

TEWKSBURY BOARD OF HEALTH

Minutes

November 20, 2014

Call of Meeting to Order

Ms. Brothers called the meeting to order at 6:02 PM. The meeting was held at the Tewksbury Senior Center. Present at the meeting were, Chairperson Kathleen Brothers, Vice Chairman Raymond Barry, Phillip French, Charles Roux, Christine Kinnon and Health Director Lou-Ann Clement.

Public Hearings

Variance of Tewksbury Board of Health Regulations for Toilet Facilities Section 6.0 Subsection 6.1 and 6.2, Located at JT Cakes, 2144 Main Street, Tewksbury, MA – Applicant: Jeanne Topham, Owner

MOTION - Mr. Barry made a motion to open the public hearing. The motion was seconded by Mr. French and unanimously approved by a vote of 5-0.

Ms. Brothers read the public hearing notice.

Jeanne Topham appeared for the variance request at 2144 Main Street. Ms. Topham stated that she has been making wedding cakes for a while now for hotels in Boston and now she is looking to expand to the retail component. She is requesting a variance because there is only one small bathroom and according to the regulations she would need two handicap bathrooms. She is requesting that the Board allow for only one unisex handicap bathroom.

Ms. Clement stated that she is requesting that this bathroom not be for public use because it can only be accessed through the kitchen.

Ms. Topham stated that she does upscale birthday cakes and cupcakes, wedding cakes, cheesecake pops, etc. She typically requires a three-day notice.

Ms. Kinnon asked how many employees are expected. Ms. Topham stated that during the busy wedding season she would have a total of four employees.

Ms. Brothers asked if she could walk in and order something. Ms. Topham stated that she hopes to have that option in the future. She hopes to have a small display case so people can come in and take out product.

MOTION - Ms. Kinnon made a motion to approve the requested variance for 2144 Main Street with the condition that the one unisex handicap bathroom is not to be used for public use. The motion was seconded by Mr. French and unanimously approved by a vote of 5-0.

MOTION - Mr. Barry made a motion to close the public hearing. The motion was seconded by Ms. Kinnon and unanimously approved by a vote of 5-0.

Ms. Topham left the meeting.

Variance of 105 CMR 590.00 Minimum Sanitation Standards for Food Establishments, State Sanitary Code Article X and the Federal Food Code, Section 3-502.11, Located at Brave Troops Buffet, 1777 Main Street, Tewksbury – Applicant: Mingguang Zheng, Owner

MOTION - Mr. Barry made a motion to open the public hearing. The motion was seconded by Mr. French and unanimously approved by a vote of 5-0.

TEWKSBURY BOARD OF HEALTH

Minutes

November 20, 2014

Ms. Brothers read the public hearing notice.

Mingguang Zheng appeared for the variance request for 1777 Main Street. Mr. Zheng stated that he wants to have sushi. Ms. Clement stated that she missed the sushi request on the original application for Brave Troops. They have been operating for a week. An inspection was done and they are following the proper procedures.

Ms. Kinnon asked if vinegar is being used. Mr. Zheng replied yes, they use vinegar and sugar.

Ms. Kinnon asked what are the hours of operation. Mr. Zheng replied 11:00 AM to 10:00 PM.

Ms. Brothers asked if liquor is being served. Mr. Zheng replied not yet, but they are going to apply.

MOTION - Mr. French made a motion to grant the variance for 1777 Main Street as requested. The motion was seconded by Mr. Roux and unanimously approved by a vote of 5-0.

MOTION - Ms. Kinnon made a motion to close the public hearing. The motion was seconded by Mr. Barry and unanimously approved by a vote of 5-0.

Mr. Zheng left the meeting.

Old Business

The Tewksbury Board of Health Regulations, Chapter 7 Dumpster Regulations

Ms. Clement stated that the dumpster regulations were amended last August. The Town Manager asked that she send them out to the department heads for review. They received two comments. On page 4, the Building Commissioner asked that no parking spaces be used when determining the location of the dumpster and the Town Engineer has asked that the location not affect storm water management runoff per Chapter 20. Also, Town Counsel requested that the statement be added that the placement of the dumpster shall comply with all Federal, State, and local regulations, rules and bylaws.

Mr. Barry asked who enforces Section 7609, Storm Water Management. Ms. Clement stated that the plans would be approved by Conservation, Fire and DPW and the plan is supposed to show the storm drains.

Mr. Roux asked why not just add the last statement because it seems it's just duplicate information. Mr. Roux stated that existing dumpsters should also be looked at.

Mr. French asked how important are these changes. Ms. Clement stated that it's implied that parking spaces cannot be used.

Mr. Roux stated that the last statement should be added to cover all rules and regulations must be met. Ms. Clement stated that she will speak with the Building Commissioner first and when they review the plans, she will keep this in mind.

TEWKSBURY BOARD OF HEALTH

Minutes

November 20, 2014

New Business

Non Compliance of Chapter 11, Tewksbury Board of Health Regulations for Tobacco Control Restricting the Sale of Tobacco Products and Nicotine Delivery Products

Ms. Clement stated that there were four violation notices sent out. The first was Petroil. The violation was done during the FDA compliance check. We have no jurisdiction and they did not attend the mandatory training. After this violation, Mr. Beauregard did in-store training.

The second violation was at Shell. This occurred during the October compliance check. This is their first violation under the new regulations. A \$100 ticket was issued. They also did not attend the mandatory training. The owners have taken responsibility for the violation and are working with Mr. Beauregard on setting up training.

The third violation was at Save on Smokes. This is their first violation and they have taken responsibility for the violation. They also attended the mandatory training. Mr. Beauregard is comfortable with the owners. Ms. Clement added that they have received complaints about the moose and Mr. Beauregard is working with the owners to take the “kid” friendly items off the moose such as the hula-hoop. Mr. Roux asked why the moose is there. Mr. Barry asked if they have paid their fine. Ms. Clement replied that they have 21 days to pay but she will check.

Mr. Barry stated that during the drug awareness week, it was brought up that there is a Dr. Pepper can that you can screw off the top and it has a plastic insert, and that you could get these at the smoke shops in town. These products can be used for multiple purposes. Ms. Clement stated that she would speak with Officer Welch.

Ms. Clement stated that the fourth violation was at Aubut’s Liquors. This is their second offense. The employee was different than the first violation. The fine was \$200 and it also calls out for a 7-day suspension and a public hearing. This hearing can be scheduled for the next meeting in January. The last establishment with a second violation was given a \$200 fine and had an ID all program. Mr. Roux stated that Mr. Aubut called him right away and was very upset.

Mr. Barry stated that we want the owner to come. Mr. French stated that it could be a lawyer that represents them. Mr. Roux stated that Joe Aubut and his sister run the store.

MOTION - Mr. French made a motion to send a letter to Aubut’s Liquors scheduling a hearing for January 15, 2015. The motion was seconded by Ms. Kinnon and unanimously approved by a vote of 5-0.

Ms. Clement stated that at the last meeting the Board wanted her to send out notices to all the tobacco retail establishments. She spoke with Mr. Beauregard and he put together a notice and she would like approval to send it out. This includes information on e-cigarettes.

Mr. Barry stated that part of the problem was the use of the e-cigarettes in food establishments because people think they don’t count as smoking. Ms. Clement stated that she would update the flyer to include restaurant establishments. Ms. Kinnon stated that we need to make sure we include vapor pens.

Ms. Clement stated that Tewksbury Patch did a survey asking if Tewksbury should completely ban tobacco products. She is trying to get the results.

TEWKSBURY BOARD OF HEALTH

Minutes

November 20, 2014

Goals and Objectives

Ms. Clement stated that budget season is coming up and she would like the Board input. She would like to increase the nurse's hours from 17 to 25 hours per week. She would also like to set up a revolving account at the May Town Meeting. This will capture any medical reimbursable.

Ms. Brothers stated that she doesn't know if the flu clinics are still necessary

Ms. Clement stated that she would like to add goals and objectives as part of the budget process.

Mr. Roux stated that he hates the term "free cash". Ms. Brothers stated that we have asked for the last three years to restore our salaries and nothing has been done.

Ms. Clement stated that she would like a list of items to bring up. Mr. Roux stated that our salaries should be brought up to be comparable to the other elected Boards. Mr. French agreed, we gave back 10% because the Town was in financial need but no other Board did. Mr. Roux stated that the previous Town Manager did a survey of what other Town Boards get and this information should be provided. Mr. Roux stated that it is demeaning that the Town Manager thinks so little of this Board. Tewksbury CARES requires members from this Board and maybe we can look into getting funding. Ms. Brothers requested a meeting with the Town Manager.

Mr. Barry stated that he would like to see the Board of Health meetings televised again.

Board Members Reports

Ms. Kinnon stated that Tewksbury CARES is meeting monthly and is working on goals. Mr. Barry stated that we are also trying to increase the membership. Ms. Brothers asked if there is a charge for membership. Mr. Barry replied no. Ms. Clement stated that people can donate through Amazon to non-profits and Tewksbury CARES is one of the options. We need to get that information out. Ms. Kinnon stated that they are also working on getting a student survey out.

Ms. Brothers passed on information on Ebola and Influenza that she got from a meeting she attended.

Other Business

Ms. Clement stated that she just submitted the quarterly reports and she is a little late with them. She will be working on the annual report. Ms. Clement stated that Brian LaGrasse left in September and she has been out in the field a lot. Ms. Clement added that the nurse's numbers are more accurate because she is now a member of MAVEN.

Ms. Kinnon stated that she is glad to see the farm odor complaints have gone down.

Ms. Clement stated that they have received resumes for the Sanitarian position and they have gotten down to two finalists that will be interviewed tomorrow by the Town Manager.

Announcements

Ms. Clement stated that the nurse has expanded the Walking Club. They meet on Friday at 8:30 AM.

MOTION - Ms. Kinnon made a motion to close the meeting and adjourn at 7:30 PM. The motion was seconded by Mr. French and unanimously approved by a vote of 5-0.

TEWKSBURY BOARD OF HEALTH

Minutes

November 20, 2014

Approved On: July 16, 2015

List of Documents for 11/20/14 Agenda

Documents are located in the Board of Health's Office

Public Hearings:

Exhibit #1- Variance of Tewksbury Board of Health Regulations for Toilet Facilities Section 6.0 Subsection 6.1 and 6.2 Located at JT Cakes 2144 Main Street Tewksbury Applicant: Jeanne Topham, Owner

Exhibit #2 - Variance of 105 CMR 590.000 Minimum Sanitation Standards for Food Establishments State Sanitary Code Article X and the Federal Food Code section 3-502.11. Located at Brave Troops Buffet 1777 Main Street, Tewksbury Applicant: Mingguang Zheng, Owner

Old Business:

Exhibit #3 - Tewksbury Board of Health Regulations Chapter 7 Dumpster Regulations revised Nov 17, 2014

New Business:

Exhibit #4 – FDA Written Warning dated August 21, 2014

Exhibit #5 – Abut's Liquors second offense notice dated October 28, 2014

Exhibit #6 – Shell 1975 Main St first offense notice dated November 4, 2014

Exhibit #7 – Save on Smokes first offense dated November 7, 2014

Other Business:

Exhibit #8 3rd Quarter Departmental Quarterly Report

Exhibit # 9 Quarterly Report

Exhibit #10 Ebola Map