

Town of Concord
Board of Health

Minutes of the Meeting
June 18, 2019

PRESENT: Raymond Considine, Acting Chair
Jill Block
Alma Healey

Susan G. Rask, Public Health Director
Karen M. Byrne, Administrative Assistant

OTHERS: Jennifer Verrill, Verrill Farms; Keli Shepard, Emerson Hospital; Mai Ching, Sushi House; Sanford Wong, New England Deaconess; Jane Hotchkiss, Liaison, Select Board

1. Meeting commenced at 7:00 p.m.
2. **PUBLIC HEARING – POLYSTYRENE WAIVERS**

Verrill Farm

Jennifer Verrill, Verrill Farm met with the Board to discuss the application for waiver from the Polystyrene Bylaw. The Board reviewed pictures and written summary of the items:

- 7 inch round aluminum loaf pan with clear polystyrene lid
- 8.5 x 6 inch rectangular aluminum pan with clear polystyrene lid
- 5.5 x 4.75 inch rectangular aluminum pan with clear polystyrene lid
- 8.5 x 4.5 aluminum loaf pan with clear polystyrene lid

Ms. Verrill provided a similar explanation as in previous years relative to her request for select items specifically used for the baked goods and some entrees. She noted that Verrill no longer offers plastic straws so that item is no longer on her request. Ms. Verrill said that the farm sells hundreds of loaves of breads, pies, and other baked goods using the aluminum pans (monthly basis) and continue to find that the only acceptable product for preserving the freshness or coverage were the lids she was asking to utilize. She and Verrill Staff continue to experiment with other products but in addition to not being efficient, she said the methods did not preserve the product and are displeasing to the eye for presentation purposes. Ms. Verrill noted that the loaf pans themselves are recyclable and emphasized that Verrill Farm as a whole was very environmentally friendly and took pride in such, but reiterated as in in past requests, there are times when non-recyclable items need to be used; she respectfully requested the waiver stating that it would be detrimental to her business.

Jill Block urged Ms. Verrill to continue to be proactive in looking for solutions to bring her business into compliance and would like to see more of an effort to provide the Board with evidence that had been

sufficiently addressed before requesting another waiver. Ms. Verrill assured the Board that she was always looking for alternatives but nothing suitable for the baked goods has come on the market.

Following a brief discussion, Jill Block moved to GRANT and approve the waiver as submitted. Alma Healey seconded it. All VOTED in favor. The waiver will expire on June 30, 2020.

Asian Gourmet/Sushi House

Mai King Cheng, Manager, Sushi House/Asian Gourmet met with the Board to discuss the application for waiver from the Polystyrene Bylaw. The Board reviewed pictures and a written summary of the (1) item being submitted:

- Circular plastic container with polystyrene clear lid (#350)

Ms. Cheng explained that the restaurant was able to find a suitable alternative for one container they used for some of their appetizers but the large sushi platters alternatives are simply not strong enough to support the food items. She said that she is continuously working with the vendor to obtain viable alternatives but in the meantime respectfully requested the waiver for the one remaining item.

Chairman Considine commended Ms. Cheng on working with her vendors but stated that in the future the Board would require a letter from the vendor stating why an alternative was not available.

Following a brief discussion, Alma Healey moved to GRANT and approve the waiver as submitted. Jill Blocked seconded it. All VOTED in favor. The waiver will expire on June 30, 2020.

Emerson Hospital

Keli Shepherd, Executive Chef met with the Board to discuss the application waiver from the Polystyrene Bylaw. The Board reviewed pictures and a written summary of the items:

- 12 oz. Dinex Clear Plastic Salad Bowl with polystyrene clear lid
- 5 oz. Dinex Clear Plastic Cup/Bowl with polystyrene clear lid

Ms. Shepherd explained that the hospital continues to make strides to comply with this bylaw but that no reasonable alternatives had been found for these two items. She said that the bowls were reusable but the lids that work for all populations in the hospital (including the psych unit) were not.

Ms. Shepherd noted that she had asked the hospitals Cambro Rep (Dinex competitor) to bring up issue of alternative products/lids at their annual business conference because they sell a similar product that could benefit from reusable lids but to date had not heard if there had been any movement. She will follow up with him.

She respectfully requested that a waiver be granted because it met (2) of the criteria required in the bylaw: no reasonable alternative and unique performance category (specifically for the psychiatric unit where unique patient care criteria must be met due to safety).

Following a brief discussion, Alma Healey moved to GRANT and approve the waiver as submitted. Jill Blocked seconded it. All VOTED in favor. The waiver will expire on June 30, 2020.

New England Deaconess

Sanford Wong, Manager met with the Board to discuss the application for waiver from the Polystyrene Bylaw. The Board reviewed pictures and written summaries from the vendor of the items:

- 8 oz. Dinex Mugs and 5 oz. Dinex Bowls with polystyrene clear lid
- 9 oz. Dinex Bowls with polystyrene clear lid
- X-slot plastic flat lid, translucent/white for 8 oz. juice cups
- X-slot plastic flat lid, translucent/white for 6 oz. juice cups

Since last year, Mr. Wong noted that the Food Service Managers had worked diligently with the vendors to find an alternative for the items New England Deaconess Nursing Home and Newbury Court were requesting but to no avail. Similar to Emerson Hospital, he stated that patient safety was of the utmost importance and until a comparable product could be found he respectfully requested the Board grant the waiver.

Board members recommended that the Hospital Food Service and New England Deaconess consider joining forces and contacting the vendors in a joint effort. Mr. Considine felt that if two significant clients approached them as a united front perhaps they would move quicker to develop an alternative that was certainly coming into demand because Concord was not the only town to pass similar bans.

Following a brief discussion, Alma Healey moved to GRANT and approve the waiver as submitted. Jill Block seconded it. All VOTED in favor. The waiver will expire on June 30, 2020.

3. **PRELIMINARY SUBDIVISION PLAN**

136 Barnes Hill Road (3-lot subdivision)

Hancock Associates submitted a letter of written notice of a Preliminary 3-lot Subdivision Plan Application to the Concord Planning Board¹ for this property. Applicants are required to submit a set of plans for review and comments by the Health Department to determine whether any areas shown of the plan cannot be used for building sites without causing injury to the public health. Items that the Health Department and Board review are in accordance with applicable codes for onsite sewage disposal systems (Title 5), potable water, domestic or irrigation wells, fuel storage tanks.

Staff Comments and Review

PHD Rask outlined the summary prepared for the Board. Anne Sears Trust, owners are proposing a 3-lot Sub Division Plan on approximately 3.8 acres. The lots will be served by public water and onsite sewage disposal systems. She noted that the preliminary application indicated designated areas for the soil absorption systems (SAS) but to date soil testing had not been conducted so the percolation rate of the soils

¹ Preliminary Subdivision Plan Application Attached

and depth to groundwater was not known. Since this is the preliminary plan, the Board is only required to review, comment and vote on recommendations and forward them to the Planning Board for its' consideration on any conditions/approvals to keep the process moving.

Following a brief discussion and review of the plan, Jill Block moved to accept Health Division Staff recommendations as follows and that such comments be forward to the Planning Board:

- Prior to approval of the Definitive Subdivision Plan, soil testing shall be completed in the area of each proposed Soil Absorption Systems (SAS) to determine percolation rate and Long Term Acceptance Rate of the soil and depth to Estimated Seasonal High Ground Water so that it can be determined whether onsite disposal systems can be installed on the proposed lots.

Alma Healey seconded it. All VOTED in favor.

4. **DISCUSSION – (continued) – Proposed Changes to Existing Tobacco/Nicotine Delivery Products Regulations**

Board members present (Considine, Block, Healey) briefly reviewed and discussed (2) proposed versions of regulations prepared by Cheryl Sbarra, Senior Staff Attorney and Director of Tobacco Cessation and Prevention Program Disease for the Massachusetts Association of Health Boards (MAHB) as follows:

- Regulation of the Concord Board of Health, Restricting the Sale of Tobacco Products (All Tobacco and Vaping Products)
- Regulation of the Concord Board of Health, Restricting the Sale of Tobacco Products (Flavored Products Only)

Since Board members Chairman Dr. Deborah Greene and Attorney Mark Haddad were not present for this meeting, consensus was that it be reviewed but that discussion be tabled until the next meeting. However, if members had any major comments they could forward them to PHD Rask and she would convey them to Ms. Sbarra for incorporation for discussion at the next meeting.

The following items were briefly discussed:

- Contact Town Counsel to determine whether it appropriate to utilize legal assistance or input offered at the May 2019 meeting by Chris Banthin, Northeastern University School of Law, Program Director of the Tobacco Control Resource Center. Jane Hotchkiss Liaison to the Board offered to reach out to Town Counsel and will convey information to PHD Rask.
- Clarify and verify proper meeting procedures for Executive Session (if applicable)
- PHD Rask reminded Board that Stephen Crane, new Town Manager would be starting on August 12th and thought it would advisable to allow him to get his bearings and up to speed on the proposed regulation prior to public hearings moving forward.
- Ray Considine suggested changing the terminology in definitions of the proposed regulation as follows “Adult” only stores to “Age 21 Stores”.

- Board members discussed the importance of support from the Select Board and other town boards and committees such as the Finance Department; although Board of Health has regulatory authority to pass a regulation without it, consensus was that it would be ideal to have it.
 - All Board members present stated unequivocally that this particular issue (vaping, flavored vape, flavored tobacco) was quickly becoming a public health crisis and said that it would be alarming to them if the Town leadership as a whole did not support some type of regulation addressing it particularly when it has taken action to prohibit the sale of plastic water bottles, banned polystyrene and the use of plastic bags.
 - Jill Block strongly urged that the Board get its' public health message locked down as the Public Health Regulatory Authority for the Town as well as gather Concord specific statistics showing the local impact of vaping (gather from the schools, etc.). Ms. Block said that the public health argument needed to be honed and on point in her opinion.

5. **CHAIRMAN & BOARD MEMBERS REPORTS**

-None-

6. **STAFF REPORTS**

PHD Rask advised the Board that prior to White Pond Beach was unfortunately experiencing a very visible blue green algae bloom and the beach had to be closed. The Town of Concord purchased the beach last year and this was the first year it was operating it. Assistant Town Manager Kate Hodges and Recreation Director Ryan Kane were working closely with the Health Department and the Department of Public Health to get the appropriate messaging out and adhere to the necessary precautions for patrons.

The Health Department, PHD Rask, Public Health Nurse Tricia McGean and others were working on the vaping grant and developing programs.

Tobacco Sales inspections for the 14 establishments with licenses were conducted by the Health Department and PHD Rask reported that (3) of them were selling vaping devices and material.

7. **BOARD CALENDAR & MINUTES**

The Board reviewed its calendar – the next regularly scheduled meeting is slated for July 16, 2019.

Minutes for the March 18, 2019 meeting were reviewed and discussed; a vote was delayed until the next meeting because two of the members present for that meeting were not in attendance.

The draft of the May 6th meeting were submitted to the Board for review. Discussion at the next meeting.

The meeting adjourned at approximately 9:00 p.m.

Board of Health
Signature Page
Tuesday, June 18, 2019

Respectfully submitted by,

Karen M. O’Keefe-Byrne, Administrative Assistant
Concord Board of Health

Raymond Considine, Acting Chair

Jill Block

Alma Healey, RN