

BRAINTREE BOARD OF HEALTH

MINUTES

June 16, 2016

IN ATTENDANCE: Dr. Arthur Bregoli, Chairman
Dr. Philip Nedelman, Vice-Chairman

ALSO PRESENT: Marybeth McGrath, Director of ML & I

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

MINUTES:

Motion By: Dr. Nedelman to approve the meeting minutes of May 19, 2016.
Second By: Dr. Bregoli

NEW BUSINESS:

1) Request for Variance of Well Regulation (Roadway Setback)-45 Regis Road

Ms. McGrath advised the Board that the applicant was going to try to make the meeting this evening, but was uncertain that he would as he already had another commitment. As he is not here tonight, he must not have been able to change the commitment.

Ms. McGrath advised the Board that the applicant is requesting to install an irrigation well on the property. A site inspection was conducted on the property. Regis Road faces the front of the house and on the side of the house is an easement. The applicant advised the department that sometime ago, the Town was supposed to make the easement into a roadway, so the request for variance would be from the easement that may at some point in the future be turned into a roadway. If that is to happen in the future, the department wanted to make sure there is a variance on record for this particular easement and the proposed irrigation well which is 64'. The applicant is able to meet all of the other setback requirements. All of the direct abutters have been notified of the intention to install the irrigation well.

Ms. McGrath recommended approval of the variance request.

Motion By: Dr. Nedelman to approve the variance request.
Second By: Dr. Bregoli

2) Pan Asia Restaurant-211 Quincy Avenue/Discussion about trash and grease concerns

Present: You Qiang Tan, establishment owner; Alan Ramcharran and Angela Guan, representatives of the establishment owner.

Ms. McGrath advised the Board that the reason she has made the request to have the establishment owner, Mr. Tan appear before the Board this evening is that over the past two to two and a half years, the department has had concerns overall about the general sanitation outside of the establishment, as well as the dumpster area and grease barrel area. It came to an elevated level, when the department had a trash complaint about the establishment. Upon investigation of the trash complaint, we discovered that the grease dumpster needed to be emptied. The owner of the establishment did contact the company to come out and remove the grease. A man came at 12:30 am in the morning with a pump. The individual pumped the grease out of the grease dumpster and into the storm drain, which is illegal. The department received a complaint about the illegal dumping the next morning because there was a visible trail of grease from the grease dumpster, down the parking lot and into the storm drain in the street. The DEP and the Braintree Fire Department were contacted, as the grease is considered a hazardous material. The DEP levied fines against the establishment owner, property owner and the individual who illegally dumped the grease.

There have been some concerns about the establishment, and the department called Mr. Tan into the office about a year ago to discuss these same concerns, and they still seem to continue. So, Ms. McGrath advised that she felt that it was important to request the establishment owner come before the Board to have a discussion about these concerns.

Dr. Nedelman asked Ms. McGrath if over the last five years there have been any other establishments that have had this number of complaints.

Ms. McGrath advised that it has not been to this degree. Ms. McGrath advised that within the plaza where Pan Asia Restaurant is located there is another restaurant known as Boston Kitchen. These two restaurants are located on Quincy Avenue, and behind this property are residential properties. The neighbors can see directly into the back parking lot area, and are always making certain that things are kept in a sanitary manner. Not every time, but the majority of times that the department has responded to complaints about the outside back area of Pan Asia, there have been issues.

Dr. Nedelman asked if we have any problem with the restaurant adjacent to Pan Asia.

Ms. McGrath advised no.

Dr. Nedelman asked if the department has had any problem with other restaurants in Braintree.

Ms. McGrath advised that the department has had similar problems with other establishments in Braintree, but not to the degree that we have had with this establishment with trash.

Dr. Nedelman stated so the same type, but not the same frequency.

Ms. McGrath stated correct. She advised that she could not speak directly about other establishments, as she did not have that information with her this evening.

Ms. McGrath advised that the establishment owner has taken the initiative each time the department visited with him on complaints to initiate immediate corrective action, which is what we want him to do. The goal here is to decrease the frequency of us going out to the establishment for the same thing.

So, Ms. McGrath would like to try and figure out how that the department can accomplish that with the establishment operator because we have not seemed to be able to do it to this point.

Dr. Bregoli advised that Mr. Tan is here this evening to discuss these issues.

Ms. McGrath advised that she does believe that Mr. Tan understands the seriousness of this matter, and that she and the department would like to resolve these issues and going forward visit the establishment on a positive note, rather than on complaints.

Dr. Nedelman asked Mr. Tan what is the problem? Why is the department being called to Pan Asia so often?

Mr. Tan advised that he is giving Alan Ramcharran and Angela Guan permission to speak for him.

Mr. Ramcharran advised the Board that he is a very good friend of Mr. Tan's and he visits the restaurant every day. He advised that Mr. Tan is sorry for what happened. Mr. Tan will find a new grease company to pick up the grease every month.

Ms. McGrath advised that Baker Commodities is a very well established company that picks up grease, and one of the grease dumpsters that Mr. Tan has is from Baker Commodities.

Ms. McGrath advised that the morning of the illegal dumping of the grease, she called Baker Commodities and they said the last time they picked up grease from Pan Asia was in March of 2016. Prior to that it was four years ago.

Mr. Ramcharran advised that they had a company called International Diesel that picked up the grease, but they are going to change companies.

Ms. McGrath advised that it must be an established company that picks up grease.

Dr. Nedelman again asked why the establishment is having so many necessary visits from the Health Division.

Dr. Bregoli asked Ms. McGrath if there is a standard by which grease has to be picked up once a week, every other week, once a month, etc.

Ms. McGrath advised that there is no set standard, as it varies by establishment dependent upon the amount of grease they are generating. Pan Asia has many fryolators for the different types of food they offer, so they need to frequently clean the fryers and remove the old grease. The grease removed from the fryers goes into the grease dumpsters outside. Dependent upon the amount of grease generated, they may need pickups every three weeks, every two weeks, more frequently or less. It just depends on the amount of grease generated.

Dr. Nedelman asked whose responsibility is it to go outside and check on the level of grease in the grease dumpsters.

Ms. McGrath advised the establishment operator.

Dr. Nedelman asked if there are other establishments that check the grease levels and if there have been any problems with other establishments on grease issues.

Ms. McGrath advised that there have been other establishments with grease dumpster issues, such as Tennessee BBQ. In that case, we addressed the issue of overflowing grease and sanitation issues with the grease dumpster with the establishment owner. He was required to get a new grease dumpster and more frequent pickups, which he complied with.

Ms. Guan advised that she is Mr. Tan's interpreter. Through Mr. Tan, she advised that they are trying to cooperate with the Health Department and find a resolution to the grease issue, by looking for a new vendor to pick up the grease. For the current grease vendor, they call them for pickups during the week. For the beginning of the contract, the grease should be picked up every month.

Dr. Nedelman asked if the grease has been picked up at least once a month since January 2016.

Ms. Guan advised that the once a month pickup was done at the beginning of the contract. However, lately, this company has not been picking up the grease until the owner calls them to come over and pick it up.

Dr. Nedelman asked why the owner has not called the company more often, and who checks the level of the grease.

Ms. Guan advised the vendor is checking the grease.

Dr. Bregoli stated that Mr. Ramcharran spoke about a company called International Diesel.

Ms. Guan said that International Diesel is the current company that they will be discontinuing. They are looking for a new grease vendor to pick up the grease.

Ms. McGrath advised Mr. Tan and Ms. Guan that the type of grease that they are generating has to be picked up more than once a month. Ms. McGrath advised that two weeks prior to this meeting when the department received a trash dumpster complaint, she spoke with Mr. Tan during that visit because she noticed the grease was overflowing onto the ground from the grease dumpster. When she lifted the lid and saw the dumpster full, she advised Mr. Tan that the grease in the grease dumpster needed to be removed. Mr. Tan called the company, and they apparently came at 12:30am the next morning and took care of the grease in an inappropriate and illegal way.

Ms. McGrath advised that she knows of no grease disposal company that comes at 12:30am in the morning with a swimming pool pump, and pumps the grease out of the grease barrel and into the storm drain. Ms. McGrath advised that Mr. Tan did not know about the illegal disposal of the grease until 10:30am on the morning of the incident, when the department called him.

Dr. Nedelman asked Mr. Tan how long he has been in business there.

Mr. Tan advised ten years.

Dr. Nedelman asked if this has been a problem for ten years.

Ms. McGrath advised off and on, but it has been more significant over the past two years.

Ms. McGrath advised that one of the issues that the department has discovered may contribute is that Mr. Tan has a lot of very nice staff members, but there is definitely a language barrier with a lot of the staff that we are not able to easily communicate with them what needs to be done to correct the violations. Mr. Tan has been onsite most of the time during the department inspections, but on the occasions when he is not, if there could be a problem with communicating easily between the person in charge and the department staff, if a language barrier exists.

Dr. Bregoli and Dr. Nedelman reviewed required corrective actions of outstanding issues with Mr. Tan, as follows:

- 1) Find a new vendor to pick up the grease;
- 2) Check the level of grease in the grease dumpster at least once weekly;
- 3) When the grease dumpster is $\frac{3}{4}$ full of grease, Mr. Tan needs to call the vendor for pickup;
- 4) Call the trash dumpster company to advise them that the dumpster can only be picked up between 7am and 8pm Monday through Saturday;
- 5) Frequently check the trash dumpster to make sure there is no trash around/about the dumpster and the lids are kept close;
- 6) There will be no preparation of food or storage of food by employees outside.

Dr. Nedelman asked what authority the Board has with regard to the license to operate the establishment. The Board has never had this problem before and does not ever want to have it again. Does the Board have the authority to close Pan Asia down if these problems continue.

Ms. McGrath advised that the Board can call a hearing if it continues, and consider a suspension or revocation of the license to operate.

Dr. Nedelman advised Mr. Tan that if this happens again that he will strongly consider closing the establishment down and revoking the license to operate for so many days. Dr. Nedelman advised that he wants no excuses. The establishment has been operating for ten years and he wants them to be a good neighbor.

Dr. Bregoli advised that Ms. McGrath will prepare and send a letter with the specific correction conditions to Mr. Tan.

Mr. Ramcharran asked who actually reported these incidents.

Ms. McGrath advised that information can be requested in writing, but she believes Mr. Tan knows who it is.

Dr. Bregoli advised that there are written complaints on record that have been received by the department.

Ms. McGrath advised that this has also risen to the level of a town councilor contacting her on several occasions because the councilor has gotten complaints.

Dr. Bregoli advised that no one has ever come before the Board with an issue like this, and it does not appear to be a difficult issue to resolve, and he hopes not to have another meeting like this again.

Dr. Bregoli also advised that there are pictures on record to substantiate the complaints received.

Mr. Tan advised that he will be contacting Baker Commodities to establish a pick up schedule with them.

Ms. Guan reviewed what steps the establishment will take.

Ms. McGrath advised that there is not a need to appear before the Board to update them, but rather put the corrective measures taken in a letter to the Board, and she will make sure they receive it.

INFORMATIONAL:

3) Future Board of Health Meeting Schedule (July 2016-December 2016)

OTHER BUSINESS:

Steve Patterson, a resident of 84 Weston Avenue, appeared unannounced before the Board to discuss a complaint with them.

Ms. McGrath advised the Board that this matter is not on the agenda, so they can listen to him , but if there is a need for a vote, they cannot take any vote on it this evening.

The Board asked Ms. McGrath if she knows what it is about.

Ms. McGrath advised she does not know.

The Board allowed Mr. Patterson to speak before them.

He advised the Board that some people think that he has a bad attitude towards the Town. He advised that he has a long list, including poor water pressure, building construction defects that slipped through the Building Inspector, trash bills and barrels issues and a most recent public records request that was responded to by Peter Morin.

He advised the Board that he helped out a neighbor with her contractor involved in installing a new heating system, and a problem with the plumbing inspector with regard to a chimney liner.

He advised the Board that he is here tonight to talk with them about her neighbor, Mrs. Rossano at 88 Weston Avenue who several years ago he helped to take repossession of her home from a professional tenant. When they tried to get the tenant to leave the property, the tenant complained to Ms. McGrath at the Health Department that there was a leak in the oil tank. Ms. McGrath cited Ms. Rossano for the leak in the tank violating the Board of Health code citing section 410.351 of the Housing Code.

Mr. Patterson stated that he told Ms. McGrath at the time that there was no leak. Mr. Patterson stated that Ms. McGrath insisted that there was a leak and refused on many occasions to remove the citation. Mr. Patterson advised that he had to take a lot of his time to help his neighbor contract with and supervise the installation of the heating system. He advised that the neighbor is not wealthy and incurred the replacement costs to replace a heating system. One of the aggravating

factors in evicting the tenant was Ms. McGrath's citation that she refuse to rescind, even though a licensed tank specialist wrote a letter that the tank had no leaks when he removed it, which was reported to her with a full set of images.

Mr. Patterson advised that over the subsequent year, he took Mrs. Rossano in and housed her. He further explained the resulting medical situation with Mrs. Rossano. Subsequently, after researching the matter, Mr. Patterson advised that the Health Department had no authority to issue a citation on an oil tank. He advised that it is the Fire Department's responsibility to handle all heating oil tanks, and had the complaint been properly processed with the fire department, it would have shortened the eviction process dramatically, and Mrs. Rossano might have avoided her medical situation and he would have avoided living with someone with her medical condition.

Dr. Nedelman advised Mr. Patterson to remember that was his choice.

Mr. Patterson advised that being a good Samaritan is not a choice in this world.

He advised that Ms. Rossano spent over \$ 15,000.00 on the eviction, and would have saved a lot of that had the citation not been done. So, without the citation, with proper execution of the proper authority other than the health department, they would have avoided a lot of pain and anguish. He wants to know what the Board has to say about it.

Ms. McGrath advised that on at least two occasions this matter came before the Board, and the Board upheld the order.

Dr. Nedelman advised that he remembers the matter very well, and they have pictures and made a judgment based on the evidence they was presented. That is what he has to say about it, and he does not know what the purpose of Mr. Patterson's presentation is.

Mr. Patterson advised that it is simple. This has not been addressed and what was done was wrong. It was wrong against two people, and the wrong citation and regulation by Ms. McGrath. He wants to know what the Board is going to do about it. This was an incredibly unpleasant situation, and had she just turned things over to the fire department. She was out of her wheelhouse, stubbornly refusing to remove the citation. There was a letter from a licensed tank specialist that said it was inspected and there was no leak.

Dr. Nedelman advised that he recalled it wasn't really the leak, but that it had to do with the heat.

Ms. McGrath advised that the Board of Health also had a letter from Mr. Brow, the person that was delivering the oil that said there was a leak in the tank, and he is a licensed oil contractor.

Dr. Nedelman asked why the Board should believe Mr. Patterson versus an oil man.

Mr. Patterson advised that he had a letter from someone who specializes.

Dr. Nedelman advised the Board had two, and pictures. Dr. Nedelman advised that he does not remember what the pictures showed.

Ms. McGrath advised that she does not have the information on this matter in front of her.

Mr. Patterson stated that it was not in her wheelhouse, and if Brow was going to talk to anyone, it should have been the fire department. He should not have been talking to her. She should have moved it over there.

Dr. Nedelman asked why he hasn't come to talk to the Board about this before, as this has been over two years ago.

Mr. Patterson advised that when it was happening he was a little bit overwhelmed. He believes that there needs to be some disciplinary action taken against Ms. McGrath.

Dr. Nedelman advised that is not going to happen. He further advised that the Board made the decision, not Ms. McGrath.

Mr. Patterson advised that the Board made the wrong decision that they have no authority to make, and the Board should have known that.

Dr. Nedelman advised that he disagrees with Mr. Patterson, and the Board operated and worked within their guidelines, and the fact that he disagrees is his privilege.

Mr. Patterson continued to speak about who responsibility oil tanks are.

Ms. McGrath advised the Board that the department received a call about no heat and the oil leaking. There was no heat and there was a leak under the oil tank.

Dr. Nedelman advised further that Mr. Brow, who supplied the oil would not provide any more oil because of the leak. The Department was involved in it because there was no heat, and he recalls it was in the winter.

Ms. McGrath again advised that she does not have any information in front of her, so this is all by memory.

Dr. Nedelman advised Mr. Patterson that the Board listened to him, and he understand exactly what Mr. Patterson is saying, but they are not going to do anything. This was over two years ago, and they based their decision on the evidence at the time, and if Mr. Patterson believes that the fire department should be responsible, then he should go talk to the Mayor or the fire department about it. The Board has guidelines and regulations and made a decision based on them.

Mr. Patterson continued to further discuss his issues with this matter. He advised that if nothing else comes from this that the Board will remember he was here, and heating oil, call the fire department.

Dr. Nedelman advised that he will remember that it took Mr. Patterson two years to get here, which is a long time.

Mr. Patterson advised that he is a busy guy.

Ms. McGrath advised that Beach testing began this week. Results came back satisfactory, and the department will continue test until Labor Day.

Motion By:

Dr. Nedelman to adjourn the meeting at 7:45 pm.

Second By:

Dr. Bregoli