



TOWN OF TEWKSBURY BOARD OF HEALTH

Raymond Barry, Chairman
Charles Roux, Vice Chair
Christine Kinnon, Clerk
Kathleen M. Brothers
Phillip L. French

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEETING MINUTES February 18, 2016

The meeting was called to order by Raymond Barry, Chairman, at 6:03 p.m. at the Tewksbury Town Hall. Also present at the meeting were Charles Roux, Vice-Chairman, Kathleen Brothers, Clerk and Phillip French.

Approval of Minutes of August 20, 2015

Mr. Barry requested of the members, whether they had any comments regarding the minutes before them. Ms. Brothers and Mr. Roux suggested minor changes and noted a few grammatical errors. Ms. Sawyer made note of the changes for the final version. Mr. Roux noted that the format of the minutes was very good. Chairman Barry reminded all that there is a new recording secretary, Melissa Johnson. All members liked the new format.

Discussion took place on the past delay in receiving the meeting minutes. Mr. Barry indicated that Ms. Sawyer has been in communication with Ms. Johnson and offered to complete some of the minutes until the new secretary has a chance to catch up on the back log given to her. Ms. Sawyer stated that the members should expect both January and February minutes in March and notes that she understands that having the previous meeting minutes for each meeting in a timely manner is a priority.

Mr. Barry noted that he forgot to state that Chris Kinnon is not present at the meeting this evening.

MOTION: Ms. Brothers made the motion to approve the meeting minutes August 20, 2015, which include all of the edits previously mentioned. Motion was seconded by Mr. French. All signified in favor and the motion unanimously carried 4-0.

Public Hearings

Continued Public Hearing Postponed – request to continue until the April meeting. to obtain a variance of the Tewksbury Board of Health Regulations Chapter 7 Dumpsters section 7.7 Enclosure subsection 7.7.1 Dumpster shall be enclosed on all four sides with a 6' fence and servicing door.

Mr. Barry noted that the applicant has submitted a request to continue this public hearing, at least until next month. There has been new evidence brought to light since the last meeting, which may require a change in their request. Specifically, upon research by Ms. Sawyer it was identified that a fairly new Fire Department regulation states that all dumpsters have to be located at least 10 feet from any building opening; such as the loading bay doors in this case. Concern that noted that this was coming to light at this late date and the Board should have known this sooner. Ms. Sawyer noted that the process usually includes the sign off of the Fire Department before approval, but since the applicant submitted the variance before the application was sent around to different departments, this fact was not found out until now. Normally, there is a process to identify these conflicts within the town departments. Once the applicant was informed of the regulation, they requested this continuance to evaluate their options.

Mr. French noted that at the past meeting Ms. Chang, the representative for Market Basket, indicated that this dumpster is used as a location to bring debris from other DeMoulas locations for disposal. However, this sheds concern as to what they are actually bringing for disposal. The items could be things like old refrigerator parts or packaging.

Ms. Brothers noted that the photos submitted by the health agent shows a number of cardboard boxes in the open dumpster and wondered what the need was as, there are other compactors on the site. Ms. Sawyer noted that this building does not have a compactor, but the others do. Also, that Shannon Sullivan had gone by on two occasions and at no time did any Market Basket/DeMoulas employees question them for being behind the building. This is also of concern, as the dumpster could be used for illegal dumping because of its access.

Mr. French noted that old boxes and old parts from other locations are likely brought to Tewksbury location for easy disposal, as it is easier to do repairs and then just put items back on the truck and then dump them here.

Mr. Barry wrapped it up noting that the hearing will be continued next month regarding the permit piece. This issue will be continued until the applicant brings back information requested by the board and also show how they will comply with the Fire Department's requirement.

Mr. Roux questioned whether the 3 requests could be split into two requests. After discussion, Mr. Barry felt it was cleaner if we could approve the request as a whole, but this is also depending on whether they applicant alters their request. We will need to wait and see what the applicant decides to do.

Public Hearing

Niji Sushi HACCP plan – Sushi variance request – 1900 Main Street, Tewksbury, MA

MOTION: Kathleen Brothers made a motion to open the public hearing for a request for sushi for 1900 Main street Tewksbury. Phil French Seconds the motion. All were in favor to open to public hearing. Motion carries 4-0. Mr. Barry declares the hearing open.

Mr. Barry read the public notice aloud for the scheduled public hearing. Request by Wei Qiang Chen, for Wei Ye Sushi located at 1900 Main Street, Tewksbury, MA, for a variance of 105

CMR 590.000 Minimum Sanitation Standards Food Establishment State Sanitary Code Article X and the Federal Food Code section 3-502.11.

Present for Niji Sushi is Brenda Wong and Wei Chen requesting approval for the variance.

Ms. Sawyer notes that she has reviewed the application for compliance to the state rules and regulations. She has identified that all aspects required by the state have been addressed including, but not limited to; the information on the acidified rice recipe of the sushi rice, recording data sheets, pH meter specifications, etc.

Ms. Sawyer has no objection regarding the approval of the variance request by the applicant Wei Chen at Niji Sushi.

Mr. French and Ms. Brothers questioned the applicant. Ms. Wong indicates that Niji is the sole provider of sushi at all the Market Basket locations. There is discussion as to why separate applications are needed at each site. Ms. Sawyer indicates that there is currently no state wide mechanism to have a blanket approval, therefore they have to apply separate each time. Some towns have public hearings and some do not. Ms. Wong notes that this is her first hearing she has attended.

MOTION: Ms. Brothers makes a motion to approve the variance request by Wei Chen at the sushi bar located at 1900 Main St. Tewksbury, MA inside of Market Basket. Mr. French seconds the motion. All are in favor. Motion carries in favor 4 – 0

Mr. Roux makes a motion to close the public hearing. Mr. French seconds the motion. All are in favor. Motion carries in favor 4 – 0. Mr. Barry declares the hearing closed.

New Business

Mr. Barry started a discussion on how to better deal with the sushi variances without the extra time and cost to the applicant. Ms. Brothers agrees that they should not have to come before the board unless there was a problem with the sushi bar.

Discussion expanded to other ideas to increase compliance by food establishments. The goal is to encourage compliance and support the inspectors. Ideas can be vetted at a future date with the board members.

To clarify the previous issues, Mr. Barry promoted that the board appoint the Health Director to make decisions on the variance applications as an agent of the board. Ms. Brothers agrees but reiterates that if inspections find immediate issues with the sushi locations, the process can be suspended, violations will be noted in need of corrective actions or they can be brought before the board.

Also, Ms. Sawyer noted all special process in the food code need HACCP's such as vacuum packaging. She is proposing inclusion of all special processes in the decision.

MOTION: Mr. Roux made a motion that the Board of Health will no longer request a public hearing for all special processes within the food code that require a HACCP plan, with the caveat that the Board will be apprised of all variances granted. Mr. French seconded the motion. All were in favor. Motion carries 4-0.

Discussion

Chairman Barry brought up issues that have recently been discussed with the Ms. Sawyer such as inspections, department processes, fees, regulation clarification etc. Ms. Sawyer expanded on the discussion. Mr. French expressed his outlook on fees in local communities. There are fees for everything. He thinks the towns have overstepped and charge too many fees rather their taxes should cover town services and permits.

Mr. Barry explained that possibly the Health Department in the future could be looking at improvements in the system. However, identifies that there is a gap in the process. He states that we assume that the consumer is educated and that he would like to see a cheat sheet or check list that would outline the process to help applicants get through the application processes for various permits. It is noted that the hope is the new system for permitting with the building department will assist in the flow of projects and applications. Susan noted that there are some systems in place, but agrees there are gaps.

Conversation occurred regarding various regulations that need review. With the dumpster regulation, compactors should be exempted from the fencing requirement and this can be changed at a regular board of Health meeting.

The Chairman would like to make it more user friendly for the applicant. We should look at the regulations we have not done to date, and determine changes needed or if they require full rewrite. Also looking at what we can change to assist the applicant and make it easier for the staff. Mr. French recounted a story that relates to dumpsters in past days and how the fees were found unfair and were changed.

The BOH members expressed to the director their interest in being kept in the loop on important issues so that they are educated on local issues. Ms. Sawyer will continue to work with the chairman and will inform members as necessary. In short, they don't want to hear about a problem when reading "the Patch".

Mr. Barry notes that after the tobacco regulation changes, he would like to look at the dumpster regulations to clarify the intent of the regulation and make changes that have been identified as in need of updating rather than having applicants come for variances every time. He believes there has been a sufficient amount of time using the regulation and would like the "use" question be added to the application form. He would also like to get better information including photos before the fact, which will help the decision making of the.

Ms. Sawyer agrees that this is the best thing for the applicant. The board members and director agree that fresh eyes looking at the regulations will be a good thing. The board requests that all relevant records be brought to the hearings; such as the history of tobacco violations at a specific establishment.

The chairman explains that Susan is looking for ways to increase the compliance rate of permit holders. There are many possibilities; change in inspection frequency, self-inspection, etc.

Members note that we may be taking on too much at one time. Mr. French expressed details on his past experience with the Board as he ends his time with the board. Over the past few years the staff was under great pressure and was short staffed and Lou-Ann did a wonderful job keeping up with all the things that are required of the Board of Health. Mr. Roux recounted a situation with the bowling alley. This led to discussion about how applications flow through the town departments and ways to improve the process. Ms. Brothers would like better communication between the Board of Health and the Health Department so that there are fewer surprises when issues come up.

The Chairman and Director note that we are just brainstorming on ideas on how to encourage compliance from within. Mr. Roux notes maybe give gold stars and promote good inspections. Be more positive rather than strict enforcement. No one wants to give the Health Office staff more work. We have good people on staff and we want to maximize without over burdening the office. All are agreed on this issue.

Ms. Sawyer brought up various office topics and gave the board updates on their status. Issues such as the vaccination program, opiate and addiction, Tewksbury Cares, shelter supply damage from burst pipes, etc.

Tobacco regulation update.

The public hearing will be advertised at least two weeks prior to the public hearing and notices will be sent to all permit holders. Chairman Barry will review the original documents to ensure that all changes discussed prior are included in the final version. He wants it clear what was pulled out, as much as what was added.

Chairman Barry wants to be sure that the education piece be addressed to explain why these changes are being done whether it is to the citizen, the consumer or the retailers. Ms. Brothers described a situation in a local establishment regarding a patron using an e-cigarette in a public place. She stated that she has heard that the high school students are using e-cigarettes and think they are safer. There is question whether the retailers and the public are educated on the changes.

1699 Shawsheen Street update The members provided an update and discussion on the grease interceptor approved by variance by the BOH. The attorney for Origin Tai has submitted documentation required by the terms of the variance. Mr. Roux doesn't want to restrict any businesses, but as in the memo, he doesn't understand how it meets the Lowell requirements. He describes what was in his letter to Kevin Hardiman, Town engineer. Mr. Roux wants to have others who are experts in the field decide if this is a good substitution for the outside; external grease trap. Ms. Sawyer should reach out to the Tewksbury representatives on the board at the treatment facility.

Mr. Roux describes that this was a one year variance, solely for this restaurant. Mr. Roux noted that as he understands the law, if something is a self-imposed hardship, it is not a hardship under

law. He wonders whether a bond be required would help. This should be a cross departmental issue. Health needs input from other departments such as plumbing and engineering. Mr. Roux is looking for all departments' input. Health should not be the only department weighing in. He states again that we need support from other departments and from Lowell Waste Water is in agreement.

Ms. Brothers asked questions about that section of the town regarding sewers and about the history of this establishment. Discussion ensued. Mr. Barry agrees that engineering advice is needed. Discussion continued. The members discuss that this variance and all subsequent variances are independent. Where technology might work for one establishment, such as a Tai restaurant, they feel it may not work for another, such as an Italian restaurant.

All members seem to agree that this needs to be interdepartmental. Ms. Sawyer acknowledges this fact and notes that she will continue to follow up with engineering and beyond as needed. Ms. Sawyer will discuss this with the treatment plant and town departments so that we can respond to the applicant and their legal counsel. For future applications this office needs to have a "sign off" sheet so that all departments actually sign the same document which will verify and qualify that this technology will work. Health should be the collector of signatures and sign offs from the professionals, rather than the actual approval of the technology and all these things should be on the same document. Further discussion continued on the process going forward. No motion needed at this time.

Other Business

Discussion took place on the Board membership and the two vacancies. One candidate was present at the meeting this evening. He introduced himself to the Board Members. It was noted that his interest was appreciated and all members wished him well.

Adjourn

MOTION: Ms. Brothers made the motion to adjourn at 8:24 p.m.; seconded by Mr. French and the motion unanimously carried 4-0.

Approved: March 17, 2016