



TOWN OF BURLINGTON, MA
BOARD OF HEALTH
MINUTES
TOWN HALL MAIN MEETING ROOM

TUESDAY, MARCH 28, 2023

Board Members Present: Ed Weiner, PhD, Chairman; Andrea Sheehan, and Maribeth Welch

Board Members Absent: David McSweeney, Vice Chairman; and Gayle Damore

Staff Members Present: Susan Lumenello, REHS/RS, CHMM, Director of Public Health; Michael Greene, Associate Health Director, Christine Mathis, Environmental Engineer, Marlene Johnson, Health Agent, and Samantha Hardy, Associate Health Inspector

I. Open Meeting/Pledge of Allegiance

Dr. Weiner called the Board of Health meeting to order at 7:00 PM.

The Pledge of Allegiance was recited.

II. Approval of Minutes:

MOTION: Ms. Welch made a motion to approve the Board of Health minutes from the February 22, 2023 subcommittee. The motion was seconded by Ms. Sheehan and voted 3-0-0.

MOTION: Ms. Welch made a motion to approve the Board of Health minutes from the February 27, 2023 subcommittee. The motion was seconded by Ms. Sheehan and voted 3-0-0.

III. Citizen's Time:

There were no citizen's coming forward.

IV. Chairman's Report:

Dr. Weiner stated that he and Ms. Lumenello met with the Ways & Means subcommittee and then subsequently with the full committee. Our budget was unanimously approved and will go to Town Meeting for a final approval.

V. Applications:

Special Permit Applications for proposed Life Science Buildings and Life Science Uses, The District Burlington Modified Master Plan (Parcel IDs 46-43-0, 46-44-0, 46-45-0, 46-47-0, 46-48-0, 46-50-0, 46-51-0, 46-52-0, 46-53-0, 52-13-0, 52-14-0, 52-15-0)



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Attorney Mark Vaughn of Riemer & Braunstein; Katie Snyder of National Development; Eric Gerade of VHB; and Mike Weaver of Haley & Aldrich (attending remotely) appeared before the Board.

Ms. Mathis stated that National Development and NEEP Investors Holding, LLC have filed an application for Special Permits to support a redevelopment of the District Avenue campus. District Avenue is located off of Burlington Mall Road in between Lahey Hospital and Medical Center and the Burlington Mall. The overall project will include the demolition of two existing buildings and the construction of three additional buildings intended to be laboratory/office spaces to attract life science tenants. The project may also include additional structured parking to be constructed as necessary. In the 1990s, trichloroethylene (TCE) and tetrachloroethylene (PCE) were detected in irrigation well IW-1 in service at the office park. Downgradient Property Status reports identified several offsite sources of the chlorinated volatile organic compounds (VOCs), including the Lahey/TRW, High Voltage/Bellofram, Techweld and U.S. wind power sites. The office park has not been identified as a potential source of VOC contamination. Additional catch basins will be added to direct stormwater to treatment units. The treated water will be directed to aboveground and underground infiltration basins. Following treatment, any overflows will be piped to various discharge points to Vine Brook.

Mr. Vaughn stated that we are looking to a life science redevelopment of the site. Building “A” would be a lab building with a garage structure immediately adjacent to it. There would also be two new buildings (“B” and “C”) with a green area between those buildings, as well as a garage structure. National Development have a great deal of experience in life science and they’re developing a number of buildings throughout eastern Massachusetts.

Dr. Weiner asked if it’s a Downgradient Property Status. Ms. Mathis replied yes (no on-site sources of chlorinated solvents).

Dr. Weiner asked if the FAA building was coming down. Mr. Vaughn replied not immediately, but at some point, it would come down to make way for the proposed redevelopment.

Dr. Weiner asked if applicants have reviewed the 19 conditions. Mr. Vaughn replied yes.

Condition No. 20 was added: One year after its construction, the Board of Health will inspect the rain gardens to make sure that they’re not overflowing, and that it’s not becoming an issue for mosquitoes.

MOTION: Ms. Welch made a motion to approve the Special Permit applications for proposed Life Science Buildings and Life Science Uses, The District Burlington Modified Master Plan (Parcel IDs 46-43-0, 46-44-0, 46-45-0, 46-47-0, 46-48-0, 46-50-0, 46-51-0, 46-52-0, 46-53-0, 52-13-0, 52-14-0, 52-15-0). The motion was seconded by Ms. Sheehan and voted 3-0-0.

Application for Approval of a Subdivision, District Ave and Park Place



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Mr. Vaughn stated that the subdivision doesn't necessitate any further modifications in terms of on the ground improvements. It's really just modifying internal lot lines and frontage in order to recalibrate the lots at the end of the cul-de-sac.

Dr. Weiner asked would you theoretically be able to sell the different parcels within the development once you've changed these lot lines. Mr. Vaughn replied that it's not necessarily why it's being done, rather it's to make sure that each of those lots would comply with zoning requirements in terms of frontage and lot area.

MOTION: Ms. Welch made a motion to approve the application for Approval of a Subdivision, District Ave and Park Place. The motion was seconded by Ms. Sheehan and voted 3-0-0.

VI. Variances:

Jamba Juice/Auntie Anne's Soft Pretzels, 75 Middlesex Tpk. Space 1765 – external grease interceptor

Karen Chin, Director of Operations, appeared before the Board.

Ms. Johnson stated that Jamba Juice/Auntie Anne's Soft Pretzels is going into a new space at the mall and, because their new space doesn't have an external grease interceptor, they are before the Board to request a variance (section 4 part A). Ms. Johnson recommended that the Board approve the variance from section 4 part A and allow the new food service establishment to operate without installing an external grease interceptor with the following condition:

The food service establishment operator and the property owner both understand that this variance may be subject to revocation, suspension, or expiration as determined by the Board of Health. A variance under these regulations may be revoked, modified or suspended only after the food service establishment has been notified in writing and given an opportunity to be heard at a regularly scheduled meeting of the Board of Health. Reasons for revocation, modification or suspension of a variance include, but are not limited to, a determination that the food service establishment is discharging grease in quantities sufficient to cause sanitary sewer line blockages or increased maintenance of sewer lines.

Dr. Weiner informed the applicant you need to clean the internal grease interceptor regularly and keep a log on that.

MOTION: Ms. Welch made a motion to approve the variance for Jamba Juice/Auntie Anne's Soft Pretzels, 75 Middlesex Tpk. Space 1765. The motion was seconded by Ms. Sheehan and voted 3-0-0.

Gourmet India, 75 Middlesex Tpk. – fermentation (yogurt)

Vishal Sood, Owner, appeared before the Board.



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Ms. Johnson stated that Mr. Sood is seeking approval for a variance to use fermentation to make yogurt (Lassi, a popular yogurt drink in India) at his food establishment. The establishment is in compliance with being able to produce their drink below pH 4.6 so my recommendation is to approve the variance with the following conditions:

- Follow the HACCP plan and use logs provided
- Always use a commercially purchased starter culture
- pH shall be at or below 4.6 and tested with a calibrated pH meter
- Logs shall be completed and up to date
- The person in charge shall demonstrate how to test the yogurt with the pH meter to the inspector upon request
- The HACCP plan shall be reviewed annually and initialed by the manager. If there are any changes, those changes shall be submitted to the Health Department
- This variance is approved for fermentation to make yogurt only
- This variance is for the establishment listed on this variance and no other location
- This variance is approved for current owner on this variance and is non-transferable to new ownership
- Violations of this variance may result in a temporary suspension of the fermentation of yogurt and continued violations may result in the revocation of the variance

MOTION: Ms. Welch made a motion to approve the variance for Gourmet India, 75 Middlesex Tpk. The motion was seconded by Ms. Sheehan and voted 3-0-0.

Al Maidah, 184 Cambridge St. – fermentation (yogurt)

MohmadShahid Shaikh, Owner, appeared before the Board.

Ms. Johnson stated that this is the same recommendation as Gourmet India. Mr. Shaikh has his own recipe, but it does meet the minimum standard and so he is able to get 4.6 for pH or lower. He is also keeping the logs.

MOTION: Ms. Sheehan made a motion to approve the variance for Al Maidah, 184 Cambridge St. The motion was seconded by Ms. Welch and voted 3-0-0.

VII. Hearing:

Life Time Athletic Life Café – Temporary Suspension of the Permit

Reed Enos and Chris Weiner of Life Time Athletic Life Café appeared before the Board.



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Ms. Hardy stated that Life Time had a repeat violation of our local regulation regarding no certified food protection manager on July 28, 2022 and again on January 26, 2023. Fines were issued and they have provided a written action plan on how they're going to comply. They have provided ten certified food protection certificates.

Mr. Enos stated that I got proctored status for ServSafe and I currently have 12 staff that are certified (at least two at all times during our open business hours). One of my requirements is that anybody that's cooking or handling food will be ServSafe certified within 30 days of their hire date.

Ms. Sheehan asked if there is a high turnover of employees. Mr. Weiner replied no.

Dr. Weiner stated that I feel that they've put together a solution. The Board decided to take no action and determined that the food service establishment is in compliance with Burlington's Board of Health Regulations Governing Food Service Establishments.

VIII. Discussion:

The Treasury, 4 Wayside Road, Risk Control Plan

Dev Patil, Owner, and Manish Devadiga, Manager, from The Treasury appeared before the Board.

Ms. Johnson stated that due to three consecutive repeat violations the owner and manger met with myself and Ms. Hardy on March 16, 2023 to complete two Risk Control Plans to prevent future violations. The violations were specific to foodborne illness risk factors. The gaps that were noted were that they weren't using logs, and there didn't seem to be any follow-up by management.

Dr. Weiner asked Ms. Johnson if they were putting people at risk in your opinion. Ms. Johnson replied no because when it was found, it was corrected. When there's a second repeated violation, we have them come in and do a risk control plan with us. Mr. Patil explained that the temperatures were not right because in the morning when we come in, we get the food from the walk-in coolers, then we set up the line cooking and that's when the inspection was done, which is why you found the temperatures to be off. Now we are maintaining the logs so we will know exactly whether we are maintaining temperatures or not.

Ms. Lumenello informed the Board that we haven't had any foodborne illness issues related to this. They are in compliance with our local food regulations.

Ms. Sheehan asked how long will the weekly log update be provided. Ms. Johnson replied six weeks.

BOH Protocol for Food Inspections Involving Foodborne Illness

Ms. Johnson stated that a foodborne illness (FBI) risk factor violation is found and cited in the inspection report. If the same FBI risk factor violation is found on the next routine inspection, it is the first repeat



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violation, and a \$50 fine is issued. If the same FBI risk factor violation is found on the next routine inspection, it is the second repeat violation and another \$50 fine is issued. The person-in-charge (PIC) will meet with the inspector at the BOH office and together they will develop a Risk Control Plan for the FSE to follow. The PIC appears before the Board at a regularly scheduled meeting to discuss their plan. No action is needed by the BOH. If the FSE fails to implement the Risk Control Plan, a hearing before the BOH is scheduled and the BOH may vote to suspend the food permit for repeated violation(s). To meet standard 3 of the Retail Program Standards, a written protocol was required. We only have authority to shut down a restaurant if there's an imminent health hazard.

Ms. Lumenello stated that this protocol will allow the Board to make a decision.

Technical Assistant Grant for the Review of Two MCP Sites (179 Cambridge Street and 18 Terry Avenue)

Ms. Mathis stated that we applied for, and we were awarded a grant from the Massachusetts Department of Environmental Protection (DEP) to study an environmental concern as identified by us in our community. The area we chose is in the vicinity of 179 Cambridge Street and 18 Terry Avenue. 179 Cambridge Street used to be a dry cleaner that was in operation in the 1950s. The source of the contamination is PCE (a commonly used dry cleaning fluid) and breakdown products in groundwater, soil, and indoor air. The 18 Terry Avenue site is a single-story building that has four tenant spaces. TCE was found in groundwater and soil. One of the spaces in the building found that the levels of TCE in the air (in that space) triggered the imminent hazard threshold. The imminent hazard situation at that address has been corrected. However, the source of contamination is unknown.

Ms. Mathis continued by stating that the goal is to educate public and municipal officials on the existing environmental conditions. We plan on hiring an environmental consultant who will meet with the BOH staff, review existing MCP reports, create a summary report accompanied by a presentation which will be given at a public forum and then at a regularly scheduled BOH meeting. There will be an opportunity for public input in between those two public forums, and one of the things that we want the consultant to do is to discuss the vapor intrusion and provide an opinion as to any ongoing concerns with that pathway. The BOH staff will prepare a self-evaluation report for submittal to MassDEP. The Board will determine if they would like to petition MassDEP to initiate a Public Involvement Plan (PIP) at a regularly scheduled meeting. The requirements that we have to meet are to determine (1) how we're going to foster public awareness and (2) how will project increase public participation.

Dr. Weiner asked whether we have decided on a consultant yet. Ms. Mathis replied not yet.

2023-2024 Flu Vaccine Purchase

Dr. Weiner recused himself from this discussion item.



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Ms. Lumenello stated that last year the total doses of Fluzone we got was 550, 384 doses were dispensed, and 166 doses were unused. We had to return 55 doses. The reimbursement rate for last year was 10 percent, but this year it is 15 percent. We couldn't give out all of those doses because I think that we didn't have as many people coming forward who wanted the flu vaccine, and we weren't able to do as many clinics as we normally would have. With the state supplied (Fluzone) we only got 30 doses and gave all of that out. The 150 doses of the high dose quadrivalent and we dispensed 144 doses.

The ACIP has not yet released the Recommendations for the 2023-2024 Influenza Season. Therefore, the 2022-2023 recommendations are still in effect. The Burlington Board of Health administered 55 doses less in 2022 than in 2021 at its annual flu clinic and 49 doses less overall in 2022 than in 2021. The reimbursement rate for the 2022-2023 season was 5% less than the previous year. For the 2023-2024 season, the reimbursement rate is once again 15%. The Board of Health is currently without a Supervisory Nurse, therefore, to be most conservative, my recommendation is to plan on administering all flu vaccine at the annual clinic. I recommend that the Board of Health purchase 450 doses of the pre-filled quadrivalent flu vaccine, and 150 doses of the pre-filled High-dose. The total amount to be purchased privately will be approximately \$17,121.00. The expectation is that all doses will be dispensed at the Town Flu clinic on a first come first serve basis.

Board of Health Public Participation Policy

Dr. Weiner stated that there was a Massachusetts Supreme Judicial Court opinion concerning speaking at meetings and specifically it affects us in three ways: citizen's time, open meetings, and hearings. I have met with our Town Clerk, and I am going to ask the Board to vote tonight to discontinue citizen's time. Anybody, according to the Massachusetts Supreme Judicial Court, can come before this Board and for citizen's time and say whatever they want, including racial epithets, insults, and profanity. We cannot in any way stop them. I will work in the next months to put together a policy with the Town Clerk and Ms. Lumenello, put it through the Town Counsel, and bring it before the Board when we have something that I think is doable.

Ms. Welch asked if someone does want citizen time and if they want to come in front of the Board, will it be part of our agenda. Dr. Weiner replied correct, and if they're on the agenda they can be restricted to a specific topic.

Dr. Weiner stated that for one meeting we're not going to have citizen's time until the Board decides where to go further.

Ms. Lumenello informed the Board that remote meetings have been extended and allowed.

IX. Staff Reports:



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Associate Health Inspector

Ms. Hardy presented her report.

- Working on pool operator seminar presentation for 2023 seminar
- Working on a food safety poster for the Health Fair

Dr. Weiner asked what date the Health Fair is. Ms. Hardy replied May 20, 2023. Ms. Welch asked if there will be an increase in vendors this year. Ms. Lumenello replied that there will be about 40 vendors.

MOTION: Ms. Welch made a motion to approve the Associate Health Inspector's report. The motion was seconded by Ms. Sheehan and voted 3-0-0.

Health Agent

Ms. Johnson presented her report.

- Updated some temporary food permit applications
- Conducted routine inspections for all the indoor swimming pools (no issues)
- Swimming pool permit renewals were sent out
- Conducted certified food protection manager ServSafe course
- Working on Standard 5 for the Retail Program Standards

Ms. Johnson stated that a temporary food permit is no longer needed for Potluck dinners / events, as well as Bake Sales.

MOTION: Ms. Sheehan made a motion to approve the Health Agent's report. The motion was seconded by Ms. Welch and voted 3-0-0.

Environmental Engineer

Ms. Mathis presented her report.

- Implemented the hazardous materials storage & disposal regulations that you recently passed in February (became effective on March 6, 2023)
 - Permit applications are due on April 15, 2023

Ms. Welch asked when Household Hazardous Waste Day is. Ms. Mathis replied June 3, 2023.

MOTION: Ms. Welch made a motion to approve the Environmental Engineer's report. The motion was seconded by Ms. Sheehan and voted 3-0-0.



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Associate Director of Public Health

Mr. Greene presented his report.

- Burlington Volunteer Reserve Corps annual meeting
 - Tomorrow evening from 5 – 8 PM

MOTION: Ms. Welch made a motion to approve the Associate Director of Public Health's report. The motion was seconded by Ms. Sheehan and voted 3-0-0.

Director of Public Health

Ms. Lumenello presented her report.

- Conducted interviews with the other two Health Directors (Advisory Board under the intermunicipal agreement), and have pinpointed people for the positions of epidemiologist, health inspector, community health worker, and part-time nurse.

MOTION: Ms. Welch made a motion to approve the Director of Public Health's report. The motion was seconded by Ms. Sheehan and voted 3-0-0.

Dr. Weiner stated that I want to wish our Islamic friends Ramadan Mubarak.

X. Adjourn:

MOTION: Ms. Welch made a motion to adjourn the Board of Health meeting at 9:26 PM. The motion was seconded by Ms. Sheehan and voted 3-0-0.

*Respectfully Submitted by Eric Bergeron,
Recording Clerk*