

BRAINTREE BOARD OF HEALTH

MINUTES

October 12, 2017

IN ATTENDANCE: Dr. Arthur Bregoli, Chairman
Laurie Melchionda, R.N., Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I

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

MINUTES:

Motion By: Mrs. Melchionda to approve the meeting minutes of September 14, 2017.
Second By: Dr. Bregoli

NEW BUSINESS:

1) Request for Variance of Well Regulations:

- a. Landing Apartments, LLC-25 Commercial Street (property line and subsurface drains)
Present: Garrett Horsfall, Kelly Engineering Group

Mr. Horsfall advised the Board that he is with Kelly Engineering Group representing the Landing Apartments, LLC located at 25 Commercial Street, at the intersection of Commercial Street and Quincy Avenue. He displayed for the Board a large plot plan showing the Landing Apartments project and the surrounding public municipal parking lot adjacent to the apartment property. He advised that the main feature for this project was to provide public space for the Landing, the businesses in the Landing a nice walking path up to the front of retail stores, and the property which will be nicely landscaped. As part of this project, they would like to install an irrigation well for the landscaping. The well would be located in the rear of the property near an island that abuts the municipal parking lot. This is the only location on the property where they can place it because there are so many existing underground utilities on the property, and they do not want to have it within the paved area for maintenance purposes. Another major component is that there is a large culvert on the site, which is the Smelt Brook. He advised that in order to construct this building, they had to bring a crane in and drive piles to go below the culvert, so it would not disrupt the culvert. So, the proposed location of the irrigation well is the only place on the property to place it. They are seeking a variance of 18' to the property line and 5' to the subsurface drain utility. They have notified all of the abutters of the request.

Ms. McGrath advised the Board that the variance request is for the property line and the subsurface drainage. The closest property line is 18' from the proposed well and the requirement is 25'.

The subsurface drain is 5' from the proposed well and the requirement is 25'.

Mrs. Melchionda asked if a well installation has ever been done before successfully being that close to a subsurface drain.

Mr. Horsfall advised that he cannot speak from the well driller's perspective. However, from a civil engineering perspective, he does not see any issues having the casing of the well located so close to the subsurface drains.

Ms. McGrath advised that as part of the proposed location, they have been working with the well driller to site the best location for it for a number of different reasons.

Mr. Horsfall advised that they have been working with the Ace Drilling Company, the contractor and civil engineer.

Ms. McGrath also advised that the well driller is also aware of the close proximity of the subsurface drains to the proposed well.

Mrs. Melchionda asked Mr. Horsfall if he was aware of any other place where a well was that close to a subsurface drain.

Mr. Horsfall advised that he is not. The well driller may, but he is not here tonight and he would have more expertise on that.

Ms. McGrath advised that the well driller has to hold liability insurance, so that if there is any problem the insurance would cover it. Ms. McGrath advised that she did conduct a site visit earlier today of the proposed well location.

Ms. McGrath advised that if the Board approves the variance request that it be conditional, as the proof of notification has not been received back for several abutters.

Mrs. Melchionda asked if there is a concern about the proposed irrigation well being located 18' from the roadway.

Ms. McGrath advised that she does not have a concern because it is proposed to be 18' from the municipal parking lot or property line, not the roadway.

Motion By: Mrs. Melchionda to approve the variance request for the Landing Apartments, LLC at 25 Commercial Street conditional upon receipt of proof of the abutter notifications.

Second By: Dr. Bregoli

b. Paul Mathew-71 Messina Woods Drive (roadway and property line)

Ms. McGrath advised the Board that Mr. Mathews is requesting to install an irrigation well on his property located at 71 Messina Woods Drive. Messina Woods Drive is located off of Liberty Street

beyond the Stop & Shop. There is a house on the property now. A variance of the roadway setback for 40' is being requested, and the requirement is 100'. A variance of the side property line setback of 14' is also being requested, and the requirement is 25'.

The majority of the neighbors in the area have irrigation wells on their properties, and there have not been any problems. All of the direct abutters have been notified. Ms. McGrath advised that she has not received any contact from any of the abutters with objections or questions.

Ms. McGrath recommends approval.

Motion By: Mrs. Melchionda to approve the variance request for 71 Messina Woods Drive.

Second By: Dr. Bregoli

2) Request for Keeping of Chickens:

Present: Jodi and Nathan Killeffer, Property owners
Barbara and John Mahoney, neighbors

Note: Barbara Mahoney, neighbor provided a handout packet to the Board just prior to the commencement of the Board of Health meeting.

Ms. McGrath advised the Board that Mr. and Mrs. Killeffer are requesting a permit to keep chickens on their property at 23 Margaret Drive. She advised that this matter was brought to the department's attention in August 2017, when there was a request to see if there was a permit for the keeping of chickens on the property at 23 Margaret Drive. Upon investigation, there was not. So, contact was made with the property owners, and it was determined that there was in fact chickens on the property. Two options were provided to the property owners. The first option was to seek a permit for the keeping of chickens before the Board, or the second option was to remove the chickens from the property. The property owners chose to seek a permit for the chickens.

Ms. McGrath reviewed the items packet for this matter with the Board, which included several pictures of the chicken coop which is located on the property, and two proposed locations on the property for the chicken coop. The first proposed location, which is where the coop is currently located, is on the side of the property at 12' distance from the house and 4' off of the property line. Another proposed location is on the other side of the property in the middle portion of the yard, 10' off of the side and rear existing fences. Halfway down this side yard to the rear is fenced, but the property extends further to the rear approximately 75' beyond the fence.

Ms. McGrath advised that Barbara Mahoney, a neighbor and abutter is here this evening, and has had some concerns about the chickens, in that the chickens did get loose on several occasions.

Ms. McGrath advised that per the Killeffer's, the chickens wings have been clipped to prevent them from flying anymore. She further advised that the chickens are allowed to be on the property and run on the property loosely. The regulation indicates that the chickens cannot run at large, which does not mean on their own property, It means off of their property. The property is primarily fenced, and the Killeffer's have advised that it is their intention to fence their entire property.

Ms. McGrath advised that as long as the chickens are on the property and the property is fenced, she cannot prevent anyone from letting their chickens out of the coop, as long as the chickens are within their property. She also advised there are no setback requirements for chickens from this property or any other property. The regulation speaks to specific setbacks dependent upon a number of 24 chickens. She read that section of the regulation to the Board. The Killeffer's are requesting a permit to keep 6 chickens on the property.

Ms. McGrath advised the Board that she has conducted a site inspection, and advised that where the coop is currently located is satisfactory, and where the second proposed location would be is satisfactory. She has reviewed both proposed locations with the Killeffer's, and they would have no objection to moving it if the other location was a better location.

Mrs. Mahoney advised the Board that she understood that it is 100' from a dwelling, as per the regulation.

Ms. McGrath advised that is not correct, and read the specific section of the regulation which Mrs. Mahoney was referring to. Section # 4 speaks specifically to 50' and 100', and speaks about the number of chickens that are allowed. There is no setback requirement about the distance of chickens to a property line.

Mrs. Mahoney advised that the pictures that she provided to the Board are of her backyard with the chickens in her yard. She also advised that their property is not completely fenced because they took down two sections of fencing in the rear of the side yard, and now just have chicken wire fencing there. Additionally, on the other side of the house where the coop is currently located, the fence is the neighbors fence, so they do not have their yard completely fenced in themselves. The fence is over twenty years old and has holes in it. She advised that the chickens were in her yard constantly. She advised that she asked the Killeffer's very nicely to keep the chickens in their yard, and they did not have a chicken coop until August 26, 2017. They were keeping the chickens in their house at night, and then would bring them out in the day. As soon as they would let them out of their house, they would make a beeline, knocking down sections of the fence and go into her yard. She put up a tent on her property, and the chickens would go and rooster there. So, she asked the Killeffer's to please keep them fenced and off of her property. Further, she advised that it has caused all kinds of wildlife that is going to affect them now. If the chickens are sitting there, then the hawks, foxes and other animals are there. It is a danger to her dogs. She believes that they have already had some chickens die because they originally had 8 chickens. She further advised that she is very concerned, and the CDC recommends that children under 5 years and adults and those that have had cancer treatments don't come in contact with live fowl. She feels that it is a health hazard that they are so close. They will be grilling their food, and the chickens are running loose and running around less than 20' from their grill. She described for the Board her property in relation to the Killeffer's property. She advised that they have had chickens and roosters before and never got any permits for them. She said that the Killeffer's never took any initiative to talk to any of the neighbors to ask if they had a problem. She said she talked with the Killeffer's in July and asked them if they could do something. She said the Killeffer's told her they were going to fix the fence, and to this day it is still not fixed.

Dr. Bregoli asked Mrs. Killeffer how long the chickens have been on the property.

Mrs. Killeffer advised that they were delivered in May 2017.

Dr. Bregoli asked when these problems began to occur.

Mrs. Mahoney stated on the July 4th weekend the chickens started coming into her yard.

Dr. Bregoli stated that the distance from the current coop location to Mrs. Mahoney's house looks pretty far.

Mrs. Killeffer advised that from the back side of the Mahoney's house and where the coop is a distance.

Mrs. Mahoney advised that it is 60'.

Dr. Bregoli asked what the distance from proposed location # 2 and the Mahoney's house is.

Ms. McGrath advised that from proposed location # 2 to the closest property line to the Mahoney's is 62' to the fence line, and then their house is beyond that fence.

Mrs. Killeffer advised the Board that when the chickens are delivered that they are babies, so they stay inside because it is too cold for them to stay outside. They are tiny. They stay inside for about three months, and then as the weather gets nicer, you put them outside during the day and bring them inside at night. When they got to be big, they put them in their shed, and then got the chicken coop.

Dr. Bregoli asked Mrs. Killeffer if she keeps them in the coop all the time.

Mrs. Killeffer advised that most of the time she keeps them in the coop, but does let them out to run around the yard when she is home doing yardwork. Mrs. Killeffer advised that where the coop is located now, they put additional chicken wire up, in addition to the existing fence that is there. So, the chickens would have to get out of the coop and go over two fences to get into the other side of their yard area. The sections of fencing that were taken down on the other side of the property has attached chicken wire fencing in place now.

Ms. McGrath advised that there are several different types of fencing in place around the property, but it is fenced. Also, per the Killeffer's, when the chickens left the property that their wings were not clipped, which chickens can fly if their wings are not clipped.

Mrs. Killeffer advised that they were not being negligent when their chickens got loose from the property.

Ms. McGrath advised that the department inspects annually, and conducts investigation inspections if complaints are received. If after a permit was issued, a violation occurred, then the applicant would be brought before the Board again for review of the issue.

Mrs. Mahoney advised that her concern is that the chickens are running around, kicking up dust and things, and their feathers are flying everywhere and the feces is on the property.

Ms. McGrath advised that she has not observed any nuisance issues on the property when she was there, and the chickens were present at those times. She advised she did not observe feathers flying, no manure accumulation, no odors and no flies. She did not see any problem on the property with any nuisance conditions when she was on the property.

Ms. McGrath advised that she is not saying that the chickens did not get out, but that is not something that she observed. In addition, the Killeffer's admitted that the chickens did get out.

Ms. McGrath advised that the chickens are not presently on the property. The Killeffer's had them removed from the property between the September and October meeting, until the Board took their vote.

Ms. McGrath advised that this is not the first occasion where chickens were discovered on properties in Braintree or brought to the department's attention of the same. The same procedure has been followed, as has been done here. The owner's are notified, and given two options: comply with the regulation and seek a permit or remove the chickens from the property.

Dr. Bregoli advised that the Killeffer's are complying with the regulation, removed the chickens from the property, clipped the chicken's wings, six chickens and no rooster.

Mrs. Mahoney said that they had a rooster before.

Mrs. Killeffer advised that they do not want a rooster, and when you buy the babies, you do not know 100% if one will be a rooster, until they are older.

Ms. McGrath advised that if the Board grants the permit, she asked that they make a decision as to which proposed location they will consider.

Ms. McGrath recommended that the Board consider the current location (proposed #1) where the coop is because it is more secure with a high wood stockade fence and chicken wired fence. It is definitely a more secured location. Proposed location # 2 is secure, as well, but there are more different types of fencing there. However, proposed location # 2 is further away from the Mahoney's house.

Mrs. Melchionda agreed that proposed location # 2 is further away from the Mahoney's.

Mrs. Killeffer advised that their plan is to fence the whole property as soon as possible.

Ms. McGrath asked Mrs. Killeffer if they can replace the two pieces of stockade fence in the middle rear portion of the side yard that were removed.

Mrs. Killeffer advised that they can, and asked if they have a say in where they prefer the coop to be located.

Dr. Bregoli and Mrs. Melchionda advised that they are trying to make everyone happy, and make sure that they are taking everyone's concerns into consideration, including distance to the neighbor's.

Motion By: Mrs. Melchionda to approve the request for keeping of chickens at 23 Margaret Drive in proposed location # 2, which is the largest distance away from the abutter's property, and increase the security by putting back up the two pieces of stockade fencing.
Second By: Dr. Bregoli

4) Food establishment update: Johnny Rockets-250 Granite Street

Ms. McGrath advised the Board that they may recollect that at the August and September meetings, she brought forward information about Johnny Rockets located in the food court at the South Shore Plaza. The department has been having sanitary and food handling concerns. At the last meeting the Board reviewed the update as of that point, and there were still some concerns about the establishment. The requirement was that they hire a private food consultant that would conduct inspections and providing recommendations for improvements. As well, the department would continue with routine inspections to ensure compliance and also to hire a nightly cleaning person.

Ms. McGrath advised that Robin Magner, the department inspector went into Johnny Rockets on September 15, 2017 to reinspect the establishment on several critical items and those were found to be in compliance. She has not been back in to inspect since then, but the department is planning a "blitz" of the food court in the near future, in which we announce inspections to the food court establishments. So, the establishments are aware that the department is coming. They are instructed to take whatever measures are necessary to clean the establishment, and engage their pest control company for the same night of the blitz.

Ms. McGrath advised that the private food consultant hired by Johnny Rockets did do a monthly establishment inspection on September 19, 2017, and she indicated in her report that she felt it was a productive inspection. She did observe staff, facilities and practices and noted things that needed improvement and offered suggestions.

Ms. McGrath advised that the establishment is making slow improvement. So, she requests that the department continue to monitor the establishment, and provide the Board with updates.

Mrs. Melchionda agreed with that recommendation.

Ms. McGrath was uncertain if the establishment engaged a nightly cleaning person, but can follow up on that. She advised per Simon Properties management that as far as the establishment owners tenancy that they are a tenant at will and their agreement with the Plaza has been extended to January 2018.

Mrs. Melchionda advised that she is not as pleased with the progress as she wanted to be, and advised that she is still very concerned.

Ms. McGrath agreed with being concerned about the establishment operations, but there are required measures now in place and slow progress is being observed. She will continue to update the Board.

INFORMATIONAL:

Ms. McGrath advised that the department has had two recent successful flu clinics on October 1st offering approximately 550 flu vaccines and on October 11th offered 349 flu vaccines. In addition, Susan Bryan, our public health nurse has offered flu vaccines to the senior housing complexes in Braintree. She further advised that the middle and high school flu clinics will be conducted within the next two weeks.

Motion By:

Mrs. Melchionda to adjourn the meeting at 7:40 pm.

Second By:

Dr. Bregoli