

**BRAINTREE BOARD OF HEALTH**

**MINUTES**

**March 15, 2018**

**IN ATTENDANCE:** Dr. Arthur Bregoli, Chairman  
Dr. Philip Nedelman, Vice-Chairman  
Laurie Melchionda, Clerk

**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 January 17, 2018.  
**Second By:** Dr. Bregoli

**NEW BUSINESS:**

1) Request for Variance for Lifeguard Provision:

a. River Bend Condominium Trust-399 Pond Street

Ms. McGrath advised the Board that this is the annual renewal of River Bend Condominium's swimming pool lifeguard variance. They have applied for at least two decades for variance requests of the lifeguard provision. This is an adult community. As per the bather log report provided for the 2017 pool season, from June 10, 2017-September 2, 2017, on average 4 residents per day used the pool. The Board members reviewed the pool log book provided.

**Motion By:** Dr. Nedelman to approve the variance request.  
**Second By:** Mrs. Melchionda  
**Unanimously Voted**

b. Royal Lake Village Condominium Trust-3 Royal Lake Drive

Ms. McGrath advised the Board that Royal Lake Village Condominium Trust is requesting the renewal of their annual lifeguard variance for the outdoor swimming pool. For at least two decades, they have applied for variance requests of the lifeguard provision. The condominium trust has provided the daily bather log for the 2017 pool season for review. It is an adult community, and as per the bather log, the bather load ranged between 2 to 4 bathers per day.

Mrs. Melchionda expressed concern about the unsatisfactory format of the 2017 bather log report, as it is hand written and not each entry is completely legible. She requested that they do a better job of logging in bathers and the establishment be notified that future submittals need to be clearly legible. She wants to make sure that it is clear that the Board is approving something that they feel confident in what is going on at the establishment.

Ms. McGrath advised that the Superintendent of Facilities and Grounds for Royal Lake puts out and takes in the daily log each day when he opens and closes the pool. The residents sign in on the log, as they use the pool.

**Motion By:** Dr. Nedelman to approve the variance request.  
**Second By:** Mrs. Melchionda  
**Unanimously Voted**

c. Devon Wood Condominiums-1 Devon Common Lane

Ms. McGrath advised the Board that this is the annual request of the lifeguard variance by Devon Wood Condominiums. They are not requesting to do away with the lifeguards all together, but rather they will engage lifeguards on weekends and holidays when the pool use is very busy, but during the week days when it is slower, they would like to implement the lifeguard variance request. The condominium has provided a bather log usage summary for the 2017 pool season for review.

Mrs. Melchionda advised that she has a concern about the request because the 2017 bather log indicates that they have some very high bather usage numbers.

Ms. McGrath advised that the regulation recommends at least one lifeguard per twenty five bathers.

Mrs. Melchionda advised that the letter from Devon Wood Condominiums is written requesting to operate without a lifeguard on occasion when a lifeguard is out sick or unavailable. She advised that the Board does not know when that is, and if the letter is left the way it is written, that means that Devon Wood could have a day with 42 swimmers and one lifeguard that called out sick, which would be their "occasion", as written in the letter. This letter concerns her, as it is written.

Dr. Bregoli reviewed the regulation regarding the requirement for a lifeguard.

Mrs. Melchionda advised that the 2017 bather log indicates that there were high numbers of usage not only on weekends, but on weekdays. This concerns her that during the summer months that the Board cannot leave them describing a variance request with "on occasion" because of the large numbers that are shown on the 2017 bather log report.

Ms. McGrath advised that the Board does not have to approve the request.

Mrs. Melchionda advised that if the written request is left as is indicating "on occasion", then that leaves swimmers at a higher risk to have something happen, if the Board lets Devon Wood Condominium decide when "on occasion" is.

Dr. Bregoli advised that he feels there should be at least one lifeguard per twenty five bathers, as recommended in the regulations.

Mrs. Melchionda advised that she would be happy with Dr. Bregoli's suggestion, as the way the request letter is written by Devon Wood Condominium is that they would like it without a lifeguard at all "on occasion" and "on occasion" would be at their discretion. She is not comfortable with their discretion, if they have 42 swimmers in the pool and no lifeguards, and they have a variance for "on occasion".

Dr. Nedelman advised that the opposite can happen when they have no bathers or one bather and they want to send the lifeguard home.

Mrs. Melchionda advised that would be okay, but the request would need to clearly be written with the correct language.

Mrs. Melchionda advised that there should be a minimum of one lifeguard per twenty five bathers at all times, and "on occasion" could only be off-season in May and September weekdays.

Dr. Nedelman advised that it appears that the Board is being stringent on this establishment, and not on others. For example, River Bend Condominium.

Ms. McGrath advised that Devon Wood Condominium has made the choice to engage lifeguards. They are not doing away with lifeguards all together. That is not their request. Their request is to have lifeguards, but just during certain times. As opposed to River Bend and Royal Lake Condominiums, who have never had lifeguards and always requested a complete variance of the lifeguard provision.

Ms. McGrath also advised that all of the pool establishments with lifeguard variances have the required "Warning Signs" posted within the pool enclosures, whether they have full or partial variances and whether the lifeguards are present or not.

Dr. Nedelman suggested that the Board should have a uniform requirement for lifeguards for the pool establishments.

Mrs. Melchionda advised that further clarification is needed from the establishment regarding what they are requesting.

Ms. McGrath suggested the Board table the request until the April 12, 2018 meeting, and she will contact the establishment to get more information about the request, and ask that a representative be present at the next meeting to assist the Board with review of the request.

**Motion By:** Dr. Nedelman to table the variance request until the April 12, 2018 meeting, and request clarification of the variance request by the establishment.

**Second By:** Mrs. Melchionda  
**Unanimously Voted**

d. Turtle Crossing Condominiums-501 Commerce Drive

Ms. McGrath advised the Board that Turtle Crossing is requesting their annual lifeguard variance to have a partial variance. They are requesting to not have lifeguards on weekdays, and have lifeguards on weekends and holidays. The establishment has provided their 2017 bather log for review.

Ms. McGrath further advised that the pool enclosure has a key carded entry system, in which the resident has to use their key card to get in. The computerized pool log shows who entered the pool enclosure and on what date.

Mrs. Melchionda advised that this log shows a more control environment with much more accuracy than other logs that the Board has reviewed. She advised that the concern observed in this log is that it shows large usage numbers throughout each week on weekdays and weekends. She would need to review the log in detail to determine what dates are weekdays and weekends.

Dr. Nedelman and Dr. Bregoli suggested that the Board should have a uniform requirement for lifeguards for all of the pool establishments.

Mrs. Melchionda agreed, and wants there to be a safe environment for the pool bathers.

Ms. McGrath advised that the regulation standard recommends at least one lifeguard per twenty five bathers.

Ms. McGrath suggested the Board table the request until the April 12, 2018 meeting, and she will contact the establishment to get more information about the request, and ask that a representative be present at the next meeting to assist the Board with review of the request.

**Motion By:** Mrs. Melchionda to table the variance request until the April 12, 2018 meeting, and request clarification of the variance request by the establishment.  
**Second By:** Dr. Nedelman  
**Unanimously Voted**

e. Jonathan's Landing Condominium-400 John Mahar Highway

Ms. McGrath advised the Board that Jonathan's Landing is requesting a partial lifeguard variance. They will have lifeguards each day and are requesting a variance of the lifeguard provision for the early morning hours of 8:30am to 12:00pm daily. They will have a lifeguard on duty from 12:00pm-8:00pm when the pool closes.

The Board reviewed the 2017 pool bather log provided.

As the Board was reviewing the materials provided for the request, Ms. McGrath advised them that although such variances have been approved by them in the past, the variances have only been approved for the specific pool season requested. The pool establishments must submit for the lifeguard variance request each year for review and consideration by the Board.

**Motion By:** Dr. Nedelman to approve the variance request.  
**Second By:** Mrs. Melchionda  
**Unanimously Voted**

**2. Keeping of Chicken Violation: Anne Marie Joyce-10 Main Street**

Ms. McGrath advised the Board that they may recollect this came before the Board in the late summer/early fall of 2017, and the applicant was not present. However, the abutting neighbors were present. Main Street is just off of Washington Street close to the Holbrook line on Route 37. Main Street also abuts the Roosevelt Road Senior Housing Complex.

Ms. McGrath advised that in late summer 2017, the Department was notified that this property had chickens, and upon investigation department staff observed chickens and a chicken coop on the property at 10 Main Street. The permit process was started with the property owner applying for a permit. The Board reviewed the permit request at a Board meeting in the fall of 2017. The property owner did not appear at the meeting, but the neighbors did and expressed concerns about the location of the coop in close proximity to their backyard.

The Board approved issuance of the permit to keep the chickens contingent upon the requirement that the coop be moved to another portion of the property at 10 Main Street away from the neighbor's property. The applicant did move the coop, as required.

Ms. McGrath advised that the Department staff has been back to the property three times since the permit was issued because of complaints that the chickens are running loose from this property onto abutting properties. Upon investigation on each occasion, department staff has confirmed that the chickens have been running loose onto other properties. The most recent was on February 14, 2018. Ms. McGrath advised the Board that she has contacted the property owner, Mrs. Joyce, to advise her that this matter is being forwarded to the Board of Health for review and to request the Board revoke the permit for the Keeping of Chickens, as the property owner is clearly not following the regulation to not allow the chickens to run loose off of the property at 10 Main Street.

Ms. McGrath advised that Mrs. Joyce explained that family members feel it is inhumane keeping the chickens in the coop and are letting them run loose on and off of the property. Mrs. Joyce has removed five of the six permitted chickens to another community outside of Braintree. The one chicken remaining is still running loose because they have not been able to catch it. Mrs. Joyce has no problem with the permit being revoked.

**Motion By:** Mrs. Melchionda to revoke the permit for the Keeping of Chickens issued to Anne Marie Joyce at 10 Main Street.  
**Second By:** Dr. Nedelman  
**Unanimously Voted**

**OTHER BUSINESS:**

The Board generally discussed 105 CMR 435.23, the portion of the state swimming pool regulation regarding lifeguards; and how they apply that recommendation for lifeguards to the pool establishments that request variances.

**Motion By:** Dr. Nedelman to adjourn the meeting at 7:50 pm.  
**Second By:** Mrs. Melchionda