process of being poured at 32 Sheridan Street. A humming noise was detected coming from the rooftop HVAC unit at Market Basket, 496 Boston Road. A noise study was conducted and showed that Market Basket has complied with DEP and the Town Noise By-Law. That case will be closed. A humming noise was detected coming from 100 Billerica Avenue. They met with National Grid. National Grid does not want to provide them with a high voltage connection so they are going to have an electrician connect the generators behind the building. That problem should be resolved next week.

Mrs. O'Rourke asked Mr. Berube to explain the nuisance at 8 Pinedale Avenue regarding bird feeding.

Mr. Berube explained that a neighbor complained that the people at 8 Pinedale Avenue are feeding and attracting the birds and the birds are creating a nuisance. No violation was observed. The case was closed.

Mr. Berube explained that there have been some new complaints regarding illegal dumping on Elsie Avenue. There has also been some illegal dumping behind the North Billerica Fire Station. I informed the Town Manager about this situation. There appears to be a boat launch behind the fire

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station. I checked with Conservation Commission and the Recreation Department and since it is not an authorized boat launch we are going to try to close off the access path to prevent anyone from entering the area.

Mrs. Giroux asked about the complaint at 43 Pines Road regarding the alleged horse manure dumping at the vacant lot on Lamont Street.

Mr. Berube explained that complaint has been investigated. That land is owned by the Town. It appears that everyone in the neighborhood is dumping their yard waste in that lot. However no manure is being dumped in that area.

Mrs. O'Rourke asked about the Order for Correction that was sent to the landlord at 19 Bertha Circle.

Mr. Berube explained that 19 Bertha Circle is a duplex and one of the tenants has complained about some housing violations. So we sent an order to the landlord. Mr. Berube explained that 19 and 21 Old Elm Street is also a duplex and has some housing issues on both sides. There is a lead hazard at 21 Old Elm Street.

Mr. Reader asked about the situation at 31 Glad Valley Drive where the bank was contacted to maintain the property.

Mr. Berube explained that we have received many complaints from neighbors regarding the vacant houses around town that are not being maintained. So we are trying to contact the owners or the banks and request that they maintain the property.

Mr. Grady asked if the Health Department knows how many vacant properties in town are foreclosures.

Mr. Berube replied no.

Mr. Reader commented that there are a few industrial properties in Town that are not being maintained.

Mr. Berube explained that abandoned properties are a big problem.

Mr. Grady asked if the bagster situation has been taken care of.

Mr. Berube replied the current bagster problems have been taken care of.

Mr. Berube asked the Board Members if they had any questions regarding Phavy's report. The Board Members did not have any questions.

School Cafeterias Capital Improvements

Mrs. O'Rourke stated the next item is the School Cafeteria Capital Improvements.

Mr. Berube explained that included in the Board's package is a copy of the memo from Health Agent, Gary Courtemanche to Sam Drennon, the Building Facilities Manager regarding the evaluation of the school kitchens. Mr. Drennon is no longer employed with the Billerica School System. His contract expired and they did not rehire him. He was doing a great job in taking care of the schools. There has been a vast improvement however some of the cafeterias need new improvements. Some of the schools are in great shape. We toured all the cafeterias and looked at all the equipment. A number of capital improvements need to be made. If the improvements are not made we may need to close or curtail some of the operations at the schools. Mr. Berube explained the conditions at the Dutile and Kennedy School. The walk-ins at both the schools have an excessive amount of mold in the ceiling panels. The panels need to be replaced. The dish machines do not work. They are using single service items. There is a cost to using single use items and it also generates a lot of trash.

Mrs. Giroux asked is there a dollar figure associated with the repairs.

Mr. Berube replied that he does not have any cost estimates. Mr. Drennon was pushing to have some of these items fixed. Mr. Drennon requested that the Health Department put together this report.

Mrs. Giroux asked if the Health Department checks out the Shawsheen Valley Technical High School.

Mr. Berube replied yes, that school is very well run. They are always on top of things and plan ahead. Credit should be given to the staff and Charlie Lyons.

Mrs. O'Rourke commented that Charlie Lyons does a very good job of taking care of things at the Shawsheen Tech.

Mr. Berube asked if the Board Members had any questions regarding the School Cafeteria Capital Improvements. The Board Members did not have any questions.

Proposed Flu Clinic Schedule

Mr. Berube stated the next item is the proposed Flu Clinic Schedule. The first clinic will be held on Tuesday, October 25, 2011 from 9 a.m. to noon at the Council On Aging for ages 60 and older and ages 19 and older that have a chronic illness such as diabetes, heart disease, asthma or pregnancy. The second clinic will be held on Saturday, October 29, 2011 from 9 a.m. to 11:30 a.m. at the Billerica Town Hall Auditorium, 365 Boston Road for ages 19 and older. There will be a children's flu clinic at the Board of Health Office for ages 6 months to 18 years. To schedule an appointment contact Christine West, RN at 978-671-0932.

Mr. Berube asked if the Board Members had any questions. The Board Members did not have any questions.

CDC Adult Smoking Article

Mrs. O'Rourke asked if the Board Members had any questions regarding the CDC Adult Smoking Article.

Mr. Berube explained that Ron Beauregard had sent a memo regarding the retailer inspections that he has conducted in Billerica on September 7, 2011. Ron has issued 2 Notices of Violation. One notice was sent to Jim's Quick Stop, 502 Boston Road and the other violation was issued to the Boston Road Mobil, 441 Boston Road across from the Billerica Mall.

Mr. Reader asked if the violations were issued recently.

Mr. Berube replied yes.

Mrs. Giroux asked how many violations have been issued to Jim's Quick Stop.

Mr. Berube replied that we have to start from the beginning because we have never received any records from the last tobacco coalition that we were involved with. We have to start over. Ron faxed a copy of the report from the Centers for Disease Control and Prevention (CDC). Ron commented that between the years 2005 and 2010, the overall proportion of U.S. adults who were current smokers has decreased slightly from 20.9% to 19.3%. Ron also commented on other items of interest in the report. He also attached two articles that were published in the Eagle Tribune this year regarding issues that have been important to our collaborative.

Mr. Reader commented that there are more young girls smoking than boys.

Mr. Berube explained that Ron also mentioned that the Food and Drug Administration (FDA) inspected Mall News in the spring of 2011. I spoke with the owner, George Grande and he informed me that he is working with the FDA in response to their inspection and notice of violation. George does not know how much longer he is going to be located in the Billerica Mall.

Mrs. Giroux asked if he moves to a new location then all the new rules will go into effect at that location.

Mr. Berube replied yes.

Mr. Kane explained that it states in the FDA report that Mall News will provide the FDA with a written plan for correction. It is now four months since the inspection and has the Board of Health seen a written plan of correction from Mall News?

Mr. Berube replied that we were not notified about this inspection by the FDA. Ron Beauregard emailed me a copy of the notice from the FDA. I talked to George and he has responded to the FDA. He may just become an 18 and older establishment. If he moves to a new location then he will have to be in full compliance with the current Board of Health and the State Regulations.

Mr. Kane stated that his concern is that it has been four months since the letter was issued and Mall News is in violation of the Federal Law. I would like to see a copy of Mr. Grande's written plan of response for Mall News and what the timeline is to correct the violation. We are the Board with regulatory authority over this. I continue to be concerned with his violation of the State and Federal Law.

Mr. Berube stated that he does not know if he can get a written copy of the plan. I do know that Mr. Grande has responded to the FDA and is complying with their wishes. That is the only information that I have at this time. The end result may be that Mall News will be an 18 and older establishment or cease to operate at the Billerica Mall.

Mr. Kane asked if he could find out what that plan is and let the Board know at the next Board of Health meeting.

Mr. Berube asked if the Board Members had any other questions about Ron Beauregard's report or articles. The Board Members did not have any questions.

Mosquito Control Program Report

Mrs. O'Rourke stated the last item under Board of Health Business is the Mosquito Control Report.

Mr. Berube explained that there is a case of EEE reported in Raynham. There have been a couple of positive mosquito results for the West Nile Virus reported in Tewksbury and Acton. That is why Central Mass Mosquito Control (CMMC) has extended the spraying program for an additional two (2) weeks. Billerica continues to be in the low risk category for mosquito borne illnesses. CMMC has done a great job in responding to the positive pools. They have sprayed the areas where the positive mosquito pools were found. Mr. Berube asked the Board Members if they had any questions.

The Board Members did not have any questions.

7:15 p.m. Independent Towers Holdings, LLC – Akeson Field/774 Boston Road – Request a Waiver of Regulations for work within the Flood Plain

Mrs. O'Rourke stated the next item is Independent Towers Holdings, LLC, requesting a Waiver of Regulations for work within the Flood Plain.

Dan Schweigard provided the Board with a large copy of the proposed plans for the cell tower to be located at Akeson Field, 774 Boston Road.

Dan Schweigard, Manager of Independent Towers Holdings, LLC identified himself. Mr. Schweigard explained that he was present tonight to discuss Independent Towers Holdings application for a variance for the cell tower to be located at 774 Boston Road, Akeson Field. This project has been in the works for over a year. The proposal is to construct a wireless facility designed to look like a flag pole with enclosed antennas. The reason I am present tonight is because the project is located within the flood plain. We addressed the flood plain issues through a Notice of Intent with the Conservation Commission and the project has been approved with an Order of Corrections. I filed an application with the Building Department and found out that the application was not signed off by the Board of Health because a variance is required for work within the flood plain. The flood plain issued was covered extensively for the Conservation Commission. We designed a plan to try to mitigate the small amount of flood storage that the facility would replace by raising our telecommunications equipment off the ground on cement piers to an elevation that is above the 100 year flood plain. By doing so it left us with flood plain elimination of areas that the volume of the foundation of the tower and the piers would be extremely small. The creation of approximately 200 square feet of impervious area will have a negligible impact on the runoff from the site. The majority of the new impervious area is from the placement of the telecommunications cabinets placed on piers on a grated platform, to be located over a gravel area. We agreed to a mitigation effort within the flood plain to improve Akeson Field. We will restore the stream bank, remove the brush, reseed and regrade the banks, replace and upgrade the culvert that goes under the access road to Akeson Field that is all part of the mitigation agreement that we made with the Conservation Commission.

Mrs. O'Rourke asked Mr. Schweigard if he could point to the area on the plans and review what the project will look like.

Mr. Schweigard pointed to the plans and explained that on Page C2 it shows the access road and the existing culvert that will be replaced from the culvert area to the existing parking area we will make minor improvements to that area, the mitigation is the next improvement and the volume of flood storage will be negligible. Mr. Schweigard asked the Board Members if they had any questions about the project.

Mrs. O'Rourke asked the Board Members if they had any questions.

Mr. Kane asked if the abutters were notified.

Mr. Schweigard explained that the abutters have been notified about the previous hearings and have appeared before the Planning Board and the Conservation Commission. There were some opposition from the abutters because it is a tower project. The abutters will be re-notified when the project has been approved and permitted.

Mr. Berube explained that this is a Waiver of Regulations so it is not necessary to notify the abutters.

Mr. Kane asked if the Board of Health consulting engineers have reviewed the projects reports.

Mr. Berube replied no. We did not have our consultants review the reports.

Mr. Schweigard explained that there is no septic system associated with this project or water service. The only thing that triggered the Health Department's review is the fact that we are working in the flood plain.

Mrs. Giroux asked Mr. Berube if he had any concerns with this project.

Mr. Berube replied that he did not have any concerns. The impact to the flood plain is negligible and the improvements that will be made will compensate for this project.

Mrs. Giroux stated so when the motion is made it will be contingent upon following the Conservations rules.

Mr. Berube replied yes.

Mrs. O'Rourke asked Mr. Berube for his comments.

Mr. Berube stated that this project has appeared before the Conservation Commission and they have filed a Notice of Intent. They had some issues with the Planning Board which was appealed in Federal Court. The town is under obligation to issue a Building Permit. They appeared here at my request. It was not necessary for them to come before us to address the flood plain issues. They have done their best to compensate for any impacts to the flood plain.

Mrs. O'Rourke asked the Board Members if they wanted to deliberate before a motion is made. The Board Members did not want to deliberate.

Mrs. Giroux made a motion to grant a Waiver of Billerica Health Regulations, Chapter 5, Section 5.5.005 (1) to allow the construction of a cell tower and associated compound at Akesson Field, 774 Boston Road contingent upon compliance with the Conservation Order of Conditions and 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 5.5.005(1).
- 2) The applicant proposes to install a telecommunications tower and appurtenant equipment at Akesson Field. The proposed facility will be located within the FEMA Flood Plain. The construction will result in a loss of approximately 40 cubic feet of flood storage. Flood plain impacts will be minimized by placing the equipment on raised platforms supported by piers.

- 3) The project has been reviewed and approved by the Conservation Commission. The Conservation Commission has issued an Order of Conditions. In accordance with the order, the applicant has agreed to provide mitigation by replacing the degraded culvert beneath the gravel access road to Akeson Field and stabilizing the exposed slopes of said road to prevent erosion and sedimentation from migrating to the Shawsheen River.
- 4) It has been determined that the impacts to the flood plain are negligible. Further, the construction of a minor compensatory flood storage area would be more detrimental to the surrounding resource area and recreational area.
- 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

Standard conditions number 2, 4, 5, 6, 10, 11, 12, 13, 14, 15, and 25 in accordance with the Board of Health regulations and Special Conditions:

- A) All construction must be in accordance with plans submitted for review and approval, prepared by infinigy engineering & surveying, dated February 24, 2011 and stamped by Michael B. Tucker, RPE#39545.
- B) Erosion and sediment controls 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.
- C) The applicant shall submit an as-built plan prepared by a registered professional engineer to the Board of Health to satisfy the intent of the Board of Health's approval for this project.
- D) The conditions stipulated in the Order of Conditions issued by the Conservation Commission shall be considered part of this approval by the Board of Health.

Mr. Reader seconded. So voted unanimously.

7:25 p.m. Poravas Design & Consulting – 74 Buckingham Drive – Request a Variance for work within the Flood Plain

Mrs. O'Rourke stated the next item on the agenda is Poravas Design & Consulting, requesting a Variance for work within the Flood Plain at 74 Buckingham Drive.

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Chris Poravas provided the Board with a large copy of the proposed plans for an addition to a single family home at 74 Buckingham Drive.

Chris Poravas, Poravas Design & Consulting, 49 Appleton Street, Melrose, MA identified himself. Mr. Poravas explained that he was representing the applicant Clifford Levi. The single family home is located entirely in the flood plain as well as the addition. We have filed a Notice of Intent with the Conservation Commission and will be appearing before them on September 28, 2011. The addition will be approximately 950 square feet. The impervious surface will be increased by one (1) square feet. The loss of storm retention will be less than one (1) cubic yard. There will be no slab under the structure. The new structure will be set on wood posts supported by concrete piers which will allow the unrestricted flow of potential flood waters. Mr. Poravas explained the floor structure will be an inch above the flood plain.

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

Mr. Poravas replied on the second floor there will be a bedroom and a laundry room. On the first floor there will be a game room and a family room.

Mrs. O'Rourke asked is the house on town sewer.

Mr. Poravas replied yes.

Mrs. O'Rourke asked will there be a kitchen in the addition.

Mr. Poravas replied no.

Mrs. O'Rourke asked is there room to put a kitchen in the addition.

Mr. Poravas replied I do not know.

Mrs. O'Rourke asked are you using the addition for an in-law apartment.

Mr. Levi explained that the addition is for my daughter, granddaughter and grandson.

Mrs. O'Rourke asked Mr. Levi if they are going to live in the addition.

Mr. Levi replied yes.

Mrs. O'Rourke asked is there any plans to make put in a kitchen in the apartment.

Mr. Levi replied no we are not planning on putting in a kitchen.

Mrs. O'Rourke asked is there a bathroom in the addition.

Mr. Levi replied there is a bath and a half in the addition.

Mrs. O'Rourke asked how many bedrooms will be in the addition.

Mr. Levi replied three bedrooms one for my daughter, granddaughter and grandson.

Mrs. O'Rourke asked about the game room.

Mr. Poravas showed the plans and explained the rooms in the addition.

Mrs. O'Rourke asked the Board Members if they had any questions.

Mr. Grady asked are you replacing the old driveway and parking area and adding another driveway.

Mr. Poravas pointed to the plans and explained the location of the driveway and walkway.

Mrs. Giroux asked is there a separate entrance to this addition.

Mr. Poravas replied that there is a side entrance off the driveway and there will be another side entrance off the addition.

Mrs. Giroux asked is there access between the two homes.

Mr. Poravas replied yes there is access to the addition on both levels.

Mrs. O'Rourke asked if any abutters were present. No abutters were present. Mrs. O'Rourke asked Mr. Berube for his comments.

Mr. Berube explained that most of the property lies within the FEMA flood plain elevation of 97. The addition will be constructed on piers so there will be no loss of flood storage. I do not see any problem with granting the variance.

Mrs. O'Rourke asked the Board Members if they wanted to deliberate before a motion is made. The Board Members did not want to deliberate.

Mr. Kane made a motion to grant a variance of Board of Health Rules and Regulations, Chapter 5, Section 5.5.005 (1) for 74 Buckingham Drive in order to construct an addition to an existing single family dwelling within the Flood Plain based on the following findings of fact and pursuant to the following conditions:

FINDINGS OF FACT

- 1) The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 5, Section 5.5.005 (1).
- 2) The applicant proposes to construct an addition. The location of the proposed addition falls within the FEMA Flood Plain as shown on the Flood Insurance Rate Map (FIRM) for Middlesex County, Massachusetts, Map Number 25017C0286E effective date June 4, 2010.
- 3) The proposed addition will be constructed on piers with the lowest floor level set above the FEMA Base Flood Elevation (BFE) of 96.9 which allows for the unimpeded flow of potential flood waters. The loss of flood storage is negligible.
- 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 number 1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 15, and 25 in accordance with the Board of Health regulations and Special Conditions:

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Noonan & McDowell, Inc. dated August 17, 2011 and stamped by John L. Noonan PLS#33000, RPE#36821.
- B) The lowest floor level shall be set above the BFE of 96.9.
- C) 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.

Mr. Grady seconded. So voted unanimously.

7:35 p.m. Carlos M. Cunha – 32 Stoney Drive – Request a Waiver of Regulations for work within the Flood Plain

Mrs. O'Rourke stated the last item on the agenda is Carlos Cunha, 32 Stoney Drive, requesting a Waiver of Regulations for work within the flood plain.

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Mr. Berube gave the Board Members pictures to review of the property located at 32 Stoney Drive that were taken by Health Agent, Phavy Pheng.

Mr. Berube explained that the Health Department received a complaint that work was being done in the flood plain at 32 Stoney Drive without any permits. The house is vacant and looked abandoned. Mr. Cunha purchased the property and was renovating the property without a permit or approval from the Building Department. Mr. Cunha is doing the work that the Board would expect him to do however the property is in the flood plain and he did not apply for a variance or waiver. A Cease and Desist Order was issued until this matter is addressed. The footprint is much smaller than it was originally. Mr. Cunha has fixed the foundation and installed flood vents so that the water can flow in and flow out. The house will be an improvement to the neighborhood. Mr. Cunha is looking for the Board of Health's approval so that he can work with the Building Department to make the house weather tight before the winter sets in. He will probably have to appear before the Conservation Commission at some point.

Carlos Cunha, 7 Frost Drive, Nashua, NH identified himself. Mr. Cunha explained that he works for a flooring company and he is doing all the improvements himself.

Mrs. O'Rourke commented that the front stairs are very high. The water will have to raise up that high before it can flow through.

Mr. Cunha explained that in the past twenty (20) to thirty (30) years the water has only come up that high once.

Mr. Berube explained that there is a crawl space underneath and the water will be able to seep into the ground. Mr. Berube pointed to the opening in the back facing the Concord Road.

Mrs. O'Rourke asked if the opening was going to be covered.

Mr. Cunha replied no, it will remain opened. It is only going to be a crawl space and will only be three (3) feet high. Nothing will be stored in the crawl space.

Mrs. O'Rourke commented that if the opening is not covered it will attract all kinds of animals in the crawl space.

Mr. Berube explained that there will be nothing beneath the house. All the utilities will be located on the first floor. The crawl space has a dirt floor.

Mrs. O'Rourke asked are you going to live in that house or do you plan on selling it are you make the improvements.

Mr. Cunha replied that he is going to enjoy it for a while and then when the market goes back up he will consider selling the property.

Mrs. O'Rourke asked are you going to live in that house.

Mr. Cunha replied he is not going to live there he is just going to spend some time there.

Mrs. O'Rourke asked the Board Members if they had any questions. The Board Members did not have any questions.

Mr. Grady made a motion to grant a waiver of the Billerica Health Regulations, Chapter 5, Section 5.5.005 (1) to allow the renovations of an existing dwelling located within the flood plain at 32 Stoney Drive 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 5.5.005(1).
- 2) The applicant proposes to renovate the existing vacant dwelling located at 32 Stoney Drive. Currently, the existing dwelling is in a dilapidated condition and is uninhabitable. The entire site falls within the FEMA Flood Plain and the Green Engineering Flood Plain. The property is served by Town water and sewer.
- 3) The applicant had recently purchased the property and begun work on the dwelling without a building permit and any approvals from the Board of Health. A complaint was received and investigated by the Board of Health. Subsequently, a Cease and Desist Order was issued stopping all work until this matter was addressed before the Board of Health.
- 4) The applicant has made improvements to the foundation. The foundation consists of a crawl space with an earthen floor. Flood vents have been installed and there is an opening facing the Concord River. It has been determined that the work will have a negligible impact upon the Flood Plain. The renovation of the dwelling will be an improvement to the neighborhood.
- 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

Standard conditions number 2, 4, 5, 6, 10, 11, 12, 13, 14, 15, and 25 in accordance with the Board of Health regulations and Special Conditions:

- A) All construction must be in accordance with plans submitted for review and approval

Mrs. Giroux seconded. So voted unanimously.

Open Microphone

Mrs. O'Rourke asked is there was anyone present for open microphone.

No one was present for open microphone.

Mr. Reader made a motion to adjourn. Mr. Grady seconded.

The Board adjourned at 8:00 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk