

**BOARD OF HEALTH MINUTES**  
**October 6, 2014**

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

**ACCEPTANCE OF MINUTES**

Mrs. O'Rourke made a motion to accept the Meeting Minutes of September 8, 2014. Mr. Grady seconded. So voted unanimously.

**Water Conservation Oversight Committee**

Mrs. Giroux explained that a memo was sent from Selectman Andrew Deslaurier stating that at its meeting of September 8, 2014 the Board of Selectmen decided to disband the Water Conservation Oversight Committee. Mrs. Giroux thanked Mr. Kane for his participation on the committee.

Mr. Kane explained that the committee has done a lot of good work and their mission has been accomplished.

**BOARD OF HEALTH BUSINESS**

**Health Department Activity Reports**

Mrs. Giroux 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 September are included in the Board's package.

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Mr. Berube stated that the Public Health Nurse, Christine West continues with Communicable Disease Case Reporting/follow-up and out-patient activity. Christine is preparing the paperwork and coordinating the nurses and student nurses to administer the vaccine for the flu clinics. As requested last month, Christine has researched and provided the Board with information regarding the Enterovirus D68 (EV68).

Mrs. O'Rourke asked if Christine bills Medicare for the flu shots that are given to elderly residents.

Mr. Berube replied yes, however we only get reimbursed for the administrative cost because the vaccine is free from the state.

Mrs. O'Rourke asked what will happen next year when we have to pay for the vaccine.

Mr. Berube explained that we will be charging the insurance company for everyone that has insurance.

Mrs. O'Rourke asked what happens with the reimbursement money that the Health Department receives.

Mr. Berube explained that any money received from the insurance company will go into a revolving account so that vaccine can be purchased next year.

Mr. Berube asked the Board Members if they had any questions regarding Christine's report or the Enterovirus information.

Mrs. Giroux stated the next report is from Health Agent, Phavy Pheng.

Mr. Berube explained that 11 Blades Circle is the last hearing on the agenda.

Mr. Berube explained that the sewer connection at 78 Pinedale Avenue has been completed. Mr. Berube showed the Board Members pictures of the completed system. Mr. Berube explained that the connection was done by directional drilling.

Mr. Berube explained that the house at 12 Autumn Street has been razed and a new house is being built.

Mr. Kane asked about the outstanding order at 60 Bridle Road.

Mr. Berube explained that the property is vacant and the bank has not responded to the letter that Phavy issued January 30, 2014.

Mrs. Giroux asked about the status of the auctioned property at 305 Concord Road.

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Mr. Berube stated that the property was not sold at the auction. Phavy tried to contact the attorney and find out what is the status of the property.

Mr. Kane asked about the potential hazmat situation at 22 Kenmar Drive, Unit #210.

Mr. Berube explained that the State Police conducted an inspection of the dwelling and there wasn't any hazardous material in the dwelling.

Mr. Kane asked about the mold in the dwelling at 69 Marshall Street.

Mr. Berube explained that the dwelling was damaged by fire and is vacant. An Order for Correction was issued to Bayview Loans Servicing, LLC in September however they have not responded.

Mrs. O'Rourke asked about the location of the sewage odor on Middlesex Turnpike.

Mr. Berube replied that it may be related to the pump station near Micozzi Beach. Phavy is working with Mike McCaughey, Collection System Supervisor of the Sewer Department on this complaint.

Mrs. Giroux asked if the Board Members had any other questions regarding Phavy's report.

Mrs. Giroux stated the last report is from Health Agent, Gary Courtemanche.

Mrs. Giroux asked about complaint from the whole sale food distribution company on 26 Cook Street.

Mr. Berube explained that the Health Department received a report from the Billerica Police Department regarding a wholesale food company on 26 Cook Street. Parallel Products Recycling Operation is located at 26 Cook Street and does not utilize the entire building. They leased out a portion of the building to New England Delivery. Upon further investigation, Gary found out that they are operating illegally. They do not have any permits or approvals from the Building Department or the Zoning Board of Appeals to operate. They do not have a permit from the State. The State has been contacted and investigated the situation. The Building Inspector is involved. The Board of Health has received several noise complaints. Gary informed them that they had to cease and desist their overnight operations. We will continue to follow up with the Building Department and the State.

Mrs. Giroux asked how can they still operate if they don't have a permit from the State.

Mr. Berube replied that he does not know why the State is still allowing them to operate.

Mrs. Giroux asked are they paying fines. Why aren't they shut down?

Mr. Berube replied that he does not know. Mark LaLumiere, Building Commissioner is aware of the situation. He is planning on issuing letters to New England Delivery.

Mrs. Giroux requested that Mr. Berube talk to the Building Commissioner and find out what the status is and why are they allowed to operate without any permits.

Mrs. Giroux asked if the Board Members had any questions regarding Gary's report.

The Board Members did not have any questions.

### **Adoption of 2015 Board of Health Meeting Schedule**

Mrs. Giroux stated the next item on the agenda is the adoption of the 2015 Board of Health Meeting Schedule.

Mr. Kane asked if the meeting time could be changed to 7:30 p.m.

A vote was taken to see if the Board would like to change the meeting time to 7:30 p.m. Two (2) voted in favor of starting the meeting at 7:30 p.m. and three (3) were opposed. The meetings will continue to be held at 7:00 p.m.

Mrs. Giroux asked if any of the Board Members had a problem with the meeting schedule.

Mr. Grady made a motion to adopt the 2015 Board of Health Meeting Schedule.

Mr. Kane seconded. So voted unanimously.

### **Healthy Communities Tobacco Control Program – Compliance Check Report**

Mrs. Giroux stated the next item on the agenda is the Healthy Communities Tobacco Control Program and Compliance Check Report.

Ron Beauregard, Program Director of the Healthy Communities Tobacco Control Program identified himself. Mr. Beauregard explained how the compliance checks were conducted. In the last three (3) years the compliance checks in Billerica have been on track. Mr. Beauregard explained that he meets with all the retailers in Billerica on a regular basis to update and educate them on the most recent Tobacco Control policies. There is a new policy about increasing the legal age of buying tobacco products. Mr. Beauregard provided the Board with a list of communities that are increasing the minimum age to purchase tobacco products. Mr. Beauregard explained that he is not in favor of raising the age because if you are mature enough to vote for the President and can enlist in the military or be drafted by the government then you should be able to make a decision to purchase tobacco-nicotine products. A lot of communities are comparing it to the drinking age of twenty-one (21). It is up to the Board to decide if they want to raise the age to purchase tobacco-nicotine products. Andover is the latest

community that is raising the age of selling tobacco-nicotine products.

Mr. Berube asked the Board Members to give this some consideration.

Mr. Beauregard explained that as of February 1, 2015 North Andover will be the 6<sup>th</sup> community in the state that will not be selling flavored tobacco products with the exception of menthol flavor unless they are sold in a retail tobacco store that you need to be eighteen (18) years old to enter. There will be no more grape, peach, strawberry, mango, honey, candy or fruit flavored cigars, cigarillos and chews offered in North Andover unless they are sold in a retail tobacco store. All of these flavors attract the younger generation because it reduces the harshness in the tobacco products. That is something that this Board may want to consider.

Mrs. Giroux thanked Mr. Beauregard for his presentation.

**7:15 p.m. Town of Billerica – Phase 2 Wastewater Treatment Facility Capital Improvements – Request Waiver of Regulations for work within the Flood Plain**

Mrs. Giroux stated the first hearing is the Town of Billerica, Phase 2 Wastewater Treatment Facility Capital Improvements, requesting a Waiver of Regulations for work within the Flood Plain.

Stephen Mach presented the Board members with large scale drawings of the proposed Phase 2 project.

Stephen Mach, Project Engineer for Woodard & Curran identified himself. Mr. Mach explained that the Phase 2 project will include upgrades to the Letchworth Avenue Wastewater Treatment Facility (WWTF). The upgrade will include sludge handling, basins and building improvements. All improvements will take place in the existing structures. The one exception will be the construction of a scum well for scum that will be collected in the gravity thickeners. Mr. Mach pointed to the plans and explained the location of the wells. The scum upgrade includes the installation of a new eight (8) foot diameter well, the replacement of existing equipment and piping within the existing buildings and the installation of buried piping and conduit related to the treatment of municipal wastewater. A small portion of the work will occur within one hundred (100) feet of the Green Engineering Flood Plain but not in the FEMA Flood Plain. Mr. Mach pointed to the plans and explained where the new concrete scum well work would take place and where the new scum well would be located and the existing concrete gravity thickener tanks. There will be no change in impervious area as a result of this project. This plan will allow the WWTF to maintain a high quality effluent within its NPDES permit limits and also allow the WWTF to treat anticipated future flows. In addition to the work that will be taking place, we are requesting a blanket waiver for future work at the wastewater treatment plant.

Mrs. O'Rourke asked are there any other scum wells on the property.

Mr. Mach replied that there are two (2) other scum wells that are currently on the same site.

Mr. Reader asked are you redoing the existing scum tanks.

Mr. Mach replied no, those tanks were built in 2008. We are adding a scum skimming mechanism to the current tanks.

Mr. Reader asked will some of them be upgraded and what will the difference be.

Mr. Mach replied that some will be upgraded. The existing mechanism will be replaced. There will be no structural work done on the tanks. There may be some loaming and seeding after the work has been completed. We are requesting a blanket waiver for future phases of the capital improvement plan at the facility. All future phases of the work will be located within the existing buildings or existing structures.

Mrs. Giroux asked the Board Members if they had any questions.

Mr. Kane asked what is the rational of a blanket waiver.

Mr. Mach replied that it would expedite future work. The blanket waiver would be for future phases of the capital improvement plan.

Mr. Kane stated that this Board would like to see all the plans for each improvement phase before they grant a waiver.

Mrs. Giroux agreed with that she would not approve a blanket waiver. She would like to see the plans before the Board grants a waiver.

Mr. Berube explained that all the work that has been presented is part of the Town's Comprehensive Wastewater Management Plan (CWMP) and has been approved by the Board of Selectmen. As Mr. Mach mentioned a blanket waiver would cover any potential projects that would be under the CWMP. Any plan outside of the CWMP would need to come before the Board for approval. Administrative review can be authorized for any potential projects down the road and proposed future phases of work associated with the CWMP.

Mr. Mach explained that we are not requesting authorization to do any kind of work at the Wastewater Treatment Plant. We are requesting the blanket waiver for work related to the CWMP.

Mr. Berube explained that this is not the first waiver that the Board has granted for work at the Wastewater Treatment Plant. This work is necessary to maintain compliance with its NPDES permit and treat anticipated future flows.

Mrs. Giroux stated that she has a problem with a blanket waiver however she does not have a problem with authorizing the Director to administratively grant the waiver. I don't want the blanket waiver to be misunderstood down the road.

Mr. Berube stated that as Mr. Kane suggested they should come before this Board for future CWMP waivers. Mr. Berube suggested that the Board grant the waiver for the Phase 2 work and request that they come back before the Board with any future CWMP work.

Mr. Mach stated that a cover letter was submitted with the application listing the items which are scheduled for the capital improvement plan going forward.

Mrs. O'Rourke made a motion to grant a Waiver of Billerica Health Regulations, Chapter 5, Section 5.5.005 (1) (2) to allow the construction of upgrades to the Town's Wastewater Treatment Facility (WWTF), located in or within one hundred (100) feet of the Flood Plain based upon the following facts and subject to the following conditions:

### **FINDINGS OF FACT**

- 1) The work described in the applicant's request, and as per plan submitted by Woodard & Curran for the Billerica Department of Public Works, is within an area subject to protection under the Board of Health's Rules and Regulations, Chapter 5, Section 5.5.005(1)(2).
- 2) The applicant proposes to construct upgrades to the Letchworth Avenue Wastewater Treatment Facility (WWTF). The WWTF upgrades include the installation of a new eight (8) foot diameter well, replacement of existing equipment and piping within existing buildings and installation of buried piping and conduit related to the treatment of municipal wastewater. A small portion of the work will occur within the Green Engineering Flood Plain, but not the FEMA Flood Plain.
- 3) The WWTF Capital Improvements Project will allow the WWTF to maintain a high quality effluent within its NPDES permit limits and also treat anticipated future flows and loads. Furthermore, this project is part of recommended by the Town's Comprehensive Wastewater Management Plan (CWMP).
- 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, 24, 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 Woodard & Curran, dated August 2014.

Mr. Reader seconded. So voted unanimously.

**7:30 p.m. Radhika Cheng – 14 Post Street – Request a Variance for work within 25 feet of the Flood Plain**

Mrs. Giroux stated the next hearing is Radhika Cheng, 14 Post Street, requesting a Variance for work within 25 feet of the Flood Plain.

Stephen Dresser presented the Board with a large scale drawing of the proposed project at 14 Post Street.

Stephen Dresser, Dresser, Williams & Way, Inc. representing Mr. and Mrs. Cheng, identified himself. Mr. Dresser explained that this property has been in Mrs. Cheng's family for some time and they are now looking to develop it. All the construction will be outside of the flood plain. The nearest point of the driveway is 20 +/- feet to the Green Engineering Flood Plain (GEFP) and 30+/- feet to the FEMA Flood Plain that is the reason why we are requesting a variance. Mr. Dresser explained and pointed to the FEMA and GEFP elevations. No work is proposed in either the FEMA or GEFP. The septic system plans have been approved. The applicant has been before the Conservation Commission and received their Notice of Intent. There is a concern with a cesspool in the neighbor's yard that is close to the property line. The cesspool is 4 tenths of a foot onto the property at 14 Post Street. The proposed project consists of the construction of a single-family dwelling, garage, shed, driveway, septic system, retaining walls, a stone trench, associated grading and utilities within one hundred (100) feet of the Buffer Zone of the Bordering Vegetated Wetland. Erosion controls will be set and maintained for the duration of this project. Mr. Dresser pointed to plan and explained the area where the topography was done for the drainage. The water will flow into the depression and stay in the depression. Mr. Dresser stated that he would answer any questions that the Board may have.

Mr. Grady asked how many bathrooms will the proposed house have.

Mr. Cheng replied at least two (2) bathrooms.

Mr. Dresser replied that the septic design is based on five (5) bedrooms.

Mr. Reader asked how will they enter the garage from Winthrop Street or Post Street.

Mr. Dresser replied there will be access from both streets. They will most likely enter from Winthrop Street however they can also enter from Post Street. The garage and driveway will be facing Winthrop Street.

Mrs. O'Rourke asked when we get a lot of rain doesn't it flood that area.

Mr. Dresser explained that this property abuts the Concord River. Mr. Dresser pointed to the plans and explained that most of this flow goes to the brook.



Mrs. O'Rourke stated that she remembers when there was a bad winter and sand bags were at the end of that street.

Mr. Dresser explained that there was a house on the corner of Boston Road and in early 2000 we did some compensatory work in that area.

Mr. Berube explained that Joel Williams designed that project.

Mr. Berube stated that the Board of Health reviewed the septic design and it complies with Title 5. There is no work within the flood plain. We have actively reviewed the plans with the Conservation Commission and Steve has addressed the plans according to our comments and suggestions. Some stormwater management will be provided on this site which is an added benefit. I do not have any issues with granting the variance for this project.

Mrs. Giroux asked if any abutters would like to comment on this project.

Carol Cooper, 9 Post Street, identified herself. Ms. Cooper stated that it has been very dry in this area for the past two (2) years. I am the person that has the cesspool. I am also concerned because we all have issues with our septic systems because the area is so wet. Barrett Farms said that they would connect us to town sewer. We have been waiting for thirty (30) years for a sewer connection on this street.

Mr. Dresser replied that Barrett Farms agreed to build a pump station with a well deep enough so that should the town decide to sewer this area it would make it easier for the residents in the area to connect to town sewer. Barrett Farms provided a deep enough pump well in that area. Barrett Farms did not agree to connect the residents to town sewer. They agreed to make it easier for the residents when the sewer was available.

Mr. Kane asked will the impervious surface on the driveway create a problem.

Mr. Dresser explained that a two (2) foot wide by two (2) foot deep stone trench will be constructed along the downhill side of the driveway to recharge and mitigate the stormwater.

Mr. Berube explained that the trench will catch all the runoff from the development in this area.

Mr. Grady made a motion to grant a variance of Board of Health Rules and Regulations, Chapter 5, Section 5.5.005 (1) (2) in order to construct a single family dwelling and work within twenty-five (25) feet of Flood Plain at 14 Post Street 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).

- 2) The applicant proposes to construct a new single family dwelling with an attached garage, retaining walls and driveway on a parcel of land that abuts the Concord River. The proposed house will be located respectively twenty (20) feet and thirty (30) feet from the Green Engineering Flood Plain (GEFP) and FEMA Flood Plain. The property once contained a house near the river's edge. The new dwelling will be serviced by town water and an on-site sewage disposal system.
- 3) There will be no work or filling within the Flood Plain. The applicant proposes to install drainage structures to provide for the infiltration of stormwater runoff from the development of this site.
- 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, 11, 12, 13, 14, 15, 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 Dresser, Williams & Way, Inc., dated July 17, 2014 revised to September 16, 2014 and stamped by Stephen R. Dresser, RPE#49202.

Mr. Reader seconded. Three (3) voted in favor and two (2) opposed (Marie O'Rourke and Sandra Giroux).

### **7:45 p.m. Paul and Patricia Welsh – 43B Ossamequin Road – Request Variance for work within the Flood Plain**

Mrs. Giroux stated the next hearing is Paul and Patricia Welsh, 43B Ossamequin Road, requesting a Variance for work within the Flood Plain.

Stephen Dresser presented the Board with a large scale drawing of the proposed project at 43B Ossamequin Road.

Stephen Dresser, Dresser, Williams & Way, Inc. representing Mr. and Mrs. Welsh, identified himself. Jordan Aly, the construction manager is also present to answer any questions that the Board may have. Mr. Dresser explained that the applicant is proposing to reconstruct a home that was destroyed by fire. The existing home is entirely within the flood plain. The proposal is to raze the existing structure and construct a new home on the existing cinder block foundation. The basement will

be filled in to the level of the outside grade so that there will be a crawl space. The foundation will be fitted with four (4) Smart Flood Vents to create storage and help prevent damage from flood waters. They have been before the Conservation Commission and received a Notice of Intent. All the utilities will be installed in the attic. Mr. Dresser explained the adjusted GEFP elevation and the FEMA elevation. Mr. Dresser stated that he will answer any questions that they Board may have.

Mrs. O'Rourke asked why are they using the existing cinder block foundation.

Mr. Dresser replied because it is structurally sound and it will save them some money. There will be a crawl space.

Mrs. O'Rourke asked if a lot of water goes through there from the river.

Mr. Dresser stated yes. When there is a one hundred (100) year storm the water will reach the foundation and pass through the flood vents.

Mr. Berube stated that the homeowner is present to answer any questions and explain what his experience has been in the past.

Paul Welsh, 43B Ossamequin Road identified himself. Mr. Welsh explained that he purchased the home in 2009 and that first spring the water came up high. Since that time we have not seen any water in the basement. Over the years you could see water marks in the basement. Since the fire, and the under the new FEMA Flood Plain Regulations it was suggested that I fill in the foundation to meet the Boards current regulations.

Mr. Berube stated that there is a sump pump hole in the basement.

Mr. Reader asked did the existing house have a full basement.

Mr. Welsh replied yes.

Mr. Dresser explained we will match the existing grade outside and install the vents. It will be like a slab with vents.

Mrs. Giroux asked when did the fire occur.

Mr. Welsh replied December 2013.

Mr. Berube explained that he met with the applicant, his builder and the Conservation Commission and reviewed the plans. The comments and recommendations were addressed according to our suggestions.

Mrs. Giroux asked if any abutters were present.

No abutters were present.

Mr. Reader made a motion to grant a variance of the Board of Health Rules and Regulations, Chapter 5, Sections 5.5.005 (1) in order to construct a single family dwelling within the Flood Plain at 43B Ossamequin Road 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, Sections 5.5.005 (1).
- 2) The applicant proposes to reconstruct a single family dwelling that was destroyed by fire. The existing structure is located within the limits of both the FEMA Flood Plain and Green Engineering Flood Plain (GEFP).
- 3) The existing foundation will be utilized for the construction of the new house. The foundation will be retrofitted to meet the requirements of the National Flood Insurance Program (NFIP) and the MA State Building Code for construction within a flood zone. In particular, the basement area will be converted to a crawl space and flood vents will be installed. This work will increase flood storage. Utilities will be installed in the attic space.
- 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, 11, 12, 13, 14, 15, 24, 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 Dresser, Williams & Way, Inc. dated September 23, 2014 and revised to September 24, 2014 and stamped by Stephen R. Dresser RPE#49202.

Mr. Kane seconded. So voted unanimously.

**8:00 p.m. Urban Green Technologies – 200R High Street – Requests Variance for work within the Flood Plain and Stormwater Management Approval**

Mrs. Giroux stated the next hearing is Urban Green Technologies, requesting a Variance for work within the Flood Plain and Stormwater Management Approval at 200R High Street.

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Urban Green Technologies provided the Board with drawings showing the layout of the solar panels for the proposed project at 200R High Street.

Sandy Cameron, Director of Technical Services for Urban Green Technologies identified himself. Mr. Cameron explained that Urban Green would like to install solar panels similar to what was installed on the Shaffer Landfill property, which has been very successful. It was deemed by the Environmental Protection Agency that this is a way to reuse contaminated property. Urban Green would like to clean up and rework the General Latex property located at 67 High Street. We have been working closely with all the town agencies and BETA Group regarding the issues with this property. Our proposal is to clean up the property and make it look like the Shaffer Landfill property and install a security fence around it. Mickey Marcus, Environmental Specialist is present to explain the proposed plan.

Mickey Marcus, Senior Scientist, New England Environmental, Inc. identified himself. Mr. Marcus explained that he has been helping coordinate the town agencies and Urban Green Technologies for this project. It is a thirty (30) acre parcel with three (3) abandoned buildings on the property. The solar development will be on fourteen (14) acres of the property. Part of the project is to demolish the three (3) existing buildings, remove the pavement and plant grass. Two (2) of the buildings are in the Green Engineering Flood Plain (GEFP). The other building is partially in the GEFP. The solar panels will be on vertical posts in the GEFP. Our first request for the variance is for work within the GEFP to remove the buildings and install the solar panels. Our second request is for stormwater management approval. Mr. Marcus explained that BETA Group has requested additional stormwater calculations for this project, which we have completed. The areas have a lot of runoff because of the pavement and the buildings. The solar panels will be on the grassy field. During construction there is a need for stormwater management erosion control temporary basins. When the project is completed the stormwater controls will not be needed because the rate of runoff will be the same. At the technical review meeting on August 20, 2014 a discussion was held regarding beaver management. Mr. Marcus pointed to the plans and explained that Urban Green would take over beaver management using the company that the town currently uses to make sure that those areas do not flood. The Conservation Commission is requesting that two (2) existing culverts be removed, the area be restored and the old drainage channel be cleaned out. None of the culverts need to be removed for this project. The buildings will be demolished by a demolition contractor. This project will not require a lot of site grading. Mr. Marcus stated that he would be glad to answer any questions that the Board may have.

Mrs. Giroux stated that BETA Group is currently reviewing the project and the Site Preparation Plans, Flood Plain Compensation, Replacement of Culverts at the Middlesex Canal and Beaver Management have not been satisfactorily addressed. Therefore, at this time the Board will not be able to make a final decision. Mrs. Giroux asked the Board members if they had any questions.

Mr. Grady asked if the railroad line is Pan Am.

Mr. Berube replied no it is an abandoned railroad spur.

Mr. Reader asked will this project be seen from High Street.

Mr. Marcus replied that there will be a twenty-five (25) foot setback from High Street. There will be two rows of spruce trees and some vegetation and a seven (7) foot high chain link fence around the area where the solar panels will be.

Mrs. O'Rourke asked about the building that will be razed.

Mr. Marcus pointed to the plans and explained the buildings to be razed.

Mr. Kane asked about access for the Fire Department.

Mr. Marcus explained that one of the requirements from BETA Group is that we provide an auto turn plan showing adequate space for fire trucks and maintenance vehicles to turn around. Mr. Marcus pointed to the plans and explained the turn-around area for the vehicles.

Mr. Berube explained that the Fire Department sent a memo stating that they are seeking to meet with the applicant to work out the details. The Fire Department requested that we do not make a definitive decision until all the details have been resolved.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube stated that this is a good project. It is a better use of the site than what is currently there. It was hoped that all the issues would have been resolved before this meeting so that we could have taken positive action, unfortunately there has been a few setbacks. BETA Group received the revised plans last week and did not have time to review the plans. A new engineering report will probably be issued in a couple of weeks. Mr. Berube asked if the culverts at the Middlesex Canal are going to be left in place.

Mr. Marcus replied yes.

Mr. Berube explained that there are three (3) corrugated metal pipes that are in poor condition. The concern is if they fail after the site is developed how you would be able to access the crossing over the canal to address the situation. Mr. Berube suggested that the applicant either replace the culverts or take out this crossing and make another restoration project. That might be the best way to go. Also it would be a cost savings for beaver management if you took out the crossing and would not be a concern in the future.

Mr. Marcus explained that the applicant would be more inclined to take out that culvert. They are not going to replace it because they do not need it. The only reason it was going to be left was because the Planning Board liked the idea of possibly having a future trail. If you take out the crossing you would lose their access for a trail system. The culvert is easy enough to take out because they are old culverts. It is not part of this project.

Mr. Berube explained that it would be a bone of contention for this Board. Either you replace the culverts or remove the crossing altogether. This needs to be a secured site. It will be more beneficial to the applicant. If something happens to those culverts and they collapse and the water starts backing up there won't be any flow. That will impact the arrays. It will also exacerbate the mosquito control problems in this area and beaver management. It is in the best interest of your client and the general public that the crossing be eliminated altogether. Then it will be a permanent solution.

Mrs. O'Rourke stated these culverts must have had a purpose.

Mr. Berube explained there is a railroad spur that goes over the crossing, it is abandoned and is of no use now. That is the reason why they installed those culverts to maintain the flow in the canal. The culverts are in very poor condition and may be blocked by beaver activity. At some point they may collapse and then we will have a problem. I think the crossing should be eliminated altogether, it would be a permanent solution, cost efficient and will be beneficial to the solar project.

Mr. Grady asked if the entire property would be fenced in.

Mr. Marcus pointed to the plans and explained the sections of the solar project that would be fenced in and the access routes. The Planning Board indicated that they wanted the ability for future access.

Mr. Berube replied that he does not see what purpose it would serve. The solar arrays would be enclosed by a fence.

Mr. Marcus explained that removing the culvert is not a problem.

Mrs. O'Rourke asked how many panels will you be installing.

Mr. Cameron replied approximately 16,000 panels.

Mr. Marcus explained that they would be on racks about seven (7) feet above the ground on vertical posts.

Mrs. Giroux asked if any abutters were present.

No abutters were present.

Mr. Marcus stated that the culvert will be replaced. There is a Beaver Operation and Maintenance Plan included in the package. As for the issue regarding the flood plain mitigation, BETA has stated that this Board would make that decision.

Mrs. Giroux explained that this Board will not approve or deny this project until BETA Group has provided the Board with the final engineering report.

Mrs. O'Rourke made a motion to continue the hearing for Urban Green Technologies at 200R High Street until the final plans have been reviewed by BETA Group, the Board's Consulting Engineer and a satisfactory report is received by the Board.

Mr. Grady seconded. So voted unanimously.

Mr. Marcus asked when will the next hearing be held.

Mrs. Giroux replied when the final report has been received, you will be scheduled for the next meeting and it will also give you time to address the Fire Department concerns.

**8:15 p.m. Victory Construction– 30 Elsie Avenue – Request Modification to a Waiver of Regulations**

Mrs. Giroux stated the next hearing is Victory Construction, 30 Elsie Avenue, requesting a Modification to a Waiver of Regulations.

Megan Wallace, 30 Elsie Avenue identified herself. Ms. Wallace explained that the house is very small and she would like to construct a small 8'10"x 10'7 1/2" addition in the back corner of the dwelling for additional space.

Mrs. O'Rourke asked if the mudroom is already constructed.

Ms. Wallace replied yes.

Mr. Berube stated it is not a very big space.

Ms. Wallace replied it finishes off the corner and will be very useful. It will be big enough for a sleeper couch for a guest or it can be used as a reading room.

Mr. Berube explained that the addition will be built on sonatube footings. There would be no significant loss of flood storage.

Mrs. O'Rourke made a motion to grant a modification to a Waiver of Regulations for construction within the flood plain at 30 Elsie Avenue. This modification was granted 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 applicant proposes to construct a small addition (approximate dimensions 9' x 11') at the rear corner of the dwelling. The site falls within the FEMA and Green Engineering Flood Plains.



The small addition will be constructed on concrete sonatube footings to allow flood water to flow under the structure.

- 3) Previously, the Board of Health granted a Waiver of Regulations at its meeting of May 12, 2014 to allow the construction of a mudroom and front stairway in the Flood Plain.
- 4) The Board of Health determined that the actions proposed by the applicant are adequate measures to protect public health and the environment and complies with the intent of the Board of Health Rules and Regulations. Further, approval of the applicant's request will not have a detrimental impact upon the flood plain.

### **CONDITIONS**

Standard conditions number 4, 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.

Mr. Kane seconded. So voted unanimously.

### **8:30 p.m. Bryan Cerullo/ Maura Dillon – 5 Lakeside Road – Request Variance for work within 25 feet of the Flood Plain**

Mrs. Giroux stated the next hearing is Bryan Cerullo/Maura Dillon, 5 Lakeside Road, requesting a Variance for work within 25 feet of the Flood Plain.

Doug Lees presented the Board with a large scale drawing of the proposed project at 5 Lakeside Road.

Doug Lees, Land Engineering & Environmental Services, Inc. representing Bryan Cerullo and Maura Dillion, 5 Lakeside Road identified himself. Mr. Lees explained that the applicants live in an existing house that is approximately 1,000 square feet. The applicants are proposing to raze the existing house and construct a new house further away from Nuttings Lake. The proposed house would be 1,120 square feet. The existing house abuts Nuttings Lake which has both Green Engineering Flood Plain (GEFP) and FEMA Flood Plain. Mr. Lees pointed to the plans and explained the flood plains and the location of the existing ledge on the property. The four (4) foot retaining wall between the house and the lake will remain. The proposal would pull the house further away from the GEFP and out of the FEMA Flood Plain. The applicants will not have a basement because of the ledge on the property. The applicant has appeared before the Conservation Commission and received approval. We are requesting two (2) variances from the Board of Health Regulations. The first variance is for the basement floor/slab elevation that requires a two (2) foot separation between the basement floor and the estimated seasonal high ground water table (ESHGWT). The basement floor will be on ledge. A foundation drain will be

installed where applicable. The second variance is for work within twenty-five (25) feet of the flood plain. There will be no structures within the flood plain. The existing shed will be removed from the property.

Mr. Grady asked if the proposed house will be on a larger footprint.

Mr. Lees replied the proposed house will be a little larger.

Mrs. Giroux asked about the location of the driveway.

Mr. Lees pointed to the plans and explained the location of the proposed driveway.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube explained that the Health Department was actively involved with the Conservation Commission on reviewing the plans and recommended some changes be made. The applicant has made substantial improvements to the plans. The Order of Conditions has been granted by the Conservation Commission. I recommend granting the applicant's request for both the variances.

Mrs. Giroux asked if any abutters were present.

No abutters were present.

Mr. Kane made a motion to grant the variances of the Board of Health Rules and Regulations, Chapter 5, Section 5.5.005 (1) (2) in order to construct a single family dwelling and work within twenty-five (25) feet of Flood Plain and Chapter 5, Section 5.2.004 relative to the two (2) foot separation to the high groundwater table from the basement floor at 5 Lakeside Road 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).
- 2) The applicant proposes to raze an existing dwelling and construct a single family dwelling with an attached deck, patio and retaining wall on a parcel of land that abuts Nutting Lake. The proposed house and retaining wall will be located respectively seventeen (17) feet and five (5) feet from the FEMA Flood Plain. The proposed structures are further from the Flood Plain than the existing structures. There will be no work or filling within the Flood Plain. The proposed dwelling will be serviced by town water and sewer.
- 3) The required two (2) foot separation between the basement floor and the estimated seasonal high groundwater table (ESHGWT) cannot be met due to the presence of ledge at or just below the

surface of the parcel of land. The applicant proposes to install a foundation drain as an alternative and to mitigate potential groundwater problems.

- 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, 11, 12, 13, 14, 15, 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 Land Engineering & Environmental Services, Inc. dated August 21, 2014 and revised to September 25, 2014 and stamped by Douglas E. Lees, RPE#40930.

Mr. Reader seconded. So voted unanimously.

### **8:45 p.m. JoAnn Jamison – 7 Woodbury Road – Continued Enforcement Action Hearing – Demolition of Dwelling**

Mrs. Giroux stated the last hearing is 7 Woodbury Road, Continued Enforcement Action Hearing for the demolition of the dwelling.

Mr. Berube explained that the house has not been sold. JoAnn Jamison's son Scott contacted me and told me that his mother passed away on Sunday, October 5, 2014. Scott could not be present this evening. Mr. Berube explained that Scott claimed that the builder, Joseph Turner kept pushing off the closing. Before this happened both Scott and Mr. Turner were going to be present this evening. The matter of 7 Woodbury Road is in probate court. Scott informed me that his attorney indicated that it would take at least ninety (90) days. I told Scott that I would like to talk to his attorney. The house is in worse condition, the roof has a hole in it and the place is wide open and unsecured. It is just a matter of time before something serious happens on the property. It has been over a year and a half since this process has started and I am not sure that we should wait another ninety (90) days.

Mrs. O'Rourke asked can the Board of Health take action now that the owner has passed away and the matter is in probate.

Mr. Berube replied that the Board of Health has the authority to demolish the house and put a lien on the property.

Mr. Reader asked can we request that Scott demolish the house.

Mr. Berube replied that we have requested that the property be sold or the building be demolished and nothing has been done.

Mr. Reader asked have they given a reason why the house has not been demolished.

Mr. Kane stated that the only problem now is that the house belongs to no one and the matter is in probate.

Mrs. O'Rourke explained that she has been dealing with JoAnn Jamison for years and at one time she did have a will. She is a very difficult person to deal with.

Mr. Berube stated that Scott Jamison indicated that it will be uncontested.

Mr. Reader asked would it be unreasonable to contact the family after the funeral services and request a meeting to find out what their plans are.

Mr. Berube asked does the Board want to wait until the matter has run its course in probate.

Mrs. Giroux asked Mr. Berube if he could talk to Town Counsel and find out if the Board of Health can issue an order to demolish the house and put a lien on the property while the matter is in probate.

Mr. Berube stated that it could take longer than ninety (90) days.

Mrs. Giroux explained that if Town Counsel states that we can go ahead and issue an order to demolish the building, then I recommend that the Board of Health go forward. If not then we will have to wait until the probate matter is settled.

Mrs. O'Rourke made a motion that Mr. Berube request from Town Counsel a written opinion regarding the Board's position and if the Board of Health can proceed with issuing an order to demolish the building and place a lien on the property at 7 Woodbury Road while this matter is in probate.

Mr. Grady seconded. So voted unanimously.

Joseph Turner identified himself.

Mrs. Giroux explained to Mr. Turner that the Board has made a decision to demolish the building at 7 Woodbury Road if Town Counsel gives the Board of Health authorization to issue an order to demolish the building and place a lien on the house because it is probate.

Mr. Berube explained to Joseph Turner that Scott Jamison mentioned that you kept postponing the closing of the sale of 7 Woodbury Road. That does not seem to be the case.

Mr. Turner explained that the Purchase and Sale Agreement was signed by Ms. Jamison. We were ready to pass papers when she passed away. Scott informed me that she would not give any of her son's power of attorney.

Mr. Berube asked Mr. Turner if he would like to submit an estimate for the demolition and an application for the removal of the asbestos to the Board of Health for the house at 7 Woodbury Road.

Mr. Turner replied that he would submit an estimate to the Board of Health office on Tuesday, October 7, 2014. Mr. Turner explained that he has already filed the paperwork with the Department of Environmental Protection for the asbestos removal.

**9:00 p.m. 11 Blades Circle – Public Hearing for Dam Removal Project**

Mrs. Giroux stated that the last item on the agenda is a public hearing for the Dam Removal Project at 11 Blades Circle.

Mr. Berube explained that enclosed in the Boards package is a copy of the report from BETA Group in regards to the situation with the dam, its condition and the impact it can have to the residents downstream. Phavy's activity report contains the complaint history regarding this situation. The purpose of the hearing is to discuss the removal of a dam at 11 Blades Circle near the intersection of River Street and Treble Cove Road. The dam discharges to an unnamed stream that flows past the Dutile School to a drainage easement behind Kazimer Drive. The concern is that the dam will fail at some point and we will have a disaster on our hands. The project will restore that area back to what it originally was with the stream flowing through the property. The proposal is to lower the water level and remove the dam so it can't be rebuilt.

Mrs. O'Rourke asked who constructed the dam.

Mr. Berube replied that he did not know. Mr. Stearns, the owner of the property is present tonight.

Jason Stearns, 11 Blades Circle, identified himself. Mr. Stearns explained that the dam was there when he moved to Blades Circle. I removed and replaced two (2) rotted boards on the top.

Mrs. Giroux asked how long ago did you move to 11 Blades Circle.

Mr. Stearns replied about fifteen (15) years ago. I have never had a problem. There is a lot of wildlife in this area and everyone likes it. I was told not to touch the area. When I replaced the boards the area overflowed and washed the dirt away. In fifteen years I never had a problem. It is my property.

Mr. Berube stated that you indicated to the Board of Health that you will be moving to Florida.

Mr. Stearns explained that he is not positive he will be moving. The kids in the neighborhood like the pond and catch frogs there. I am concerned for my neighbors.

Mr. Berube stated that Mr. Stearns told the Board of Health that he did not have the financial means to maintain the dam.

Mr. Stearns replied that he did not have a problem maintaining it until he was told not to remove the boards. Once I was told not to take the boards out it overflowed and washed away the dirt.

Mr. Berube stated that we have a difference of opinion in that respect.

Mr. Stearns agreed.

Mrs. Giroux asked if any abutters would like to express their concerns.

Christopher Clark, 15 Blades Circle, identified himself. Mr. Clark explained that he lives down stream of the dam. Why was the dam built in the first place and what was the purpose of the dam back then?

Mr. Berube replied that he does not know why the dam was constructed in the first place or what purpose it serves. The reason we are here is because it poses a problem and poses a threat to public health and safety. This is an informational meeting and we are going to proceed with the removal of the dam to ensure the safety of the public.

Mr. Clark stated so the dam will be removed not rebuilt.

Mr. Berube replied yes, the dam will be removed.

Mr. Clark asked how will the dam be removed.

Mr. Berube explained that the entire structure will be removed. When we are finished you will see the stream like it originally was before the dam was built. We have photographs that show the stream before the dam was built and our intent is to restore it back to its original condition.

Mr. Clark asked will there be vegetation.

Mr. Berube replied that the vegetation will grow back.

Mr. Clark asked will all the structure on both sides will be removed.

Mr. Berube replied yes.

Mr. Clark asked is this definitely going to be done.

Mr. Berube explained that this meeting is to inform the public and answer any questions that they may have. We intend to remove the dam to ensure the safety of the public. If a major storm occurs the dam is at risk of failing and residential properties along the stream may be adversely affected.

Mr. Clark explained that it is nice to see all the birds and ducks in that area.

Tom Crispo Ridgewood Road identified himself. Mr. Crispo explained that when we get heavy rain my back yard floods. If the dam is removed what amount of water will be coming downstream and flood my basement?

Mr. Berube replied that is the reason why we want to remove the dam. The plan is to gradually lower the water level and then remove the dam structure from the stream. We don't want to see anyone in that neighborhood be detrimentally impacted. It will be a slow release of the water this fall. Once the water is low enough the dam will be removed.

Don O'Sullivan 61 Pinewood Avenue identified himself. Mr. O'Sullivan explained that his son goes to the Dutile School and he asked if the school could name the stream.

Mr. Kane explained that he should contact the Board of Selectmen and the School Principal.

Mr. Grady asked are they going to clean the stream.

Mr. Berube replied yes, Department of Public Works and Central Mass Mosquito Control are going to work together on cleaning the stream. There are a number of problem areas that we are going to clean up as well.

Mr. Reader asked who is going to remove the dam.

Mr. Berube replied that he is in the process of getting estimates for the work that needs to be done.

Mrs. Giroux asked the Board Members if they had any questions.

Mrs. O'Rourke made a motion to proceed with the removal of the dam at 11 Blades Circle.

Mr. Reader seconded. So voted unanimously.

**Open Microphone**

Mrs. Giroux asked if anyone was present for open microphone.

No one was present for open microphone.

Mrs. O'Rourke made a motion to adjourn. Mr. Grady seconded.

The Board adjourned at 9:10 p.m.

Respectfully submitted,

Marie O'Rourke  
Secretary

Joanne M. White  
Recording Clerk