



# 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 October 15, 2015

The meeting was called to order by Raymond Barry, Chairman, at 6:07 p.m. at the Tewksbury Senior Center. Present at the meeting were Charles Roux, Vice-Chairman, Christine Kinnon, Clerk, Phillip French, Lou-Ann Clement, Board of Health Director, and Shannon Sullivan, Town Sanitarian.

Kathleen Brothers was not in attendance.

Mr. Barry suggested taking the agenda out of order to address the new public hearing for Wamesit Lanes first as the continued hearing could be rather lengthy.

**MOTION:** Ms. Kinnon made the motion to take the agenda out of order to address the new public hearing for Wamesit Lanes first; seconded by Mr. Roux and the motion unanimously carried 4-0.

Mr. Barry reviewed the procedures for the public hearings.

### **Public Hearings**

**Public hearing to obtain a variance of the State Sanitary Code Article X, 105 CMR 390.004 (b) Minimum Sanitation Standards for Food Establishments and Federal Food Code Section 3-501.19 using "Time as a Public Health Control".**

**Location: Wamesit Lanes, 434 Main Street, Tewksbury**

**Applicant: Donald Maclaren, 434 Main Street, Tewksbury**

**MOTION:** Ms. Kinnon made the motion to open the public hearing for Wamesit Lanes, 434 Main Street to obtain a variance of the State Sanitary Code Article X, 105 CMR 390.004 (b) Minimum Sanitation Standards for Food Establishments and Federal Food Code Section 3-501.19 using "Time as a Public Health Control"; seconded by Mr. French and the motion unanimously carried 4-0.

It was noted that the applicant is not yet present.

**MOTION:** Ms. Kinnon made the motion to continue the public hearing for Wamesit Lanes, 434 Main Street to obtain a variance of the State Sanitary Code Article X, 105 CMR 390.004 (b) Minimum Sanitation Standards for Food Establishments and Federal Food Code Section 3-501.19 using “Time as a Public Health Control”; seconded by Mr. French and the motion unanimously carried 4-0.

### **Continued Public Hearing**

**Public Hearing continued to obtain a permit and variance under Sections 6.16 and 8.4 for the Tewksbury Board of Health Regulations for Keeping Animals.**

**Location: 80 Lancaster Drive, Tewksbury, MA**

**Applicant: Ms. Jennifer S. MacCaughey, 80 Lancaster Drive, Tewksbury, MA**

**MOTION:** Ms. Kinnon made the motion to open the public hearing for Jennifer S. MacCaughey, 80 Lancaster Drive to obtain a permit and variance under Sections 6.16 and 8.4 for the Tewksbury Board of Health Regulations for Keeping Animals; seconded by Mr. French and the motion unanimously carried 4-0.

Mr. Barry read the legal notice aloud.

Present was Jennifer MacCaughey, 80 Lancaster Drive. Ms. MacCaughey explained that they are seeking permission for the approval to house the 11 laying chickens that they have now had on their property for over one year. Ms. MacCaughey explained that they would also like to expand on the flock as the chickens stop laying as they get older. The chickens will produce enough eggs for their families own personal use as well as to sell to other family members and friends to pay for the cost of the organic feed used. Ms. MacCaughey noted that they are not seeking to make a profit. In addition, the applicant noted that she would also like to occasionally raise a couple of “flocks of birds”; approximately six at a time, but not more than six. Ms. MacCaughey also noted that the town of Tewksbury provides for one acre for five small livestock and a determined amount of fowl; they are not seeking anything beyond what is allowed in the regulations.

Ms. MacCaughey noted that they would also like to keep indoor rabbits and explained that it is her understanding that the town of Tewksbury requires permission to house rabbits. The rabbits will be Angora rabbits to spin fiber into yarn.

Ms. MacCaughey noted that they would also like to have two milking goats in the backyard. A small breed with a low milk yield. Ms. MacCaughey explained that two goats are being requested as they are social animals and it is considered unkind to the animal to keep just one. Ms. MacCaughey explained that the proposal requests five goats as the goat needs to be bred every spring to yield milk and the intent is to keep no more than two adult goats on the property at one time.

Ms. MacCaughey explained that they there was an existing shed on the property when they purchased the home that they have converted into a chicken coop; half of the shed is used for storage and the other half as the chicken coop. An additional small structure would be required to house the two goats at the rear of the property. It was noted that the applicant is not seeking to remove any trees and the goats would be virtually unnoticeable.

Mr. Barry explained that at the previous hearing the abutters were given the opportunity to submit letters if they were unable to attend tonight's meeting. Four letters were received: Christin Naughton 90 Meredith Way in opposition, James Anderson (and his wife) of 31 Meredith Road in opposition, Heather Duval, 90 Lancaster Drive in opposition, and Carolyn and Jim Holmes of 140 Lancaster Drive in opposition. The letters are available to be viewed at the Board of Health department.

Shannon Sullivan, Town Sanitarian, explained that a compliant was received on February 4, 2015 for chickens on the property located at 80 Lancaster Drive. As a result, she and Ms. Clement made a site visit and observed 11 chickens on the property. Since that time an Order letter was sent on February 24, 2015 informing the applicant that a permit is required to keep chickens. A final notice was sent in May, 2015 and a warning ticket again on July 2, 2015. Ms. Sullivan noted that the matter did go to Court and that she has been out to the property since September, 2015 and the chickens are still there as well as a composting pile nearby the coop.

Mr. Barry noted that when a site visit was made by Ms. Sullivan and Ms. Clement in September, 2015, it was noted that the chicken coop and manure pile do not meet the 200 foot setback requirement.

Ms. Clement noted that the animal inspector, Pamela Thomas, also went out to the site. Ms. Thomas only inspects the condition and health of the animals. Ms. Clement read Ms. Thomas comments aloud: "Jennifer has requested a permit for chickens located at 80 Lancaster Drive. She has had the chickens for approximately 1 year and a half. The coop they are living in is an existing shed that she modified into a coop. At the time of the inspection, there were 11 chickens all laying. All birds are healthy and in good shape. There was a very clean coop at the time of inspection. The pen area was very dug up where the birds had been scratching for bugs. The outside pen area is amplified, but could benefit from making it a bit larger. The coop can accommodate the number of chickens on the site. For manure management the droppings are composted into a compost pile and then turned into soil for gardening". Ms. Clement noted that this is shown as Exhibit 9 in the member's packets.

Ms. Clement noted that Exhibit 6 in the member's packets is a Notice of Violation from the Building Commissioner of the Zoning Bylaw and Massachusetts State Building Code for the construction of the shed without a building permit.

Ms. Clement distributed another notice from the Building Commissioner dated October 13, 2015 and read the notice aloud. In summary, the Building Commissioner states that he has reviewed the Board of Health application to keep animals and it is his opinion that the applicant qualifies as a nonexempt cultural use under the Tewksbury Zoning Bylaw. A nonexempt cultural use is

not allowed in a residential zone. The Building Commissioner also again reminded the applicant that no permit was obtained for the shed.

Ms. MacCaughey noted that the shed was existing when they purchased the home and that they have made attempts to reach the Building Commissioner but have been unable to speak to him.

Mr. Barry explained that there are two pieces to this request. The first is for a permit to house the existing chickens and a variance from the 200 foot setback for the manure pile and chicken coop. The second portion is to increase the amount of animals the permit is being sought for. Mr. Barry noted that the Board of Health's concern is the health and safety impact of the residents and explained that the concern with the second part of the proposal is it could create a public health hazard as a result of trying to create a farm on an one acre parcel of property as well as the negative health impacts of having additional animal in terms of bringing in additional rodents, scavenger prey, odors generated, larger manure pile, attracting insects, etc. Mr. Barry does not feel the property is large enough for this amount of animals.

Mr. Roux noted that there is a difference between a pet and a farm animal and that he feels the zoning issues are important and a farm would not be conducive to this neighborhood and does not belong there.

Ms. Kinnon asked if Ms. MacCaughey has done this anywhere else and Ms. MacCaughey explained that she has not; however, she has been in training for quite some time and they have had the chickens for a year and a half. Ms. MacCaughey noted that they would not be opposed to relocating the compost pile to well within the 200 foot range.

Mr. Barry opened the public hearing to those in favor and no one came forward.

Mr. Barry opened the public hearing to those opposed.

Thomas Kelly of 220 Lancaster Drive came forward. Mr. Kelly explained that they moved from Connecticut to Lancaster Drive approximately 20 years ago and it has been an enjoyable and peaceful time. When they first moved to town, there was a pig farm nearby in Andover that put off an odor every day of the year. Mr. Kelly feels this is a health hazard and noted that he also lived near a farm in Connecticut and there were large rats.

Richard and Kerry Gamby of 98 Lancaster Drive came forward and noted that their property directly abuts this property. Mr. Gamby noted that they purchased their home in 2003 and moved from the city and that he agrees with the prior speaker that this is a peaceful neighborhood. Mr. Gamby explained that they never received notification that they would be raising chickens on this property prior to the chickens being brought in. As a result, they were never given the opportunity to provide their concerns or input. It was a surprise to him to see the chickens appear there one day. Mr. Gamby noted that the chickens have been there for over a year and they are still waiting for something from the Board or applicant. Mr. Gamby noted that he has seen an increase of predatory animals such as raccoons, fisher cats, etc. and explained that one of their dogs was attacked at night, and it cost them approximately \$5,000 in medical bills to get the dog back to health. Mr. Gamby has also noticed an increase of field mice and noted that he is opposed to the 200 foot variance and concerned with the health risks of the manure pile being so close to his home.

60 Lancaster Drive came forward and noted that she has lived in the neighborhood for 21 years and asked if this gets approved what are the regulations, if the Board does site inspections, and if there are mitigation strategies. Ms. Clement explained that annual inspections occur by the health department and the animal inspector; however, they do rely on residents to inform them of any issues that may occur during the year when an inspection is not occurring. Ms. Has smelled an odor from this property.

Ms. Clement explained that the applicant has also provided a manure plan in the application which is a two bay compost system. The applicant has also stated that she will be willing to relocate the compost pile and that the compost is used for gardening. A fly plan that includes Mosquito Squad; which does not include treatment for flies, has been submitted. As a result, this would have to be addressed by the applicant. The applicant will not be using any chemicals and will be going the organic route.

Anderson of 31 Meredith Road came forward and noted that her husband wrote one of the letters received by the Board. Ms. Anderson explained that they moved here 11 years ago knowing that they moved into a nice neighborhood with children, ice cream trucks, etc. and she is concerned this will change if there are farm animals on this property. Ms. Anderson is concerned with the predatory animals and the odors when she opens her windows as well as rodents wandering the property and her property value. Ms. Anderson does not feel this belongs in this neighborhood.

Mr. Barry explained that the first proposal that will be entertained is the request for the increase in the number of animals and noted that he does not feel the land is large enough to support the amount of animals being requested.

Mr. French noted that the Board did not act on this sooner as they were not aware.

Ms. MacCaughey explained that she was advised to increase the number of animals to as high as she could and the plan is for two goats only. The intent is not to have five. Ms. MacCaughey explained that they get close to 11 eggs a day and there are 7 people in the household eating the eggs daily. They are planning to sell six dozen eggs a month. Ms. MacCaughey noted that she is happy to revise the proposal as needed to address the Board's and residents' concerns.

Ms. Clement explained that the recent information provided by the Building Commissioner needs to be taken into consideration and even for 11 chickens she is not sure if that is allowed. Ms. Clement explained that she too would have advised to go high on the number of animals, but this proposal is beyond what she would have ever thought. Ms. Clement feels that there is a public health threat with the additional animals as the lot is only 1 acre.

**MOTION: Ms. Kinnon made the motion to close public hearing for Jennifer S. MacCaughey, 80 Lancaster Drive to obtain a permit and variance under Sections 6.16 and 8.4 for the Tewksbury Board of Health Regulations for Keeping Animals; seconded by Mr. Roux and the motion unanimously carried 4-0.**

**MOTION:** Ms. Kinnon made the motion to deny the request for additional animals, as additional animals would propose a potential public health threat, the Board is specifically concerned that a small farm would attract predatory animals, create odors, and result in a larger manure pile that would attract additional flies and insects; seconded by Mr. French and the motion unanimously carried 4-0.

**MOTION:** Mr. Roux made the motion to continue public hearing for Jennifer S. MacCaughey, 80 Lancaster Drive to obtain a permit and variance under Sections 6.16 and 8.4 for the Tewksbury Board of Health Regulations for Keeping Animals to November 19, 2015; seconded by Ms. Kinnon and the motion unanimously carried 4-0.

### **Public Hearing**

**Public hearing to obtain a variance of the State Sanitary Code Article X, 105 CMR 390.004 (b) Minimum Sanitation Standards for Food Establishments and Federal Food Code Section 3-501.19 using “Time as a Public Health Control”.**

**Location: Wamesit Lanes, 434 Main Street, Tewksbury**

**Applicant: Donald Maclaren, 434 Main Street, Tewksbury**

Present was Donald Maclaren of 285 Beech Street, Tewksbury

**MOTION:** Mr. French made the motion to approve a variance from State Sanitary Code Article X, 105 CMR 390.004 (b) Minimum Sanitation Standards for Food Establishments and Federal Food Code Section 3-501.19 using “Time as a Public Health Control”, Wamesit Lanes, 434 Main Street, Tewksbury, MA; seconded by Mr. and the motion carried 3-1.

### **New Business**

**7:00 PM Proposed amendments Chapter 11 Tobacco Control – Restricting the Sale of Tobacco Products & Nicotine Delivery Products and Chapter 12 Tobacco Control – Prohibiting Smoking in Workplaces and Public Places**

Present was Ron Beauregard, 20 Main Street, Andover, Larry Dulong, 23 Governor Hawthorne Road, and David Mattuchio, 1414 Andover Street, Tewksbury.

Discussion took place on the proposed amendments to Chapter 11, sale of vapor products, and the necessity to include vapor products in the regulations.

Ms. Clement explained that Board time to digest the proposed changes and discuss and vote on them at a later date.

## **Old Business**

### **Proposed Amendments Chapter 1**

### **Proposed Amendments Chapter 2**

### **Proposed Amendments Chapter 3**

Ms. Clement provided the members with a copy of the most recent proposed changes and noted that she did not want to move further with any changes until these have been approved. Included in these changes are Step 1 – plot plans “if it is deemed a requirement by the health director”, Step 5 – certified mailings to an abutter, added section 2.5.2 as this is step one for the operational variance, number 8 – see section 2.5.1 steps 2-7 to complete the application process. Other changes are shown in highlights.

**MOTION: Ms. Kinnon made the motion to adopt the amendments to Chapter 1, Chapter 2, and Chapter 3, Administrative Regulations; seconded by Mr. Roux and the motion unanimously carried 4-0.**

Ms. Clement asked when the Board would like to make the changes effective and it was the consensus two weeks after advertisement.

**MOTION: Mr. Roux made the motion to have the amended regulations to Chapter 1, Chapter 2, and Chapter 3 go into effect two weeks after advertisement; seconded by Ms. Kinnon and the motion unanimously carried 4-0.**

### **Other Business:**

- **Adoption of the policy “Tewksbury Farmer’s Market Guidance and Requirements”**

This item was tabled to the next meeting.

- **2016 Meeting Calendar**

The Board of Health will meet monthly on the third Thursday.

**MOTION: Mr. Roux made the motion to approve the proposed 2016 Board of Health meeting calendar; seconded by Ms. Kinnon and the motion unanimously carried 4-0.**

### **Board Member Reports:**

### **Announcements:**

Mr. Barry noted that the American Heart Association released the new 2015 guidelines; which will be in place for the next five years. One of the most telling points of the widespread opioid crisis is the distribution of Narcan is now a part of the basic CPR Training Course.

Ms. Clement noted that the Tewksbury Water Plant has once again received its accreditation award for their quality in 2014 and congratulated them for maintaining this.

Ms. Clement noted that on Tuesday, October 20, 2015, there will be a movie about the drug Molly at Middlesex Community College.

### **Adjourn**

**MOTION: Mr. Roux made the motion to adjourn at 9:06 p.m.; seconded by Ms. Kinnon and the motion unanimously carried 4-0.**

**Approved: June 16, 2016**