

BRAINTREE BOARD OF HEALTH

MINUTES

April 28, 2011

IN ATTENDANCE: Dr. Philip Nedelman, Chairman
Paula Dowd, Vice Chairman
Karen Hubbard, Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I

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

MINUTES:

Motion By: Mrs. Dowd to approve the minutes of March 24, 2011
Second By: Dr. Nedelman

NEW BUSINESS:

- 1. Sale of Tobacco Violation: Mutual Highland -275 Hancock Street**
Present: Jerry McLaughlin, Town of Braintree Tobacco Control Officer

Ms. McGrath advised the Board that no one present from the establishment. However, she further advised that within the hearing notice sent to the establishment on April 6, 2011, there is a sentence that states "Failure to appear at the scheduled hearing, without adequate cause, may not delay or postpone the hearing". Ms. McGrath further advised that she does have the certified green card that indicates a Ramsey Metri signed for it on April 7, 2011, so it was received. Therefore, it is up to the Board if the Board wants to proceed or wait.

Mrs. Dowd advised no, that the letter is very clear that the meeting is at 7:00pm. So, she would like to go forward.

Mr. McLaughlin advised the Board that on March 25, 2011 at approximately 4:35pm, a compliance check was conducted at Mutual Highland Gas Station/Metri Convenience Store. At that time, a sixteen year old female entered the premises with a twenty dollar bill for the purpose of trying to purchase a tobacco product. She left Mr. McLaughlin's vehicle and went directly to the front entrance of the store and went into the store.

Within approximately a minute and a half, she returned with a pack of Marlboro cigarettes, which Mr. McLaughlin placed into evidence and has with him this evening.

Mr. McLaughlin further advised that the female adult clerk did not ask for an ID and did not ask the age of the minor buying the tobacco product.

Ms. McGrath advised the Board that in general the calculation of sales is on a two calendar year basis. So, if no sale has occurred within the past two years this would be considered a first offense. If a sale has occurred within the past two years, then this would be an additional offense.

She advised that this is the first offense for Mutual Highland within a two year period.

Ms. McGrath advised that the penalty for the first offense is a five-day suspension of the tobacco sales permit, a one hundred dollar fine and within thirty days of the first day of the suspension all employees involved in the sale of tobacco must seek merchant education.

Mr. McLaughlin advised that he could provide merchant education for the establishment.

Motion By: Mrs. Dowd to uphold the penalty for a first offense within a two year period, that Mr. McLaughlin will provide merchant education and the suspension begin on Friday April 29, 2011 at 12:00noon.
Second By: Mrs. Hubbard
Unanimously Voted

Mr. McLaughlin advised the Board that he has not received any information regarding the status of the proposed tobacco compliance program grant that has been submitted to the MA Department of Public Health for approval to provide a tobacco control program which would include Braintree and other surrounding communities on the South Shore. He will update the Board when he receives information.

2. Request for Variance of Lifeguard Provision: Jonathan's Landing-501 Mahar Highway

Ms. McGrath advised the Board that this request is a renewal of their existing lifeguard variance that was issued last year. The establishment provided bather log documentation of very low bather load usage last season because the occupancy was very low regarding residents living within the one habitable building that is on the property. The occupancy is still the same this year because there is still only one habitable building, so there will be very low bather load again this season. However, there is development on the property and two additional buildings will be built by 2012.

Ms. McGrath advised the Board that she spoke with the manager and advised him that she would bring forward this request for this year, but it will very likely change next year

based on what the residency numbers are for the new buildings. Therefore, she did not know what the Board’s determination would be in the future because there would be a larger number of residents.

Motion By: Mrs. Dowd to approve the variance for this coming pool season.
Second By: Mrs. Hubbard
Unanimously Voted

3. Request for Variance of Setbacks of Well Regulation (Roadway & Property Line): Vardaxis Residence-48 Chickadee Lane

Ms. McGrath advised the Board that the applicant is requesting to install an irrigation well on their property and is unable to meet the setback requirements for the roadway and property line. There has been a revision to the application, as the applicant wanted to place the proposed well to the left of the dwelling, which would only provide a 6’-7’ setback to the dwelling and even less to the property line, which would have required three variance requests of the roadway, side property line and dwelling.

Ms. McGrath advised that she would not recommend this request because of a concern that the dwelling foundation could be compromised if the well is drilled so close to the house. So, the applicant moved the proposed location closer to Chickadee Lane and farther from the dwelling. The department has conducted a site visit and would recommend approval of the new proposed location that is closer to Chickadee Lane. The variance request is now for a 9’ setback from the side property line and 16’8” from the roadway.

Ms. McGrath advised that although this is a large sized property, there is a lot of ledge, as well as a brick wall in the rear of the property. Therefore, the well drilling equipment cannot access the rear of the property because of the brick wall.

Ms. McGrath advised that the notifications to the direct abutters have all been delivered to said abutters and we have proof of delivery/receipt.

Mrs. Dowd advised that no direct abutters are present tonight at this meeting.

Ms. McGrath advised that she has received no telephone calls or contact from any abutters.

Motion By: Mrs. Dowd to approve the variance request
Second By: Mrs. Hubbard
Unanimously Voted

OTHER BUSINESS:

- Ms. McGrath advised the Board that the Norfolk County Mosquito Control Project aerial application was conducted by helicopter on Monday April 25, 2011.

Additionally, the Norfolk County Mosquito Control Project will be announcing shortly about the start of the mosquito control ground aerosol application program, which normally begins around June 1st.

Ms. McGrath advised the Board of how the weekly ground aerosol application program is conducted by Norfolk County Mosquito Control Program.

- Ms. McGrath advised the Board that she has mailed the Outdoor Recreational Activities/Mosquito recommendation letter to all of the recreational and youth sports programs, as well as the Braintree Public Schools, Thayer Academy and Archbishop Williams High School.
- Ms. McGrath advised that beach testing will begin in the middle of June. Also, the department is in the process of conducting reviews for permitting of all of the recreational camps for children that will be held in Braintree over the summer.

Motion By:

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

Second By:

Mrs. Hubbard