



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

BOARD OF HEALTH – PUBLIC SESSION

Minutes of the Meeting of April 7, 2016

Board Members Present:

Kalliope Egloff, Chair
Lucy Burton, Co-Chair

Also Present:

Glen Harrington, Health Agent

Chair Kalliope Egloff called the meeting to order at 7:00 PM.

APPOINTMENTS

7:15 PM – Joyce Bliss – Operation and Maintenance Violation – 129 The Paddock Circle.

Glen Harrington recommended that discussion on 129 The Paddock Circle be continued as the Certified Mail Receipt (green card) has not been returned.

Lucy Burton made a motion that the Board of Health continue discussion on 129 The Paddock Circle until delivery of order letter is confirmed. Kalliope Egloff seconded the motion. The motion was unanimously approved.

7:20 PM – Mark Flaherty, P.E. – Title V Variances – 25 Menemsha Road.

Glen Harrington stated that the septic upgrade located at 25 Menemsha Road is in the flood zone, Zone II, and has very little land available. Three variances are requested:

- Soil Absorption System – one foot drop to groundwater;
- The septic tank and Soil Absorption System – 5 feet to abutters and street property line;
- The septic tank – 8 feet to the dwelling, which is a crawl space.

The Soil Absorption System is 100 feet from the bordering vegetated wetlands so no denitrification system is required. Plastic low profile chambers will be used.

Mark Flaherty of Flaherty and Stefani Inc., representing Paul and Kathryn Thurston of 25 Menemsha Road, introduced himself to the Board.

Mr. Flaherty commented that this is a 3-bedroom house in a FEMA Velocity Zone. The septic system will be kept as far away from Dean's Pond as possible. The septic tank is a monolithic tank with a rubber gasket to keep the water out if flooding occurs. The tank will be installed in an area where the vegetation will not be disturbed. There is a private well on the property that will be replaced by Town water.

Mr. Flaherty commented that he is also requesting a fourth variance from the Local Board of Health Regulation: 4' of pervious material above the high groundwater – 45" or 3.8 feet of pervious material above the high groundwater.

Lucy Burton made a motion that the Board of Health approve the variances as requested for 25 Menemsha Road. Kalliope Egloff seconded the motion. The motion was unanimously approved.

NEW BUSINESS

1. **Sign Expense Warrants.** The Board members signed the expense warrants.

2. **Review/Approve BOH Public Session Minutes: March 31, 2016.**

Lucy Burton made a motion that the Board of Health approve the Public Session minutes of March 31, 2016, as amended. Kalliope Egloff seconded the motion. The motion was unanimously approved.

3. **Bryan Anderson – Tobacco Sales Violation – Andy’s Market.**

Glen Harrington stated that on February 16, 2016, the Cape Cod Regional Tobacco Control Program performed a compliance check at Andy’s Market and other Mashpee tobacco retailers. Andy’s Market failed the compliance check by selling tobacco products to a minor. This is the second offense within 48 months, so a fine of \$200.00 and a seven consecutive business day suspension is the penalty for the violation.

The first offense occurred on March 30, 2014. The fine for that was not paid, but it was at the request of Mr. Harrington because there were questions concerning the compliance check. The questions were: “Was the purchaser asked for an ID?” And the next question: “Was this an ID based check?” The box selected was “No.” The reason is that the purchasers do not go into the store with an ID. The clerk may have asked for an ID, but no ID was presented. The question has been answered, and in no way did the Board absolve Andy’s Market of the violation. The seven day suspension has been written into the regulation, and notice was given to the permitted establishment.

Bryan Anderson, owner of Andy’s Market, introduced himself to the Board.

Mr. Anderson commented that he hires a company to perform their own tobacco sting twice a month. If during an employee’s 6-month probationary period a tobacco sale is made to a minor, that employee is fired. Mr. Anderson felt that he is being singled out by the Tobacco Control Program.

Kalliope Egloff closed the public comment portion of the meeting and researched the Tobacco Control Program website and read the following:

“Under the direction of Robert Collette, the Cape Cod Regional Tobacco Control Program is supported through a State grant administered by Barnstable County Department of Health and Environment. The grant enables staff members of Barnstable County Health and Environment to provide collaborative member towns, including Cape Cod’s 15 towns, the Islands and Wareham, with education and enforcement services to assure compliance with state and local regulations. The regulations pertain to youth’s access to tobacco products and smoking in indoor public areas and workplaces. The Program’s education efforts include two annual visits to tobacco merchants in all twenty-seven communities within the service area and assisting local Boards of Health with promulgation and implementation of tobacco control regulations.”

Lucy Burton stated that in her opinion she does not see any evidence that this particular retailer is treated any differently than anyone else. The Board has seen tobacco violations from at least three other retailers in town including a second offense. Ms. Burton recommended that the regulation be followed. This is a second offense with a \$200 fine and a seven day loss of license.

The Board and Mr. Harrington discussed the tobacco control form and perhaps revising the form to meet the needs of each individual town. The Board would like a discussion with the general public on Tobacco 21 and the possibility of leveraging a fine against the person making the sale in conjunction with the business owner.

The Board also discussed the 7-day suspension and the cost involved for the retailer. Ms. Egloff suggested a minimum of a 2-day suspension but not more than 5 days. Mr. Harrington commented that the regulation states a 7-day suspension, and reminded the Board that they do not like setting precedent.

Lucy Burton commented that the Board will be discussing and perhaps revising the current tobacco regulation in the next few months. Knowing this and knowing the right thing to do, Ms. Burton would be willing to issue a 5-day suspension with the understanding that the tobacco regulation will be reviewed and modified.

Mr. Harrington remarked that the fines must be paid, and the time of suspension must be determined by the Board. The tobacco products shall be removed from the retail area and secured per Town Counsel. Failing to comply with the suspension subjects the permitted establishment to suspension of all Board of Health permits for that establishment.

Lucy Burton made a motion that the Board of Health fine Andy's Market \$200.00 and a five consecutive day suspension of the tobacco sales permit for this second violation beginning April 18 through April 22 pending notification by the Board of Health. Kalliope Egloff seconded the motion. The motion was unanimously approved.

OLD BUSINESS

1. Septic Loan Waiver: 251 Great Neck Road North.

Glen Harrington commented that he spoke with Judith Averett, owner of 251 Great Neck Road North. She was unable to attend tonight's meeting and will not be able to attend the meeting on April 28, 2016. Mr. Harrington discussed the Board's concerns from the last meeting with Mrs. Averett. Mrs. Averett remarked that she is having difficulty making payments on the septic loan alone without the added penalties. She will forward a copy of her income verification to the Health Department.

Mr. Harrington recommended approval of the penalty waiver but not the principle and interest. However, Mrs. Averett does not have the ability or income to set up a payment plan on a monthly basis.

Kalliope Egloff suggested that the Town of Mashpee use the septic loan program to pay the loan and place a lien on the property in order to provide some assistance to Mrs. Averett. Mr. Harrington will contact the Town Treasurer and request his opinion.

Lucy Burton made a motion that the Board of Health continue the discussion on 251 Great Neck Road North to the next Board of Health meeting scheduled on April 28, 2016. Kalliope Egloff seconded the motion. The motion was unanimously approved.

ADDITIONAL TOPICS

None.

DISCUSSION

1. 2016 Household Hazardous Waste Collection – April 16, 2016: Sandwich.

Kalliope Egloff commented that the first Household Hazardous Waste Collection will take place at Sandwich High School on April 16, 2016, from 9:00 AM until 1:00 PM. The Mashpee Household Hazardous Waste Collection will be held on August 20, 2016, at Mashpee High School from 9:00 AM to 1:00 PM and is free to Mashpee residents.

2. Massachusetts House Bill H.4056 – Opioid Prescriptions.

Kalliope Egloff remarked that the Massachusetts House Bill H.4056 – Opioid Bill was signed by Governor Charlie Baker. This provides a stewardship program for opioid collection from drug manufacturers and pharmacies. Walgreen's has signed to be part of the solution and has committed to installing kiosks in their pharmacies by the end of the 2016 calendar year. In that provision the State recommends that the towns have 2 opportunities for residents to conveniently dispose of opioid drugs. Mashpee has at least 4 areas, which exceeds the State recommendation. The Drug Enforcement Administration take back program is scheduled for April 30, 2016. There is a kiosk at the Mashpee Police Department. Walgreen's, CVS, and Rite Aid also have mail back programs. There is a proposed town wide collection at the August household hazardous waste collection which will be discussed at the Mashpee Cares Committee meeting.

3. Tobacco 21.

Glen Harrington remarked that additional information was sent to the Board members including a study provided by the Falmouth Board of Health concerning Tobacco 21. Mr. Harrington recommends that a public hearing be scheduled if the Board is in favor of the regulation.

Mr. Harrington recommended that since the Board altered the penalty structure of the tobacco regulation, the Board should amend the regulation at the next meeting.

The Board requested that the Public Hearing for Tobacco 21 be included on the agenda for the next Board of Health meeting to be held on April 28, 2016.

NEXT MEETING

The next meeting of the Board of Health is scheduled for Thursday, April 28, 2016, at 7:00 PM. As there was no further business, Lucy Burton made a motion to adjourn the Public Session Meeting of the Board of Health at 8:12 PM. Kalliope Egloff seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Frances Boulos
Administrative Assistant
Mashpee Board of Health

attachments