

**BOARD OF HEALTH MINUTES**  
**December 6, 2010**

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, Richard Berube, Director, and Joanne White, Recording Clerk. Fred Kenyon came in late

**ACCEPTANCE OF MINUTES**

Mrs. Giroux made a motion to accept the Meeting Minutes of November 1, 2010. Mr. Kane seconded. So voted unanimously.

**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 Report.

Mr. Berube explained that he would begin with the Public Health Nurse, Christine West's report. Christine continues with communicable disease reporting and follow-ups, walk in blood sugar testing and lead testing for children. Two major Flu Clinics were held and approximately 800 residents received the flu shot. Christine is now giving the flu shots on an as needed basis so anyone that is interested in receiving a flu shot can either contact the nurse or stop by the Board of Health office. Christine is also making visits to homebound residents that would like the flu shot. The Health Department is reaching out to any business in Billerica that may want to provide the flu shot to their employees. Phavy had thirteen (13) new complaints in the month of November. Four (4) complaints were for illegal dumping, six (6) were nuisance complaints, two (2) housing complaints and one (1) complaint regarding a failing septic system. The Health Department also received a complaint regarding

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unsanitary conditions at the special purpose pool in New England Pediatric Care, 78 Boston Road. The Board of Health does not have any jurisdiction over that. That matter is for the Department of Public Health. Phavy conducted an investigation and she did not find any violations to support that complaint. Phavy will contact the State and make them aware of the complaint and the Health Department findings. The Health Department received another complaint at 888 Boston Road, which used to be an Animal Hospital. The Animal Hospital is closed. The owner passed away however there is a great deal of medical waste left on the site. Phavy spoke to the owner's daughter regarding the removal and proper disposal of all the medical waste containers. Phavy also provided the daughter with the phone numbers of the other animal clinics in Billerica.

Mrs. O'Rourke asked if a report was going to be provided to the Health Department regarding where the containers were disposed of.

Mr. Berube replied yes. Mr. Berube stated that he would give an update on 32 Sheridan Street. Janet Wu from Channel 5 interviewed and televised the family at 32 Sheridan Street. The family is now staying at a shelter in Woburn. During the day they are staying at the First Congregational Church on Andover Road. Mr. Berube explained that he met with the Northern Massachusetts Long Term Recovery Group. They are a voluntary organization that helps families in need. They have volunteered to help this family. They are going to find them a place in Billerica to live temporarily until a new house is built. This group is going to help them teardown and rebuild their house.

Mrs. O'Rourke stated a gentleman from the Northern Massachusetts Long Term Recovery Group came to her office and explained what they planned on doing.

Mr. Berube stated that it benefited the residents of 32 Sheridan Street to be on Channel 5 because a lot of people have stepped forward and are trying to help them out. Several Town Departments met with the Town Manager and we are going to help with the permitting process so that there will not be any delays.

Mr. Berube stated that he would explain Angela Braun's final report. Angela had two (2) food complaints in November. There was one complaint for Rick's Café regarding worms in the food. This report came from the Police Department. Angela conducted an inspection of all the food storage areas and the kitchen facilities and there was no evidence of worms or any other pest activity to support this complaint. The other complaint was for the Belly Buster Diner. It was reported that the employees were dumping grease in the alley driveway. Angela investigated that complaint and the employees were cleaning some equipment outside that had a bit of residual grease. The owner said that would not happen again. Angela conducted twenty-five (25) routine and re-inspections. Papa Gino's is in a legal battle with the owner's of the Billerica Mall over a lease agreement. Papa Gino's will probably close by the end of 2010. Newtowne Grille and Emerald Rose have paid the wastewater cost-recovery fines. From the beginning of the year 2010 to date there have been twenty-six (26) food service complaints. A list of the establishments is included in the Board's package.

**Resignation of Health Agent, Angela Braun**

Mr. Berube explained that Health Agent, Angela Braun has submitted her resignation. Her last day was November 30, 2010. Angela has taken a job as Assistant Director of Public Health in the Town of Belmont. A copy of her resignation is included in the Board's package. Angela did a good job with managing the food service establishments in town and will be missed. We are in the process of advertising the position in the Lowell Sun newspaper and on the Massachusetts Health Officers Association (MHOA) website. The Health Department has received so far a couple of resumes for that position.

**Resignation of Fred Kenyon from the Board of Health**

Mr. Berube stated the next item is the resignation of Fred Kenyon from the Board of Health. Fred has been an active member on several boards for quite some time. We need a volunteer for the Water Conservation Committee to replace Fred. Mr. Berube asked the Board Members if anyone was interested in volunteering.

Mr. Kane stated that he would look at his schedule to see if he could be a member of the Water Conservation Committee.

Mr. Reader stated that he would like to attend some of the meetings however he has other commitments but he would be willing to rotate with another Board Member.

Mr. Berube suggested that if the Board Members would like to rotate going to the meetings that would not be a problem.

The Board Members stated that they would check their schedules and discuss this at the next meeting.

**Water Conservation Committee Update**

Mrs. O'Rourke stated the next item is the Water Conservation Committee Update.

Mr. Kenyon explained that the committee is considering combining the Water and Sewer Board with the Water Conservation Committee because they do the same research and reporting. The Water and Sewer Board only review the water rates. They have not had much luck with their membership. The water and sewer rates were adjusted in 2010 by the Water Commissioners (Selectmen) and the rates will be adjusted again in 2011. The rates should and must reflect the actual cost of the service. John McGovern informed us that roughly 99% of buildings in Billerica use town water. There are very few wells in Billerica. Liana Measmer published an article in the Billerica Green explaining how to conserve on water.

Mr. Berube asked how often does the Water Conservation Committee meet.

Mr. Kenyon replied once a month.

Mr. Berube asked Fred if he could provide the Board with a schedule of the meetings.

Mr. Kenyon replied yes. The meetings are held on the third Wednesday of the month at the Water Treatment Plant at 7:30 p.m.

Mr. Berube asked how long do the meetings usually last.

Mr. Kenyon replied usually about one hour but it all depends on the agenda.

Mrs. O'Rourke thanked Fred for his dedication and service to the Board and stated that he would be missed.

### **Billerica Health & Wellness Fair**

Mr. Berube explained that the Billerica Lions Club, Billerica Lodge of Elks, Billerica Community Alliance, Billerica Recreation, the Billerica Council on Aging and the Billerica Public Schools are collaborating to host the Second Annual Billerica Health & Wellness Fair on Saturday, April 9, 2011 from 10 a.m. to 2 p.m. at the Billerica Lodge of Elks on Webb Road. If anyone would like to participate they should contact the Billerica Community Alliance. It is a smaller version of the Health and Recreation Fair that used to be held in the past.

### **McFarland Cascade Update**

Mrs. O'Rourke stated the next item is McFarland Cascade Progress Report.

Mr. Berube explained that in the Boards package is a copy of the e-mail from Robert Fitzgerald, the attorney for McFarland Cascade. The soil identified for removal in the Release Abatement Measure (RAM) Plan has been removed from the site and delivered to a disposal facility in Canada. The RAM completion report will be finalized. Mr. Berube explained that Mark Sampson sent an e-mail with an attached article that may have some relevance to the Iron Horse Park situation. That e-mail has been forwarded to the Board Members. I contacted the Department of Environmental Protection (DEP) regarding the status of the RAO and the RAM Plans and they are still reviewing them. DEP has required additional information from McFarland Cascade. DEP hopes to complete the review by the end of the year if not early January 2011. DEP may require McFarland Cascade do additional work other than what has been stated in their plans.

Mr. Reader asked is this situation still in the hands of DEP.

Mr. Berube explained that the Board's order is still outstanding and until the Board is satisfied with the cleanup work the order will remain in effect. I am looking for input from DEP. McFarland Cascade will be looking for the Board of Health to close this order and we will not close the order until the Board is satisfied.

Mrs. O'Rourke asked is DEP just concentrating on the property that McFarland Cascade occupied or the entire property.

Mr. Berube replied that DEP is just focusing on the property that McFarland Cascade occupied. This is entirely separate from what is going on with the Superfund Site. The Environmental Protection Agency (EPA) and DEP are looking for McFarland Cascade to cleanup the property.

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

### **OfficeMax Progress Report**

Mrs. O'Rourke stated the next item is the progress report from OfficeMax.

Mr. Berube stated that OfficeMax has signed a lease and is moving to 16 Progress Road. They are in the process of making the necessary modifications to the site and will be fully operational as indicated to the Board by January 31, 2011.

Mrs. O'Rourke asked will they be moving their entire operation to 16 Progress Road.

Mr. Berube replied that they are definitely moving the shipping operation but he does not know about the entire operation.

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

### **749 Boston Road**

Mrs. O'Rourke stated the last item under Board of Health Business is 749 Boston Road.

Mr. Berube explained that another food service establishment known as Angela's previously occupied this location. Mr. Berube explained that he had sent the Board of Appeal a report stating the Health Department's opposition to granting a special permit for a new restaurant at 749 Boston Road because of the problems in the past and it is not a suitable location for a restaurant. However, the Board of Appeal granted the special permit. In the future they will have to come before this Board for variances.

Mr. Berube stated that the Board of Appeal granted the special permit despite our objections.

Mrs. Giroux asked did the Board of Appeal give a reason why they granted the special permit.

Mr. Berube replied no however 749 Boston Road will have to come before this Board for variances and there are a number of issues that they are going to have to address.

**EMD Serono - Sneak Peek**

Mr. Berube explained that the Health Department received an invitation to a Sneak Peek at EMD Serono, 45A Middlesex Turnpike. If any of the Board Members would be interested in attending, it will be held on Tuesday, December 7, 2010 at 4:00 p.m. There will be a tour and cocktails will be available.

**7:15 p.m. Richard Burttt – 26 Pelham Street – Request a Waiver of Regulations for work within the Flood Plain**

Mrs. O'Rourke stated the first hearing is Richard Burttt, 26 Pelham Street, requesting a Waiver of Regulations for work within the Flood Plain.

Barbara Burttt, 26 Pelham Street, identified herself. Mrs. Burttt explained that she was requesting a Waiver of Regulations. We met with the Conservation Commission on November 17, 2010 and Markus Pinney, the Director of Environmental Affairs approved the Order of Conditions pending the planting of fifteen (15) small trees down in the river section. We planted the trees and had the plans revised by Oxbow Associates to show the changes. Then we were told that we needed to contact the Board of Health and submit an application for a Waiver of Regulations.

Mrs. O'Rourke asked what are you building.

Mrs. Burttt stated that we built a small patio. After the patio was constructed we were told that we needed to apply for permits for a patio. So we went to the Conservation Commission and were told that we had to hire an engineer because we live on the Concord River.

Mrs. O'Rourke asked how big is the patio.

Mr. Berube explained that the property falls within a flood zone and that is the reason why they had to file with the Conservation Commission and the Board of Health. The applicant is in the flood plain and in a resource area and with the construction of the new patio there may have been some loss of flood storage.

Mr. Reader asked how could there be a loss of flood storage for a patio.

Mr. Berube replied there could have been a minimal amount.

Mrs. O'Rourke asked did they remove a lot of dirt.

Mr. Berube replied the applicant removed their raised garden to compensate for the construction of the patio.

Mrs. Burttt explained that is what the Conservation Commission wanted us to do so the water would just flow over the patio.

Mr. Berube explained that there is no real change in grade.

Mrs. Giroux asked is the patio already built.

Mrs. Burt explained that the work has been completed. We went through the permitting process and hired Oxbow Associates on the recommendation of the Conservation Commission and we have done everything that has been asked of us.

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

Mr. Kane asked did you get a building permit for this.

Mrs. Burt replied no, we did not know that we needed any permits for the patio. We recently applied for a State permit.

Mr. Berube stated that the only reason that they had to file was because they are in the flood plain and it is the Board of Health's jurisdiction. They removed the raised garden that would compensate for the loss of flood storage.

Mr. Reader made a motion to grant a Waiver of Regulations for the construction of a patio within the flood plain at 26 Pelham Street based upon the following facts 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 work consists of a five hundred forty (540) square foot poured in place patio. The site falls within the FEMA and Green Engineering Flood Plain.
- 3) A raised timber garden was removed as part of this project. The removal of the raised garden more than compensates for any potential loss of flood storage.
- 4) It has been determined that the work has had a negligible impact to the Flood Plain.

#### **CONDITIONS**

Standard conditions number 4, 6, 10, 11, 12, 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.

Mr. Kenyon seconded. So voted unanimously.

**7:20 p.m. CommTank, Inc. –764 Boston Road – Request Waiver of Regulations for work within the Flood Plain**

Mrs. O'Rourke stated the next item on the agenda is CommTank, Inc., 764 Boston Road, requesting a Waiver of Regulations for work within the Flood Plain.

Mr. Perry provided the Board with a copy of the plans showing the location of the new concrete pad.

Bob Perry, Senior Project Manager/Engineer for CommTank, Inc., identified himself. Mr. Perry explained that he was requesting approval for the installation of an above ground fuel storage tank at Roy Brothers, 764 Boston Road. The fuel storage tank at the facility was removed earlier this year. The storage tank was an underground tank. The request is to replace the underground storage tank with an above ground storage tank. The vast majority of the property is in the FEMA 100-year flood plain. The section of the property where we would like to install the tank is paved with asphalt. A small section of the asphalt will be replaced with a concrete pad upon which the tank will sit. Therefore there will be no change in flood storage or surface runoff at the Site. We are changing from bituminous concrete to concrete. The Conservation Commission approved the plans. We applied for a change in licensing because of the reduction in fuel quantity with the Board of Selectmen and the Fire Department. They have given their approval pending the Board of Health's decision.

Mrs. O'Rourke asked Mr. Perry to explain where the concrete pad would be located.

Mr. Perry explained the location of the concrete pad. The tank will be four (4) feet away from the building. Mr. Perry explained there are certain State and local requirements regarding the installation of an underground fuel storage tank that we are complying with. In addition because of the tank being in a flood zone we are taking additional precautions. First, fourteen (14) concrete filled 6-inch steel bollards would be integrated with the concrete pad to protect it from moving objects in both flood and non-flood conditions. Second the steel cradles which support the tank are anchored to the concrete pad with steel bolts preventing separation of the cradles from the pad. The tank is attached to the steel cradles by electro-arc welded seams. The tank is provided with urethane-coated steel, liquid tight raised steel spill-containment chamber that liquid can't get in and liquid can't get out and stands about four (4) feet above the top of the concrete pad.

Mrs. O'Rourke asked is there a vapor recovery system like there is at gas stations.

Mr. Perry replied it is a diesel fuel tank so it is combustible but not flammable so those types of requirements that you see at gasoline pumps are not required for this installation.

Mrs. O'Rourke asked what happened with the dirt that was taken out when the old tank was removed.



Mr. Perry replied the dirt has been removed. The tank did not have any contamination or leakage.

Mrs. O'Rourke asked if the tank was left out for a certain period of time before it was removed.

Mr. Perry replied we left the tank out just to confirm that there was no contamination in the soil.

Mrs. Giroux asked at some point do you think you would need a second tank.

Mr. Roy replied perhaps in the future.

Mrs. Giroux asked where would the second tank be located.

Mr. Roy replied directly behind the existing tank.

Mrs. Giroux asked is there enough room on the concrete pad for another tank.

Mr. Roy explained we would have to extend the concrete pad.

Mrs. Giroux stated so then you would have to come back before this Board again.

Mr. Roy replied that is correct.

Mr. Perry explained that area is presently paved with asphalt so there would not be any change in flood storage or infiltration.

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

Mr. Berube explained the removal of the underground storage tank is beneficial for environmental protection and this will be a better setup. I recommend granting the waiver.

Mr. Kenyon made a motion to grant a waiver of the Billerica Health Regulations, Chapter 5, Section 5.5.005 (1) to allow the installation of an above ground storage tank within the flood plain at 764 Boston Road based upon the following findings of fact and subject to the following conditions:

**FINDINGS OF FACT**

- 1) The work described in the applicant's request is within an area subject to protection under the Board of Health's Rules and Regulations, Chapter 5, Section 5.5.005(1).
- 2) The applicant proposes the construction of a concrete tank pad and the installation of a 10,000 gallon diesel fuel above ground storage tank (AST). The site falls within the FEMA and Green Engineering Flood Plain.

- 3) The AST will replace a diesel fuel underground storage tank (UST) which had been removed in preparation for this project.
- 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 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, by CommTank.

Mr. Reader seconded. So voted unanimously.

### **7:30 p.m. Helena Pisetsky –14 Shady Hill Avenue – Request a Variance for the Replacement of a Foundation within the Flood Plain and less than two (2) feet above the Water Table**

Mrs. O'Rourke stated the next item on the agenda is Helena Pisetsky, 14 Shady Hill Avenue, requesting a variance for the replacement of a foundation within the Flood Plain and less than two (2) feet above the Water Table.

Mr. Noonan provided plans to the Board and any interested parties to review.

John Noonan, Noonan & McDowell, Inc., identified himself. Mr. Noonan explained that he was representing Helena Pisetsky owner of the property. Mr. Noonan explained that Ms. Pisetsky is requesting an Administrative Determination of Applicability and two (2) variances. The existing foundation is a concrete block/stone foundation that is crumbling and must be replaced. Helena has gone before the Conservation Commission and they issued an Order of Conditions. The house will be jacked up, the existing foundation will be taken out and a new foundation will be constructed. Then the existing house will be placed back down on the foundation. The proposed basement floor will be nine (9) inches higher than the existing floor level. The floor grade will be about a foot and a half above the estimated seasonal high ground water table (ESHWT). The grades will not be changed around the house. There are three issues to deal with. The first is the Green Engineering Flood Plain and any activity within 100 feet needs approval from the Board of Health in order to get a permit. The Town of Billerica Green Engineering Flood Plain Study does have an Elevation of 188 assigned to Nuttings Lake area for the Flood Elevation. Mr. Noonan pointed to the plans and explained the elevation of 188 and its location. The proposed activity will not result in a loss of flood storage. The second is for work within the flood plain as determined by FEMA. FEMA does not have a studied elevation for this area. So work is being done in a federal flood plain. The third is for the offset to the water table. In the springtime the water table could be at the same elevation as the basement floor so the proposed foundation and

basement floor will be have an underdrain through the foundation to safeguard the structure and a sump pump will be installed in the upper corner to go to one small plastic chamber to provide additional protection when needed.

Mrs. O'Rourke asked does anyone live in the house.

Ms. Pisetsky replied that she lives in the house.

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

Mr. Kane asked where the utilities are located.

Mr. Noonan pointed and explained where the utilities come into the foundation wall in the front of the house. Mr. Noonan pointed and explained where the utilities would be relocated and after the new foundation is constructed. The house is on town sewer and town water.

Mr. Kane asked where is the electrical and heating system located.

Mr. Noonan replied they will be located overhead.

Mr. Kenyon asked why couldn't you raise the foundation up anymore and then fill in around it.

Mr. Noonan replied we can't fill it in because we are in an area that falls within the Conservation's jurisdiction so we have to minimize the impact. We are not changing any of the grades on the outside. According to today's Building Code the foundation has to be higher. With the change in grading it is going to require more stairs. The Building Code requires a certain foundation height.

Mr. Reader asked is there a basement floor.

Mr. Noonan replied there is a full basement.

Mr. Reader asked is that going to change.

Mr. Noonan replied they are going to raise the basement floor up about 9 or 10 inches.

Mr. Reader asked will the old floor be taken out.

Mr. Noonan replied the house will be jacked up and everything will be removed. There will be a new foundation and a new basement floor poured and the house will sit on top of the new foundation.

Mr. Berube explained that it is a great deal of work but the foundation is crumbling and if this work is not done Ms. Pisetsky will lose her house. The proposed work is better than what exists so I do not have a problem with granting the variances.

Mrs. O'Rourke stated that three motions would be necessary.

Mr. Kenyon made a motion to grant the Administrative Determination of Applicability for Chapter 5, Section 5.5.005 (2), work within one hundred (100) feet of the Green Engineering Flood Plain Zone District based on the following findings of fact and pursuant to the following conditions:

Mr. Reader So voted unanimously.

Mr. Kenyon made a motion to grant a Variance of Chapter 5, Section 5.2.004 for the basement floor/slab elevation based on the following findings of fact and pursuant to the following conditions:

Mr. Reader So voted unanimously.

Mr. Kenyon made a motion to grant a Variance of Chapter 5, Section 5.5.005 (1) for the structure within the FEMA, Flood Insurance Rate Map, Zone A based on the following findings of fact and pursuant to the following conditions:

Mr. Reader So voted unanimously.

All Findings of Fact and Conditions apply to all three motions.

#### **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, Sections 5.5.005 (1) and 5.2.004.
- 2) The applicant proposes to replace the existing concrete block/fieldstone foundation. The existing foundation is deteriorating and is structurally deficient. The dwelling is located within the FEMA Flood Plain and within one hundred (100) feet of the Green Engineering Flood Plain.
- 3) There will be no increase in the size of the proposed foundation nor any filling or alteration to the grades around the foundation. The proposed work will not result in a loss of flood storage.
- 4) The proposed basement floor will be higher than the existing floor but will be within two (2) inches of the estimated seasonal high water table (ESHWT). It is not possible to achieve the required two (2) foot vertical separation to the ESHWT without filling and altering the Flood Plain. An underdrain will be installed to provide protection.
- 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 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 19, 22, 24, 25 and 29 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 October 21, 2010 and revised to November 22, 2010 and stamped by John L. Noonan, PLS#33000, RPE#36821.

**7:40 p.m. Augustine Filosi –240 Nashua Road – Jimbo’s Famous Beef & Seafood/Dolly’s Doughnuts & Breakfast - Request a Waiver of Regulations Relative to the Requirement for Exterior Grease Traps for Food Service Establishments**

Mrs. O’Rourke stated the last item on the agenda is Augustine Filosi, requesting a Waiver of Regulations relative to the requirement for exterior grease traps at Jimbo’s Famous Roast Beef & Seafood and Dolly’s Doughnuts & Breakfast.

Dan Turco, identified himself. Mr. Turco explained that he was present on behalf of Dolly’s Doughnuts & Breakfast and Jimbo’s Famous Roast Beef, two (2) establishments that are located at 240 Nashua Road. The request is for a waiver of regulations to continue with the interior grease trap at Dolly’s Doughnuts & Breakfast. The breakfast place has always had an interior grease trap. The second request is for a waiver to maintain the interior grease trap for Jimbo’s Famous Roast Beef & Seafood. I met with Mr. Berube and he suggested that I obtain a maintenance contract. I contacted Baker’s Commodities and they are going to service and maintain the indoor grease traps every month. The indoor grease traps are the state of the art equipment.

Mr. Berube explained that there are two (2) establishments at the Route 4 Plaza that have been closed since the summer of 2010. One was a Jardek’s Doughnut & Breakfast Shop and the other was Pizza Express. Mr. Filosi has applied to reopen both those establishments. We have been going through the plan review process and Mr. Filosi was informed that an exterior grease trap is required in accordance with the Board of Health regulations. Mr. Filosi informed me that if he had to install exterior grease traps, that would hold up the process and would be a considerable expense for him. Mr. Filosi is requesting that he utilize the grease recovery systems that are already in these establishments. I informed Mr. Filosi that the position of the Health Department is that we would like exterior grease traps installed because of the number of problems we have seen in Billerica with Kentucky Fried Chicken, Emerald Rose and Newtowne Grille. Mr. Berube informed Mr. Filosi that he could come before the Board and request relief from installing the exterior grease traps. I suggested that if he wanted to come before the Board he should have a maintenance agreement program in place. The Board could also state that there would be a probationary period and if there is an issue with grease. Mr. Filosi would have to come back before the Board and if the Board deems necessary they could take action to resolve the matter. If there is any grease blockage the Board can require an exterior grease trap be installed.

Mrs. O'Rourke commented that the doughnuts will not be made on site. During the probationary period Mr. Filosi would have to provide the Health department with monthly copies of the report documenting the pumping records and condition of the interior grease traps from Baker Commodities.

Mr. Berube stated that would be one of the conditions.

Mr. Kane stated that he understands the expense that is involved but the Town has worked hard to put the regulations in place. I am concerned with this agreement because we have had a number of problems with other establishments and the regulations are there for a reason.

Mr. Kenyon asked have there been any problems in the past with the interior grease traps at these two (2) establishments.

Mr. Berube replied not that he is aware of. I contacted the Wastewater Division and they indicated that there have not been any problems with the sewer lines in that area in the past

Mr. Turco explained that they would be using only paper products and plastic silverware.

Mrs. Giroux commented that she does not have a problem with granting the waiver as long as a maintenance plan is in place along with the probationary period. The first time there is a problem with the grease traps their food service establishment permits will be revoked.

Mr. Reader asked Mr. Berube if the places that we had the problems with had a maintenance plan.

Mr. Berube replied that Kentucky Fried Chicken, Emerald Rose and Newtowne Grille did not have a maintenance plan. The problems at those establishments have stemmed from the grease traps not being properly maintained. If Mr. Filosi has a maintenance contract in place there should not be a problem.

Mr. Reader stated that he does not have a problem with granting the waiver as long as the maintenance contract is followed.

Mr. Kane is there going to be two (2) separate applications one (1) for each establishment.

Mr. Berube replied yes there are two (2) separate applications. I just combined them because the establishments are side by side and it is the same owner but there will be two (2) separate documents.

Mrs. Giroux stated so there will be two (2) separate contracts.

Mr. Filosi replied yes there will be one (1) contract for each place.

Mrs. Giroux stated so one establishment could loose their privilege and the other one could continue to operate.

Mr. Kane asked from an administrative perspective what would be a reasonable and appropriate length of time for the Health Department to require monthly reports from Mr. Filosi.

Mr. Berube stated that he could not imagine Mr. Filosi having any problems within the first year or two of operation. It all depends on how successful the business is. The establishments are not very big. As long as he has the maintenance contract in place that maybe all he needs. As Sandy indicated if there is a problem then the permit(s) would be revoked. 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.

Mrs. Giroux stated that if there is one problem with the interior grease traps, the permit will be revoked.

Mrs. O'Rourke asked for a motion.

Mr. Kane made a motion to grant a Waiver of Billerica Board of Health Rules and Regulations Chapter 5, Section 2.2.001 that requires the installation of an exterior grease trap to service Jimbo's Famous Roast Beef & Seafood food service establishment located at 240D Nashua Road with the Board's standard conditions as well as they will have to provide a copy of the service contract to the Board for review along with a service schedule, periodic reviews will be conducted by the Board of Health, also this waiver will be immediately revoked if any significant issues occur based upon the following findings of fact and subject to the following conditions:

#### **FINDINGS OF FACT**

1. The work described in the applicant's request is within an area subject to protection under the Board of Health's Rules and Regulations, Chapter 5, Section 2.2.001.
2. The applicant proposes to use the existing alternative grease recovery unit (GRU) located within the food service establishment. The interior grease recovery units will be monitored and cleaned every month. A maintenance record shall be kept and made available for inspection by the Board of Health.
3. The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

**CONDITIONS**

Standard conditions number 6, 10, 14, 15, and 25 in accordance with the Board of Health regulations and Special Conditions:

- A. The applicant shall provide a copy of a maintenance agreement with a qualified service company to pump and maintain the interior grease traps 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.
- B. This waiver shall be subject to periodic review by the Board of Health to ensure compliance with applicable rules and regulations.
- C. 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.
- D. This waiver can not be transferred from one person to another person, from one food establishment to another or from one type of operation to another.

Mr. Reader seconded. So voted unanimously.

Mr. Kane made a second motion to grant a Waiver of the Billerica Board of Health Rules and Regulations Chapter 5, Section 2.2.001 that requires the installation of an exterior grease trap to service Dolly's Doughnuts & Breakfast food service establishment located at 240C Nashua Road with the Board's standard conditions as well as the conditions previously stated for Jimbo's Famous Roast Beef based upon the following findings of fact and subject to the following conditions:

**FINDINGS OF FACT**

- 1. The work described in the applicant's request is within an area subject to protection under the Board of Health's Rules and Regulations, Chapter 5, Section 2.2.001.
- 2. The applicant proposes to use the existing alternative grease recovery unit (GRU) located within the food service establishment. The interior grease recovery units will be monitored and cleaned every month. A maintenance record shall be kept and made available for inspection by the Board of Health.
- 3. The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.



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- D. This waiver can not be transferred from one person to another person, from one food establishment to another or from one type of operation to another.

Mr. Reader seconded. So voted unanimously.

**Open Microphone**

Mrs. O'Rourke asked if anyone in the audience would like to ask a question pertaining to Board of Health business.

No one in the audience had any questions.

Mrs. O'Rourke thanked Mr. Kenyon and wished him a Merry Christmas.

Mrs. O'Rourke stated on behalf of the Board she would like to wish everyone that watches this tape a very Merry Christmas and a Healthy Happy New Year.

Mr. Reader made a motion to adjourn. Mrs. Giroux seconded.

The Board adjourned at 8:00 p.m.

Respectfully submitted,

Sandra Giroux  
Secretary

Joanne M. White  
Recording Clerk