

BOARD OF HEALTH MINUTES
TOWN BUILDING – HEALTH OFFICE
OCTOBER 21, 2019

The meeting was called to order at 7:00 p.m., present were Susan E. Green, Chair (SG), John G. Schuler, M. D. (JS) and Robert DeFrancesco, DMD (RD). Also present were Julia Junghanns, (JJ) Director of Public Health and Patti White, Department Assistant

7:00 p.m. Public Comment – there were none.

7:05 p.m. Review and discuss Sample Regulations Restricting the Sale of Tobacco Products – Guest Cheryl Sbarra; Senior Staff Attorney/Director of the Tobacco Cessation and Prevention program and Chronic Disease Prevention Program for the Massachusetts Association of Health Boards

(CS)The sample regulations, which include a menu of options towns can choose from, include options that could ban the sale of all flavored vaping and tobacco products. Menthol, mint and wintergreen (MMW) may be included. Of the Municipalities that have done this many are being sued by the Industry (Cumberland Farms), the industries have lost in their bids.

CS- In Somerville, Public health advocates involved and students of Northeastern Law School have agreed to heavily assist all cities and towns with any lawsuits. (PHAI) Somerville is adamant about the ban; other towns such as Walpole, Norwood Swampscott, Barnstable and Billerica have adopted different variations of regulations with bans.

SG: What is the purpose of the adult only stores? CS: The goal is to restrict these flavored products to specialty stores that sell tobacco and tobacco paraphernalia and access will be restricted to over 21(no youths would be legally visiting the store). SG: Do we have these types of stores in Wayland? JJ: No we don't, we have package stores and gas stations that sell tobacco products. The State is looking to ban all flavored products, the bill is expected to go to the house in the next few weeks. Today the state court upheld the Governor's ban; the Judge wants DPH to hold an emergency hearing regarding the vaping ban.

JJ: If we moved forward with regulations to ban flavored products to adult only stores and don't limit the number of stores to 0, we would probably have someone wanting to open an adult only store.

JJ: We have had prior discussions regarding the number of Tobacco Permits in Wayland. We may wish to set up a plan to permanently retire tobacco permits if businesses are closed; we are presently capped at 15. Sudbury has 10 tobacco retail permits.

CS: In Newburyport, retailers argued that family businesses want to sell these products. Legislature is looking to ban flavored products.

JJ: I think we need to increase the fines for non-compliance. The Wayland Police did a compliance check over the weekend and there was one business that sold tobacco to an underage person. However, no one sold vaping products to the sting operation.

JJ: Are other towns having compliance checks done by the police? Some towns are funded for Tobacco Control assistance to help with compliance checks, and some towns may have the police assist. CS: The BoH can grant the authority to the police to do compliance checks. At a BoH meeting the Board can just make a statement that the police can act as agent for BOH to do tobacco compliance checks. JJ: we did that years ago but can do it again so it is on the record.

JJ: Sarah mentioned that we still have blunt wraps being sold in town (both flavored and not flavored), they have not been banned in our prior regulations. CS: A blunt wrap is a tobacco leaf and they are often flavored, they are used to roll tobacco and marijuana. Boston banned blunt wraps many years ago. JJ: We have included this in the proposed regulations to cover both flavored and unflavored wraps and a definition of nicotine products.

JJ: The board has not discussed or decided on banning flavored tobacco; i.e. mint, menthol or wintergreen.

CS: When you get started reviewing the sample regulations, review the check list on the front (there is a menu of options) and check yes or no. Have Town Counsel review the options/draft and then send it to Cheryl and they will draft the regulation for us. We would then schedule a public hearing, hear feedback from the public, consider amending or not and make final decision at a subsequent scheduled meeting.

JJ: What is the section written about BJ's Wholesale club? CS: The regulations have carved out exceptions for big box stores that wanted to sell tobacco to retailers. Some small stores may not have reps from tobacco companies, so they buy from wholesale stores and they just need to show their tobacco sales license. JJ: You also mentioned educational institutions- do they sell? CS: I believe state law prohibits, this would not be an issue in Wayland, as there are no colleges in the town. There was a college in the State that leased property to a convenience store (the college owned the property), and that is why it is included in the regulations.

JJ: Can you explain about the distances on page 5? CS: When Barnstable banned all flavor they included mint, menthol and wintergreen (MMW), Cumberland farms tried to restructure the store with separate entrances to offer an over 21 tobacco sales area. Barnstable did not set a cap on the number of permits or set a buffer zone, they would not allow Cumberland farms to do it. CS: Some towns, before they renew, inspect to see if they have products on the shelf. The owner cannot transfer the tobacco permit (however, liquor licenses can be sold), the new owner has 60 days to apply for a tobacco permit. SG: How many towns are doing flavor restrictions? CS: 165 cities and towns, 70% are in municipalities that restrict already. Towns taking out MMW are about 60%, restriction of a "characterizing flavor" other than tobacco or MMW. Just regular cigarettes and tobacco flavored e-cigarettes.

JJ: Regarding the restriction to a tobacco only store, would that include hookahs?

CS: Tobacco proponents will not fight if we keep MMW available in stores (these products are 30% of business for both cigarettes and vaping products.) Menthol & Mint are the two most popular flavors for kids.

There was continued discussion regarding legal battles in other communities in the state and where the cases now sit. There are a number of possible options, ban vaping products to adult only stores (over 21), move or keep MMW products in general stores, ban flavored products except MMW to adult only stores, ban flavored products all together. There are concerns that banning vaping products to over 21 stores and leaving regular unflavored tobacco in general use stores was keeping the most dangerous product (combustible tobacco cigarettes) available to underage youth.

The board will continue to discuss this important public health issue and follow what the state is doing with the current vaping ban. Continued discussions will take place regarding the sample regulations before us and what options Wayland could consider. There could be more changes coming down the pike from the state. The board is very appreciative and pleased with all the information and knowledge that CB shared.

8:00 p.m. General Business

Bills have been approved.

Subdivision update

The Five Path's subdivision did not go before the Planning Board; they are presently holding off on any revisions. We will need another extension from them, which they said they will provide.

We have received new information on the River's Edge project that will be discussed at the next board meeting; they want to add more units.

Sanitarian/Health Agent Darren MacCaughey has joined the meeting.

8:05 p.m. 5 Glen Road- Local Upgrade Approval for septic system repair – Reduction of Soil Absorption System distance to private property line (10' required, 5.3' provided) David Schofield (Septic Designer) K. Harrington (Owner/Applicant)

David Schofield- this is a septic repair, there are wetlands at the rear of the property. There is no place to put the septic but in this corner. Presently the proposed septic system would be 84' from the edge of the wetlands. The property has good soils with some fill; groundwater was conservatively determined to be at 5 to 5.5 feet. The abutting neighbor is related to property owner, and has no objection to the variance request (they provided

a note). The system is designed using the passive Geomat system, which has a remedial use approval from the State; it allows for up to a 40% reduction in leach field size and a 2' offset to groundwater.

SG: Is this for a proposed addition? DS: The property is being sold; the new owner will be coming to the board regarding the addition.

DS: I am working for the current owners, the Harrington Family. The garage location is compliant, but the building project for the new owner is not on the agenda tonight. We are requesting an offset reduction to the property line from 10 to 5.3 feet, we notified the abutter and DPW of the situation and they are both ok with it. This Passive I/A system requires a deed disclosure notice filing at the Registry of Deeds, but the system contains no moving parts, no electrical components and no service contract is required.

SG: In terms of the 10' minimum setback, why does the town require this? Is this a buffer in case of leak or property line issues? DM: this is a requirement in State Title 5 code; the set back is based primarily on the fact that no two leach fields can be located within 10' of each other. This is the best location for this system.

SG: Motion to approve the upgrade for 5 Glen Road septic for the property line variance from 10' to 5.3' to property line and 5' to right of way as per plans submitted 10/11/2019. Second JS: vote 3-0 all in favor. JS is voting of necessity, and discloses that DS has done lot testing for Dr. Schuler's property.

8:15 p.m. 21 Snakebrook- Variance request from Local Regulations' definition of "New construction" – Adding more than 60% new living area as a tear down and rebuild is proposed, Mike Sullivan (Septic Deisgner), B. Tramontozzi (BT) & S. Pilkons (Owner/Applicant)- BT was present for discussion

BT: We purchased the house in 2012 and our growing family has outgrown this 1,700 sq. ft. house. We have had to consider whether to stay and add on or sell and move. We decided it was in our best interests to remain in the neighborhood and proceed to expand/demo the house. The septic system was installed in 2012, we are asking for the Board to waive the 60% requirement. JS: what is the size of the current house? BT: there is a 4 bedroom system; I have submitted drawings of the existing 1st and second floor and proposed drawings of the new house, it will have the same number of bedrooms (4) and no increase in the total number of rooms.

DM: Staff is currently working on updating our Septic Regulations. We have an issue justifying our current regulation that limits additions to <60% when no new bedrooms or rooms are proposed. In the scenarios we are referencing, the existing septic system has been upgraded to today's standards(post 95). We have been working with Brian M, to grandfather situations like this; i.e. when the septic was redone (post 1995 state regs) with soil testing that meets current regs; sizing and offsets. We would just need to remove the 60% restriction which is proposed in our revised regulations. BoH regulations are/were not in place to regulate the size of people's homes, the regulation was to trigger a septic system upgrade to today's standards from an outdated/old system.

SG: How much bigger will the new house be? BT: We expect it to change from the current size 1,700 sq. ft. to 3,700 sq. ft. There are approximately 7 houses in the neighborhood; all between 3,000 to 4,000 sq. ft. in size.

DM: Staff reviewed this project to be sure that the new project (foundation) will not come too close to the septic system.

JS: Motion to allow the variance at 21 Snakebrook for an addition of over 60% since the existing septic is only 7 yrs. old and will satisfy the requirements for a new house. Second SG vote 3-0 all in favor.

8:30p.m. Hissho Sushi vendor at Stop and Shop- Variance from Food Code 3502.11 a specialized process to acidify rice to render it non-potentially hazardous - Kayla Davis compliance Administrative Assistant/Teguh Wijaya Operations Manager; Owned and operated by Lwin Family Co.

Teguh is the operations manager for Hissho Sushi, a large percentage of Stop and Shop's will be changing vendors.

The Acidification process involves the rice being cooked and mixed with vinegar and then they use a ph meter to measure the acid level to be 4.1 or below. Acidification allows for rice to be at room temperature which is a variance from the Food Code.

Each store prepares the products on site. Hissho has a Corporate warehouse in North Carolina, everything is delivered from there. The Corporate offices control the seafood and fish; they can trace all products, should there be any possible recall. Each supplier provides annual guarantee letters, which are in view for inspectors. Most of our products come from Asia, some from Canada.

JJ: I have a few questions from the food inspector. Who will be the Wayland Chef? TW: We do not have that information at this time, when all permits are issued then they will hire. We understand about the preopening inspections to check the equipment, cleanliness and compliance. They will hire a chef who will have trained for allergen and serve safe. JJ: Can you give us some information regarding the training and your familiarity of the chef? TW: We will offer the position to the current chef in the stores. We spoke with the current employees when we walked through the store and did make an offer to stay with the new company. A training requirement for the company involves traveling to Charlotte NC for 2 weeks training, which is mandatory for the job. The first week is sushi training; the second week is business training. It is a franchise.

RD: What is the change that is happening now? JJ: The sushi business is presently run by ACE sushi by Jay; it is just a change of vendors. TW: Most operations are a franchise; our company was previously serving the Roche Brothers stores, Hissho Sushi is the 2nd largest US sushi company, with 1,700 stores. JS: Have you had any product recalls? TW: No, not to date, we have been in business since 1998. SG: Once the acidification of rice is complete, how long can you keep it? JJ: Acidified rice is very sensitive to temperature. TW: The rice is not kept longer than 24 hours, once acidification, it does not require to be refrigerated

JJ: The rice cannot be refrigerated; it needs to stay flexible to roll to make the sushi. TW: Once the Acidification with vinegar is complete, you cool the rice, then roll, cut, package, and label, put in cooler and display case to sell.

JJ: When do you wish to transfer? TW: I believe it will take place at the end of November.

JS: Motion to approve Hissho Sushi a variance from food code 3502.11 to acidify rice at the Stop and Shop 101 Andrew Ave Second SG, vote 3-0 all in favor.

8:45 p.m. General Business

Discuss Board of Health Goals- for upcoming year

JS: I think this is very important for BoH to remain involved with vaping issues, just like we did Marijuana. We know that tobacco products are more accessible to kids, especially in many local retail stores, than Marijuana. SG: Jason V (Youth and Family Services) is doing a public forum on vaping; this is taking place after the completion of the Metrowest Health Survey of kids. JJ: I have a copy of the report, if anyone is interested, I had forwarded it to the Board awhile back and can resend it. SG: the survey covered, tobacco, vaping, marijuana and alcohol use. JJ: There was some discussion of Wayland stats on the Wayland Buzz when Jason and I discussed the vaping ban and concerns we have for products now in the black market. We should all look at the survey results.

JS: I recently found out that the control of the WWTP at the high school was transferred from School Dept., to Facilities. SG: Can we invite them to come and discuss the plans for the WWTP at the High School. JJ: Do you have a copy of the report that Louise (TA) shared with you? It's an analysis that Town Engineer, Paul Brinkman put together. I received a copy of the report (summary of what the Town is planning to do regarding the WWTP at the High School), and I can share it with the Board. The board has questions regarding the reason for the failure and who is responsible? Will they fix the system or replace it completely? JJ: The report is a complete study of the facility and the options/costs to consider for repair/replacement. I will share a copy of it with the Board.

SG: Board goal statements? Vaping and WWTP are more project based, from a Public Health perspective, I would like to get more information to follow up on the whole measles outbreak. Maybe a Town wide campaign to educate residents regarding immunizations, and how to get theirs up to date. JJ: The Community Health

nurses in the schools have been working on getting up to date immunization records completed. They have been working with parents to get them to submit updated records, it is a lot of work chasing them around for this information. SG: I would like the education piece to include the information for adults regarding their immunizations as well.

JJ: There was a recent newspaper article regarding runoff from artificial turf fields containing PFAS. In the Town of Franklin, someone rolled up artificial turf and put it near Beaver Pond, it was sitting there for a while. The area where the turf was being stored was tested and they found PFAS levels. It is currently being investigated by DEP and methods of testing etc. are being reviewed. Wayland has new artificial turf being installed at the high school football field. JS: Are the monitoring wells being checked? JJ: The Town has done preliminary testing which showed no pfas in town water and they will be doing additional testing regarding PFAS due to changing thresholds and new regulations from the state. JS: Has the water dept. checked for anything, are they finding anything in the monitoring wells? JJ: They have done some preliminary testing in the monitoring wells (for baseline) and will be looking for PFAS indicators. The conservation order of conditions includes a lengthy list of monitoring to be done. Facilities say they are willing to do the testing that is needed to ensure there is no pfas getting into the groundwater. SG: I am aware of a conference on PFAS in March 2020 being held in Framingham.

SG: Let's continue our goals discussion when we have a full board.

Director's report

Staff has been very busy with flu clinics, last Wednesday we immunized 340 people. Dr. Schuler attended and he felt it was very well run and it moved right along. He feels it is a great program for the community. JJ: the automated system is working really well and helps move things along instead of using paper. We have a streamlined process for billing the insurance companies and we are constantly looking to improve the process by automation for the mandated MIIS reporting.

Ruth and Julia did a presentation for the town building Citizen's Academy. Each town department (in small groups) did a presentation regarding what their department does. JJ prepared a PowerPoint presentation regarding what we do in the Health Department. Front office feedback was positive that we did a great job. Although, only 3 people from the public attended.

Upcoming meeting dates: November 4th and 19th.

Septic regulations are being reviewed at staff level; Brian M will be coming in the office soon to go over them. The new regulations will be clearer and have clarified areas that are currently challenging to explain and enforce. It will be a great help to the department staff, residents, and the board to get these regulations completed.

9:15 p.m. SG: motion to adjourn second JG all in favor.

Respectfully submitted
Patti White
Department Assistant
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