

BRAINTREE BOARD OF HEALTH

MINUTES

January 23, 2014

IN ATTENDANCE: Dr. Philip Nedelman, Chairman
Dr. Arthur Bregoli, Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I

Dr. Nedelman called the meeting to order at 7:00 pm.

APPROVAL OF MINUTES:

Motion By: Dr. Bregoli to approve the meeting minutes of December 19, 2013

Second By: Dr. Nedelman

OLD BUSINESS:

1) Request for Keeping of Chickens-156 Hollis Avenue

Present: John White, direct abutter (50 Oak Street); Brian Morahan, direct abutter (150 Hollis Avenue)

Ms. McGrath advised the Board that Mr. Dolan contacted her this afternoon at 4:45pm to advise that he would be unable to attend the Board meeting this evening, but he would still like the Board to proceed in making a decision about the keeping of chickens and the location of the chicken coop, either in favor or opposed.

Ms. McGrath advised the Board that the applicant proposed and built a chicken coop directly against the back and side property lines at 156 Hollis Avenue. Mr. White, the direct abutter at 50 Oak Street objected to the location of the coop, as it was right on the property line. At the direction of the Board, Ms. McGrath conducted a re-inspection of the property at 156 Hollis Avenue, on or about October 30, 2013 to assess another location for the chicken coop at 156 Hollis Avenue that was agreeable to the direct abutters and the applicant.

Ms. McGrath advised that she agrees that the current location of the chicken coop is unacceptable, as it is directly on the property line. Mr. Dolan proposes to re-locate the chicken coop eight feet in off of the rear and side property lines. Ms. McGrath advised that she disagrees with that re-location, as it is still too close to the property lines. Mr.

Dolan originally proposed that if the Board did not agree that the coop go in the corner, that he would be willing to put it up against the house by the bulkhead. Ms. McGrath advised that she believes and recommends that it be placed by the bulkhead, if Mr. Dolan wants to keep the chickens.

Mr. White, the direct abutter advised the Board that he disagrees with where Mr. Dolan placed the coop against the property line, which is physically eleven feet from his dwelling. After researching regulations for other towns, he requested that the coop be placed at least ten feet from the property line.

Dr. Nedelman asked Mr. White if he had any objection to the proposal Ms. McGrath has to place the coop up against the house by the bulkhead at 156 Hollis Avenue. Mr. White advised that he did not have any objection to that proposal.

Mr. Morahan advised the Board that he has a gentleman's agreement with Mr. Dolan, but he also has five children and an unfenced yard. He is concerned about the presence of chickens drawing predator wildlife to the neighborhood. Other than this concern, Mr. Morahan has no objection to this proposal.

Ms. McGrath advised that if a complaint was received from a neighbor regarding the presence of wildlife (-ie-coyotes, foxes, etc.) in the neighborhood, then she would contact the animal control officer for assistance in investigating. If it was proven that there was an issue, then she would bring the matter back to the Board to make a determination if it is appropriate that the chickens remain.

Motion By: Dr. Bregoli to approve the issuance of a permit for the keeping of chickens at 156 Hollis Avenue conditional that the chicken coop be re-located to behind the house by the bulkhead, as was proposed as a second alternate location by Mr. Dolan.

Second By: Dr. Nedelman

2) Review of proposed draft Rules & Regulations Governing the Sale and Distribution of Tobacco Products and Nicotine Delivery Products.

Present: Dr. Lester Hartman, Pediatric Physician.

Dr. Hartman advised the Board that he is a 28 year pediatric physician and instructor at Harvard Medical School and Boston University. He also has a master's degree in public health. Dr. Hartman advised that he has lived in the only town in the United States up until this year that restricted the sale of tobacco to anyone under 21 years old, and that town is Needham, MA.

He advised that after he studied their proposals and what they did, he felt very strongly about moving this forward town by town because he knows that Boards of Health have the power to create a regulation to restrict the sale of tobacco to individuals under 21.

Dr. Hartman provided the Board with written smoking rate statistics from “makesmokinghistory.org”; and written statistics from MDPH on cancer and mortality rates for Braintree, as compared to the state average.

Dr. Hartman presented a bag with an assortment of packages of tobacco products, such as blunt wrappers, flavored cigarillos, loose tobacco and an e-cigarette that he purchased in Braintree before coming to the meeting this evening. He advised that he does this for all of the communities that he offers presentations. He demonstrates these products because he advised that the tobacco industry makes these products attractive to youth age 18 years and under, with the pretty and colorful packaging and multitude of flavors.

Dr. Hartman provided a lengthy presentation to the Board offering public health statistics and reasoning why the Board should consider revising the current Sale of Tobacco regulation, to include raising the age to purchase tobacco products and nicotine delivery products to 21 years of age, as well as banning blunt wrappers. He and his associate, Dr. Winickoff, fully endorse mass tobacco cessation and encourage the Board to look at product regulation.

Dr. Hartman advised that he and his associate are offering such presentations to Board of Health for children, and on their own time and on their own dime. They receive no grant funding at all.

The Board engaged in discussion with Dr. Hartman regarding the statistics and Tobacco 21 information he provided.

NEW BUSINESS:

3) Request for Variance of Lifeguard Provision: Hampton Inn-215 Wood Road

Ms. McGrath advised the Board that this is the annual request by the Hampton Inn for a variance of the lifeguard provision for their semi-public swimming pool and special purpose pool.

Ms. McGrath recommends approval of this variance request.

Motion By: Dr. Bregoli to approve the variance requested.

Second By: Dr. Nedelman

4) Issuance of License-Larry Spears/Murray’s Deli

Present: Larry Spears, owner of Murray’s Deli
Scott Alden, associate of Mr. Spears

Ms. McGrath advised the Board that on or about December 12, 2013, Murray’s Deli was closed. The owner had obtained a court order to go into the establishment and have all

of the equipment, food stock, supplies etc. removed. A constable was brought in and did have all of the equipment, food stock, supplies, etc. removed from the establishment and the establishment was closed. On December 20, 2013, it was discovered by the department that the establishment had reopened, and equipment had been reinstalled without the benefit of any plumbing, gas, or electric permits or inspections which would be required. A cease and desist order was issued both verbally and in a written order to Mr. Spears on December 20, 2013 by the Inspector of Buildings.

The health permits are issued on January 1st of each year and run through December 31st of each year. On December 31, 2013, Mr. Spears permit to operate issued by the Health Department expired. There was no renewal application received or permit fees paid by Mr. Spears. As of January 1, 2014, the Cease and Desist Order issued by the Inspector of Buildings was still in place.

Ms. McGrath advised that on January 9, 2014, two health inspectors were in that area of town doing another inspection, and when going by Murray's Deli, observed that it was opened. The Health Inspectors knew that Mr. Spears had not complied with the requirements of the Building Division, a verbal order was issued by the Health Inspectors at that time to cease operation in the establishment. Subsequent to that, the establishment has been found in operation at least two more times by a building inspector.

On January 16, 2014, a letter was sent to Mr. Spears by Ms. McGrath requesting that he appear before the Board this evening to explain what the status of the establishment is, and why he continues to operate without complying with two orders that have been issued by two different divisions of the Town.

Mr. Spears advised the Board that he is not presently operating the establishment. He is trying to coordinate with the permits and inspections that are necessary to bring things up to code and comply with the town. He advised that he did not know that things needed to be brought up to code as most of the equipment were quick connects, or that he needed to pull permits and get inspections when the equipment was reinstalled before they reopened.

Dr. Nedelman asked Ms. McGrath what Mr. Spears needs to reopen.

Ms. McGrath advised the Board that the only permit application that the Building Division has received is an electrical permit for a carbon monoxide detector only. He needs to obtain all necessary plumbing, gas and electric permits and then inspections must be done on all of these systems before a health permit to operate will be issued.

Mr. Scott Alden, associate to Mr. Spears, advised that the fire department required a new ansul system be installed, which has been completed and inspected by the Fire Prevention Officer. An electric permit for the CO2 system has been pulled and another electric permit needs to be pulled for an electric disconnect of the dishwasher. A sink has been installed with a garbage disposal. They have been having problems with the plumber in pulling permits, and one of the building inspector's has spoken to the plumber.

The plumber has insured Mr. Alden and the building inspector that he will be pulling the required permits within the next day. Mr. Alden advised that everything that is supposed to be done is being done.

Mr. Alden advised the Board that they are not opened at this time.

Ms. McGrath advised the Board that the establishment is not opened now, but department inspectors go by the establishment days, nights and weekends to insure that it is closed, because Mr. Spears will admit that he has been found opened knowing that he had two different orders from two different Town divisions to cease and desist operation, and he opened on several nights and weekends.

Dr. Nedelman advised Mr. Spears that he cannot reopen until he has complied with all of the inspections and received a permit from the Health Division.

Mr. Spears agreed that he understands this.

Dr. Nedelman asked what could be done if he opened before that time.

Ms. McGrath advised that she would ask that the Board allow her to go to Superior Court to obtain an order to secure the property.

Ms. McGrath advised Mr Spears that he needs to make sure all of the plumbing, gas and electric permits are received in the Building Division. Further, that all necessary plumbing, gas, electric and building inspections have to be completed. Then, after all of those are done and she has been given notice from the Inspector of Buildings that they have been done, the Health Division can issue a health permit, once the application and permit fee is received.

Mr. Spears and Mr. Alden advised that they believed the work should be done this week.

Ms. McGrath advised that she has been hearing this for a month from Mr. Spears, and that she checks in with the Building Division every day to see what the status of permits and inspections for this establishment is. She advised that actions speak louder than words, and that to date Mr. Spears has not shown a good faith effort to comply.

Ms. McGrath also advised that Mr. Alden is not the responsible party in this matter, although she appreciates him trying to help Mr. Spears.

Motion By: Dr. Bregoli that if compliance is not met by Mr. Spears regarding Murray's Deli, that Ms. McGrath is permitted to go to Superior Court to obtain an order to secure the property.

Second By: Dr. Nedelman

Motion By: Dr. Bregoli to adjourn the meeting at 7:50 pm.

Second By: Dr. Nedelman