

Town of Concord
Board of Health

Minutes of the Meeting
Tuesday, October 18, 2011

PRESENT: Dr. Alan Woodward, Chairman
Ellen J. Hutt
Jack Bergman
Kerry Diskin

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

OTHERS: Bill Murphy, RS, PureGround, Inc., Weston, MA; DJ Wilson, Mass Municipal Association, Boston; Jackie Doane, Tobacco-Free Partnership, Quincy; David Henley, Superintendent, Eastern Middlesex Mosquito Control Program (EMMCP); Tony Kiszewski, Board Member, EMMCP.

1. Public Hearing – Onsite Sewage Disposal System

177 Monsen Road – Request for Local Variance from CBHR3.06 (a)

The Board heard a request from Bill Murphy, RS, PureGround, Inc., for his client, Peter Manning as it related to the proposed onsite sewage disposal system on this property. Mr. Murphy requested that the Board grant one variance from Concord Board of Health Regulation CBHR3.00 (A) as follows:

Local Variance

- Locate a septic component (septic tank/pump chamber) 30-35 feet from a wetland, instead of 50 feet in accordance with Local Regulation CBHR3.00 (A).

Discussion & Background

Mr. Murphy explained that several years ago, the owners had an approved plan to construct a new onsite sewage disposal system on this lot, but it was for a “tear down” and the system had been entirely relocated (out of the wetland buffer area). Due to extenuating circumstances, the owner was unable to move forward with that proposal and has since re-designed the system to accommodate the existing 4-bedroom home.

Although the new leaching field will be located > 100’ from the wetland, the tanks (septic tank and pump chamber) cannot be moved due to the location of the existing water line. Mr. Murphy said re-piping the home to the front of the house would be extremely expensive. Therefore, the tanks will remain within 30-35’ from the wetland (CBHR3 requires a 50’ set back from wetlands).

Mr. Murphy noted that Title 5 (State Regulation) allowed septic tanks to be placed 25' from a wetland resource area without a variance.

Board members asked whether the existing system had failed; it had and he said currently the home was unoccupied. The Board asked whether additional precautionary measures would be taken to ensure that the new tanks do not leak since they are located closer to the wetlands.

Mr. Murphy advised that a water tightness test was always conducted during construction, but nothing further had been proposed. He did note that a poly barrier would be installed around the new leaching field.

Staff Recommendation

Prior to the meeting, Environmental Health Inspector, Stanley Sosnicki reviewed the plan and recommended that the Board grant the proposed variance request because in his opinion it was a vast improvement over the existing system (which is located entirely within the wetlands and/or border) and would provide equal or greater protection to the environment than the current system.

Following a very brief discussion, Jack Bergman moved that Board GRANT the local variance as follows:

- To locate a septic component (septic tank & pump chamber) 30-35' from a wetland, instead of 50' in accordance with Local Regulation CBHR3.00 (A).

Ellen Hutt seconded it. All VOTED in favor to approve.

2. Discussion – Proposed Regulation Tobacco Sales

Background

Dr. Woodward has had discussions with Dr. Dorsey (Walpole BOH) and Steve Shestakofsky, Executive Director (Tobacco Free Mass) relative to their efforts and success in passing regulations banning the sale of tobacco products in pharmacies. He reiterated his point that pharmacies, by definition, should be considered a type of health care facility. In his opinion, it made no sense whatsoever that a facility where you received medicine to remedy an illness could be the same facility that allows you to purchase a product known to cause cancer and numerous other diseases.

Discussion

At the September meeting, the Board directed Public Health Director Susan Rask to contact DJ Wilson, from the Massachusetts Municipal Association Tobacco Control Assistance Program to assist in drafting language to either modify existing Town Bylaws relative to prohibiting tobacco sales or create a new regulation specifically directed at prohibiting the sale of tobacco products in pharmacies.

Ms. Rask and Mr. Wilson provided the Board with language that modified the existing Sale of Tobacco to Minors Bylaw¹. The proposed bylaw would be renamed "Bylaw – Restricting the Sale of Tobacco" and would restrict the sale, vending, and distribution of tobacco in Concord; as well as an added definition of Health Care Facilities, that would include, but not be limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor and dentist offices. All of which would be prohibited to sell tobacco products or obtain a permit to sell tobacco products in Concord.

Mr. Wilson mentioned that the majority of communities that were choosing to take the steps in prohibiting pharmacies from selling tobacco products were going the route of adopting a Board of Health Regulation, as opposed to modifying or adopting a bylaw through Town Meeting. He said that communities such as Lowell, Walpole, Fall River, Dartmouth, Revere, Middleton, New Bedford all modeled regulations after the City of Boston's since it had been successful; i.e., the city had not been sued by any of the affected pharmacies and there had been no "uptick" in other facilities obtaining the abandoned licenses).

Jack Bergman asked how many facilities in Town would be affected if the Board chose to enact a regulation banning the sale of tobacco in pharmacies. Karen Byrne said that to her knowledge, Rite Aid and CVS Pharmacy would be the only two affected; she was going to confirm that West Concord Pharmacy had voluntarily stopped selling tobacco products some time back. Ms. Rask reminded the Board that the regulation would only deal with "Health Care Institutions", which now pharmacies would be considered under the new definition. For example, if a supermarket chain applied for a permit, but did not have a pharmacy located within it, the permit would be issued.

The Board continued discussion for several minutes and concluded that it had an opportunity to make a strong statement for the protection of the public health by adopting a regulation. It is well documented that tobacco products are directly connected to many types of illnesses; therefore, consensus was that it was incumbent upon the Board as a public health regulatory body to promote public health measures that could make an impact.

Susan Rask, PHD and DJ Wilson will coordinate efforts and draft a regulation for the Board to review and discuss at the November meeting. Once final revisions are made, the Board will aim for having a public hearing in December. Prior to that meeting, staff will ensure that the affected parties are notified and provided a copy of the proposed regulation. A public notice hearing will be published in the Concord Journal, as well as a summary of the regulation; a public comment period will also be determined.

In closing, Ms. Rask noted that although the Board was moving forward with a regulation, it would still have to draft a brief amendment to Appendix A of the non-criminal disposition bylaw (for administering fines) for a Town Meeting vote in April 2012.

At this time, DJ Wilson introduced Jackie Doane from the Tobacco Free Partnership who was working with many communities in the State to assist them in developing and promoting smoking prevention programs (cessation clinics, dangers of

¹ Modified Draft Version Bylaw – Sale of Tobacco to Minors Bylaw; modified TM April 2010
BOH Minutes

2nd hand smoke; educational speaking engagements in schools, etc.). Board members strongly suggested that the Public Health Director collaborate with Ms. Doane to draft an article for the Concord Journal about the dangers of smoking and the preventative health measures and actions that individuals could take, as well as what businesses could do to promote a healthy work environment (smoke free). The Board felt an article on the subject would be a wonderful opportunity to outline the benefits of what it was trying to accomplish with the regulation.

Ms. Doane said she looked forward to the opportunity to assist the Concord Board of Health and staff in moving this important public health measure forward.

3. Chairman's Report & Reports from BOH Members

Ellen Hutt updated the Board on the Youth Advisory Committee meeting that she attended on September 19th at the Concord Carlisle High School. Ms. Hutt said she was under the impression that the reasoning behind the creation of the advisory board was to address the “kids who might fall the cracks” at school to offer constructive alternatives. At this point, she felt most of the services, programs, etc. that are offered already existed within the school’s established curriculum.

Ms. Hutt said the intent of the Youth Advisory Board was commendable, but said that after attending the meeting, it was her opinion that the group was still “trying to find its’ way” and didn’t truly have a structured framework to move forward. She was encouraged however by some of the classes being offered through the High School health classes (prevention of dating violence) and “Project Interface” which provides guidance for families who were in need of professional mental health services.

She provided the Board with a summary of notes taken at the meeting outlining some of the programs currently available.

Dr. Woodward mentioned that the Massachusetts Association of Health Boards (MAHB) had sent out an email to all members encouraging all to register for its’ fall course to be held in November; if they didn’t meet a particular quota the classes would be cancelled.

4. Mosquito Control – Update

David Henley, Superintendent for the Eastern Middlesex Mosquito Control Project (EMMCP) and Tony Kiszewski, Board Member (EMMCP) reviewed the services provided to the Town of Concord throughout the year by the Eastern Middlesex Mosquito Control Program (EMMCP). Although the Town of Concord does not utilize spraying as a means to control mosquitoes, EMMCP provides an integrated mosquito management program including a catch basin larval control program, surveillance and trapping, wetland inspections to monitor larval populations and identify obstructions in drainage systems. This year, EMMCP treated 2,099 catch basins with larvacide for preventative measures.

In October, Mr. Henley noted that a mosquito pool from Sudbury, near the Concord town line, tested positive for Eastern Equine Encephalitis (EEE). Although there had been no human or animal cases of EEE in our area, EMMCP will continue to monitor the pools for EEE and WNV for positive mosquitoes. He said there were no

plans at this time for truck or aerial spraying; if something were to change and the State Department of Public Health determined a public health threat were present, the Town of Concord would be notified immediately and the Board would be kept up to date.

5. PHD & Staff Reports

Public Health Director, Susan Rask provided the Board with a brief update on some items that she and staff had been working on since the last meeting:

1. Council on Aging – have begun discussions on coordinating efforts on public health nursing needs
2. Sharps Containers – proposed a line item in FY13 budget for approximately \$6,500 to purchase bulk sharps containers for private residents (which in turn could be mailed back)
3. Concord Journal – article was printed in the Concord Journal on Influenza and the Senior Clinics that had been schedule
4. Walden Grille – was inspected by the PHD and Gabrielle White and although they didn't have critical violations had some 24 hr violations that were not corrected in a timely manner; they are scheduled to appear before the BOH in November.
5. Animal Regulations – Gabrielle White, Public Health Inspector has been working on revising this BOH regulation for some time and PHD Rask advised the Board she would like to have a preliminary discussion on those revisions in January.

6. Minutes & Board Calendar

The Board reviewed the minutes from the meeting from September 13, 2011. Jack Bergman moved to approve the minutes as submitted. Ellen Hutt seconded it. All VOTED in favor.

The Board reviewed the calendar and confirmed the December 13, 2011 meeting.

Respectfully submitted by,

Karen M. O'Keefe, Administrative Assistant
Concord Board of Health

Dr. Alan Woodward, Chairman

Kerry Diskin

Jack Bergman

Ellen Hutt