

**BOARD OF HEALTH MINUTES
DECEMBER 7, 2009**

Marie O'Rourke, Chair called the meeting to order at 7:30 p.m. Also in attendance were Robert Reader, Vice Chair, Sandra Giroux, Secretary, Fred Kenyon, Daniel Kane, Richard Berube, Director, and Joanne White, Recording Clerk.

ACCEPTANCE OF MINUTES

Mr. Kenyon made a motion to accept the Meeting Minutes of November 2, 2009. Mrs. Giroux seconded. So voted unanimously.

CORRESPONDENCE

Robert Hagopian – 20 Riveredge Road

Mrs. O'Rourke stated the first item under Correspondence is Robert Hagopian, 20 Riveredge Road.

Mr. Berube explained that he received a letter from Attorney Robert W. Hagopian, regarding the property owned by Middlesex School at 20 Riveredge Road. Attorney Hagopian stated that he is representing Rita Sullivan, an abutter, who owns the lot of land adjacent to the lot owned by the Middlesex School. At one of the Board of Health meetings the Board granted a variance for construction on that property. Rita Sullivan was present at that meeting and has some issues regarding the property line. The letter explains in detail her complaint and all the facts.

Mrs. O'Rourke asked if the Health Department has received any information regarding the boundaries.

Mr. Berube replied that he has not received any information about the boundaries. The Middlesex School cannot conduct any work on Rita Sullivan's property. The Health Department will pay close attention to the boundaries when this project proceeds.

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

The Board Members did not have any questions.

BOARD OF HEALTH BUSINESS

OM Temple

Mrs. O'Rourke stated the first item under Board of Health Business is the OM Temple.

Mr. Berube explained that at the Board of Health meeting held on January 12, 2009 the Board granted an extension of the OM Temple Variance #05-22-19-005. The extension was granted contingent upon the approval of the project by the Department of Environmental Protection (DEP). The proponent of this project appealed the Conservation Commission's denial of the project. Also included in the Boards package is a copy of DEP's Superseding Order of Conditions Denial. Attorney Brodsky, who is representing the applicant, sent a letter to the Board of Health explaining the new proposal. Mr. Berube explained that he spoke with Attorney Brodsky and Attorney Brodsky asked if he should come before the Board to explain the new proposal. I explained to him that at this time it was not necessary. The applicant is trying to work with DEP to resolve this matter. They are proposing to pull this project out of the river front area which would be beneficial to the environment and would minimize the impact to the flood plain. The flood plain is within the Board of Health's jurisdiction. Mr. Berube explained that if the project is approved by DEP, the applicant will have to start over and submit new plans to the Board for review and approval.

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

The Board Members did not have any questions.

Food Service Sanitation Report

Mrs. O'Rourke stated the next item is the Food Service Sanitation Report submitted by Health Agent, Angela Braun. Mrs. O'Rourke complemented Angela on the outstanding job she did on the report.

Ms. Braun stated if the Board has any questions regarding food service establishments, they can e-mail her.

Mrs. O'Rourke asked Ms. Braun if all the complaints that are listed in the report from January 2009 to December 2009 have been taken care of.

Ms. Braun replied yes. Ms. Braun explained that she investigated all the complaints. The complaints that are in bold type had something wrong. I did not find anything wrong with the rest of the complaints.

Mrs. O'Rourke thanked Angela for the excellent report.

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

The Board Members did not have any questions.

Ms. Braun explained that she included a memo on Massachusetts Approves Calorie Labeling Measure for Major Chain Restaurants. If any of the Board Members would like more details on the calorie posting, please feel free to contact me.

Flu Update

Mrs. O'Rourke stated the next item is the Flu Update from Christine West, the Town's Public Health Nurse.

Mr. Berube explained that the flyer for the Regional Flu Clinic has been updated since the Board's packages were sent out. The Health Department has received new information regarding the H1N1 vaccine from the State. The Health Department should be receiving substantial quantities of the H1N1 vaccine. On December 19, 2009 there will be a Seasonal Flu Clinic held from 9 a.m. to 12 at the Town Hall Auditorium for ages 5 and older only. Our shipments for this type of vaccine are starting to come in large quantities so there will be enough vaccine.

Mrs. O'Rourke asked will the H1N1 vaccine also be available at the Seasonal Flu Clinic on December 19th.

Mr. Berube replied that clinic is mainly for the seasonal flu clinic, however that could change at the last minute and we may have H1N1 vaccine as well.

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

Mrs. Giroux asked would you recommend getting both shots at the same time.

Mr. Berube replied you can get both shots at the same time.

Mr. Kenyon asked will the H1N1 vaccine be offered to Seniors.

Mr. Berube explained that the H1N1 vaccine will be offered to the Seniors at a later date. Unlike the Seasonal Flu vaccine the H1N1 vaccine does not impact the seniors as much as younger children and teens. It seems to affect the younger generation because of their immune system.

McFarland Cascade Progress Report

Mrs. O'Rourke stated the next item on the agenda is the Progress Report from McFarland Cascade, Iron Horse Park.

Mr. Berube explained that the progress report explains the recent ongoing activities from McFarland Cascade with respect to compliance with the Board of Health's orders. McFarland is responding to the two (2) orders from the Board of Health meeting held on November 2, 2009. Mr. Berube explained that he met with Mr. Hoffnagle from TRC at the site on November 23rd and agreed on the two (2) on-site air sampling locations. Air samples were collected and picked up by TRC personnel for shipment to the laboratory on December 1, 2009. Results are expected back within two (2) weeks and a report will be sent to the Board in late December. Based on the results a determination will be made as to the necessity of collecting off-site neighborhood air samples. The Board should have a copy of the Response Action Plan for the soil and groundwater sampling at the January 2010 meeting. Mr. Berube showed the Board Members pictures of the equipment used to do the air sampling.

The Board Members reviewed the pictures of the equipment used in the air sampling process.

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

Mr. Reader asked how long was the equipment set up for.

Mr. Berube replied for a twenty-four (24) hour period as was agreed upon.

Mr. Reader asked if both of the air samplings were taken on site.

Mr. Berube replied yes. Mr. Berube explained that McFarland plans to have GZA do additional soil and groundwater sampling in the spring.

7:45 p.m. Town of Billerica – Letchworth Avenue Wastewater Treatment Facility Upgrade – Request for an extension of Waiver of Regulations

Mrs. O'Rourke stated the next item on the agenda is the Town of Billerica, requesting an extension for a Waiver of Regulations for the Letchworth Avenue Wastewater Treatment Facility Upgrade. At this time no one was present to explain the reason for requesting an extension so the Board continued with the next item on the agenda.

7:50 p.m. Taylor Excavation – 7 Brookdale Circle – Request Waiver of Regulations for work within the Flood Plain

Mrs. O'Rourke stated the next item on the agenda is 7 Brookdale Circle requesting a Waiver of Regulations for work within the Flood Plain

William Taylor, owner of Taylor Excavation, identified himself. Mr. Taylor explained that he was representing the owners of 7 Brookdale Circle and is requesting a Waiver of Regulations for work within the flood plain at 7 Brookdale Circle.

The Board Members reviewed the plans of the Subsurface Septic Disposal System Upgrade.

Mr. Reader asked is there town sewer in that area.

Mr. Berube replied at that end of Baldwin Road there is no town sewer on Brookdale Circle, Nickerson Drive and Alton Road. Mr. Berube explained that basically the property falls almost entirely within the flood plain. The only portion of the property that is above the flood plain is where the house is located. The septic system is failing and needs to be replaced. There is no place to install the septic system outside of the flood plain. The owners are requesting a waiver of the flood plain regulations so that they can replace the failing septic system. In the rear of the property is Jones Brook and that is where the flood plain is associated with the Green Engineering and also FEMA Flood Plain.

Mrs. O'Rourke asked where will the proposed septic system be located.

Mr. Berube explained the location of the proposed septic system on the plans and also showed the location of the old septic system.

Mrs. O'Rourke asked how much of the proposed septic system is within the flood plain.

Mr. Berube replied just about the entire property. The house is the only thing that is not in the flood plain.

Mr. Kenyon asked would the proposed system be raised.

Mr. Berube replied yes, the system would be mounded.

Mr. Taylor explained that the new system would be farther away from the brook.

Mrs. O'Rourke asked are you going to leave the old system in the ground or are you going to remove it.

Mr. Taylor replied we are going to replace the old septic tank with a new watertight tank so that it would not be able to leach out and it will be gravity fed around the side of the house to the new system. Mr. Taylor explained that the old system just stopped working.

Mrs. O'Rourke asked do they have bathroom facilities.

Mr. Taylor replied the owners are on vacation and that is why I am representing them. The owners want to have this problem taken care of when they return.

Mrs. O'Rourke asked how high is this system going to be mounded in their yard.

Mr. Taylor replied approximately two (2) to three (3) feet.

Mr. Berube replied there is a high water table in that area. Mr. Berube commented that according to the rules and regulations of today, the houses on the other side of the street would probably not been constructed because of the high water table.

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

Mr. Kane stated that his only concern is when the owners return from vacation is their home considered to be habitable.

Mr. Taylor replied yes.

Mr. Berube replied they can pump the tank out to prevent any kind of a nuisance and imminent health threat.

Mr. Taylor stated the owners are just waiting for the Board's approval to replace the system.

Mr. Kenyon asked how long will it take to replace the system.

Mr. Taylor replied three (3) to five (5) days.

Mrs. O'Rourke asked so they are putting in a complete septic system and leaching field.

Mr. Taylor replied yes.

Mr. Giroux made a motion to grant the Waiver of Regulations of Billerica Health Regulations, Chapter 5, Section 5.5.005(1) to allow the upgrade of a failing septic system in the flood plain located at 7 Brookdale Circle 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 work proposed by the applicant will upgrade an existing septic system found to be in non-compliance with the provisions of 310CMR15.000, the State Environmental Code, Title 5.

- 3) The work is necessary to correct the system failure and protect the public health, safety and the environment.
- 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, 3, 4, 5, 10, 11, 12, 13, 14, 15, and 18 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 O'Neill Associates dated September 25, 2009 and stamped by Luke J. Roy RPE# 47356.

Mr. Kenyon seconded. So voted unanimously.

7:45 p.m. Town of Billerica – Letchworth Avenue Wastewater Treatment Facility Upgrade – Request for an extension of Waiver of Regulations

Mrs. O'Rourke asked Mr. Berube that since no one has shown up to present this hearing can the Board continue with the hearing.

Mr. Berube explained that when he spoke with the Consulting Engineer who filed on behalf of the Town of Billerica, I indicated to him that he did not have to attend because someone from the Department of Public Works (DPW) would be present. There must have been a miscommunication.

Mrs. O'Rourke explained that Abdul Alkathib, the DPW Director asked if he had to attend the Board of Health meeting. I told him that he did not have to attend. However, I assumed he was going to send a representative from DPW to the meeting.

Mr. Berube explained that in the past the Town Engineer and also the Wastewater Superintendent have been present.

Mrs. O'Rourke stated the Board could continue with the hearing because abutters do not have to be present for the approval of a waiver.

Mr. Berube explained that the work is ongoing and as you can see from the letter sent from Woodard & Curran the project should be completed in August 2010. The work is necessary; I do not have a problem with granting the extension.

Mr. Kenyon asked is this the first extension the Board has granted for this waiver.

Mr. Berube explained this is the first extension for this particular project. Extensions have been granted for other sewer related projects.

Mr. Reader stated they are requesting an extension to finish the project.

Mr. Berube replied yes, because the Board usually grants two years to complete all the work and that two year period is running out and the project has not been completed.

Mrs. Giroux asked when the two-year period runs out.

Mr. Berube replied the project was approved in December of 2007, so the time is up this month.

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

Mr. Reader asked how long of an extension are they requesting.

Mr. Berube replied the project should be completed in August of 2010 so I recommend that we grant the extension for one (1) year in case they run beyond their target date of August 2010.

Mrs. Giroux made a motion to grant the extension of the Waiver of Regulations #07-026 to December 7, 2010. All conditions of the original waiver will remain in full force and effect.

Mr. Kane seconded. So voted unanimously.

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

The Board adjourned at 8:00 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk