



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
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A P P R O V E D
Board of Health Meeting Minutes
Wednesday, September 10, 2014
Ground Floor Mural Room
Arlington Senior Center
5:30pm

Board Members in Attendance: Dr. Michael Fitzpatrick, Dr. Marie Walsh Condon, Mr. Kenneth Kohlberg

Staff in Attendance: Christine Bongiorno, Director of Health & Human Services, Natasha Waden, Health Compliance Officer, James Feeney, Health Compliance Officer

Others in Attendance: Peter Zheng (7-Star Grocery), Musfiqur Rahman (Dagg's Convenience Store), Mostafa Sianani (Arlington Shell, for Jay Khoury), Jane Hammer, Fred Scribner.

Recording Secretary: Laura Munsey, Health & Human Services Administrative Assistant

Meeting called to order by Dr. Michael Fitzpatrick at 5:35 pm.

Approval of the August 13, 2014 Minutes will be tabled until the meeting on October 22, 2014.

Hearing: Keeping of Hens: 15 Philemon Street

Inspector Feeney informed the Board that on August 14, 2014 Ms. Jane Hammer submitted an application for the Keeping of Hens at 15 Philemon Street. Mr. Feeney stated that hens have been kept at this property for some time, and Animal Control received a nuisance complaint from a neighbor because the hens were not being confined to the owner's property. Animal Control notified the Board of Health, who notified Ms. Hammer of the bylaw and permitting process.

Upon receipt of the application, Mr. Feeney conducted a site walk of the property on August 28, 2014 to verify the size and location of the coop. He stated perimeter fencing is being constructed. He also requested the applicant use a raised, sealed composting bin to reduce the attraction for rodents. Mr. Feeney stated the application and coop meet the requirements set forth in the bylaw. Abutters were notified in writing and Mr. Feeney received 1 phone call expressing concerns, but no written comments have been received. Ms. Hammer informed the Board she has had the hens since May, when a friend had to get rid of them. She stated she also kept hens in Arlington 12 years ago.

A Motion was made by Dr. Marie Walsh Condon, which was seconded by Mr. Kenneth Kohlberg, to approve the Keeping of Hens Application for 15 Philemon Street contingent upon the completion of the fencing, the use of a raised, sealed composting bin and completion of a final inspection.

Vote: Motion Approved Unanimously (3-0)

Hearing: Tobacco Sales Violation: 7 Star Grocery

Mr. Feeney informed the Board that on Tuesday, July 10, 2014 the Board of Health conducted a tobacco compliance check at this establishment. On July 1, 2014 the Town's Regulation required a patron to be 20 years old to purchase tobacco and nicotine delivery products. At 2:38 pm a 19 year old male entered 7 Star Grocery on Medford Street and purchased a package of Black & Mild cigars. Mr. Feeney informed the Board this is the first violation at this establishment since the new Regulation went into effect. The owner of 7 Star Grocery was issued a \$100 fine, which has already been paid.

The Owner stated he was not there at the time, and it was the first violation in 3 years. He stated the ID was checked, but the employee was confused with the new age requirement.

The Board reiterated the importance of abiding by the Regulation and suggested the owner make sure all staff are retrained regarding the current requirements.

A Motion was made by Dr. Marie Walsh Condon, which was seconded by Mr. Kenneth Kohlberg, to implement a seven (7) day suspension of the Tobacco and Nicotine Delivery Products Sales Permit, beginning Friday September 12, 2014 through the close of business on Thursday September 18, 2014.

Vote: Motion Approved Unanimously (3-0)

Hearing: Tobacco Sales Violation: Dagg's Convenience

Mr. Feeney informed the Board that on Tuesday, July 10, 2014 the Board of Health conducted a tobacco compliance check at this establishment. On July 10, 2014 at 2:15 pm a 19 year old male purchased a package of Newport cigarettes for \$9.90 at Dagg's Convenience store. Mr. Feeney stated this is the first violation at this establishment since the new Regulation went into effect. The owners were issued a \$100 fine, but Mr. Feeney informed the Board he has not yet received confirmation from the Clerk's Office that the fine has been paid. The owners apologized for the sale, and stated a part-time employee who only works a few hours per week had made the sale within 10 minutes of the owner leaving the establishment. They stated he also works in Cambridge, where the age requirements are different. They informed the Board they had checked the surveillance camera and the employee did check the ID but got distracted by a conversation with another customer.

A Motion was made by Dr. Marie Walsh Condon, which was seconded by Mr. Kenneth Kohlberg, to implement a seven (7) day suspension of the Tobacco and Nicotine Delivery Products Sales Permit, beginning Friday September 12, 2014 through the close of business on Thursday September 18, 2014.

Vote: Motion Approved Unanimously (3-0)

Hearing: Tobacco Sales Violation: Arlington Shell

Mr. Feeney informed the Board that on Tuesday, July 10, 2014 the Board of Health conducted a tobacco compliance check at this establishment. At 2:19 pm a 19 year old male purchased a package of Newport cigarettes from Arlington Shell. Mr. Feeney stated this is the first violation at this establishment since the new Regulation went into effect. The owner was issued a \$100 fine, and Mr. Feeney informed the Board he has not yet received confirmation from the Clerk's Office that the fine has been paid. The owner's representative stated it was a new employee who made the sale, and he will provide training for all his employees about the new age

requirement. He stated the employee did check the ID and made an error in calculating the month and day, and apologized for the oversight.

A Motion was made by Dr. Marie Walsh Condon, which was seconded by Mr. Kenneth Kohlberg, to implement a seven (7) day suspension of the Tobacco and Nicotine Delivery Products Sales Permit, beginning Friday September 12, 2014 through the close of business on Thursday September 18, 2014.

Vote: Motion Approved Unanimously (3-0)

Hearing: Housing Code Violations: 30 Hamilton Road Unit # 304

Ms. Waden informed the Board that on June 27, 2014 the Board of Health received a complaint from Captain Melly of the Arlington Fire Department (AFD) regarding concerns inside 30 Hamilton Road, #304. The e-mail indicated the Fire Department responded to a false medical call for one of the occupants and upon entering the unit AFD observed items piled up from floor to ceiling in most room as well as a strong odor.

Upon receipt of the referral from AFD, Ms. Waden contacted Mr. Scribner on June 30, 2014 via telephone and scheduled an inspection of the unit for August 5, 2014 at 2:00 pm. On August 5th, Inspectors Waden and Feeney arrived at the unit and were greeted by Mr. Quimby. Inspectors identified themselves and informed the occupant that they had an appointment with Mr. Scribner. Mr. Quimby invited inspectors in, where they waited for Mr. Scribner in the kitchen. Mr. Scribner appeared from another area of the unit and greeted inspectors; Ms. Waden explained that they were following up on a referral from AFD regarding unsanitary conditions in the unit. Ms. Waden requested permission to inspect and Mr. Scribner agreed to the inspection and described the layout of the unit. Several violations were noted at the time of inspection, and Mr. Scribner was issued a Correction Order dated August 7, 2014. Mr. Scribner requested a Hearing before the Board to request modification to the Correction Order.

Mr. Scribner addressed the Board and thanked them for their time. He stated he has hearing impairments due to a medical condition. Mr. Scribner stated he had concerns regarding the legality of the inspection and referenced Supreme Court Doctrine, in particular the 4th and 15th amendments regarding consent laws and issues of search warrants.

Chair of the Board, Dr. Michael Fitzpatrick, informed Mr. Scribner of the role of the Board and of the Hearing, and asked him to address specifics regarding the violations cited in the Correction Order of August 7th and the status of each of the violations noted.

Mr. Scribner presented to the Board photographs of his residence, and areas of the reported violations.

Regarding Item 1, Mr. Scribner stated the kitchen cabinets were not heavily soiled, but paint has worn off. He stated the rug is older and he is going to have it replaced.

Regarding Item 2, Mr. Scribner presented the Board with a document he referred to as a "Deposition of Chris Quimby" disputing the findings of a soiled dishwasher and spoiled food in the refrigerator.

Regarding Item 3, Mr. Scribner stated there were fruit flies which were gone in a few days, but an exterminator would come to the unit.

Regarding Item 4, Mr. Scribner said the main entry door was blocked, but has been sufficiently cleared.

Regarding Item 5, Mr. Scribner stated they are heavy duty industrial extension cords. The Board informed Mr. Scribner that piggybacking outlet expanders is a code violation that would need to be addressed.

Regarding Item 6, Mr. Scribner said the tiles in the bathroom that are missing were removed by a plumber to gain access to the pipes. The Board informed him the wall cannot be left open and could be remedied through the installation of an access panel.

Regarding Items 7, 8, and 9, in the bedroom, Mr. Scribner stated the bedroom is also his office, and took offense to the inspection of this space and said he moved a few boxes to create a pathway, and laundry baskets and sleeping areas should not be of interest to the Board of Health.

Mr. Kenneth Kohlberg inquired if Mr. Scribner would be open to scheduling a re-inspection of the property. Mr. Scribner agreed to an inspection during the following week, pending his schedule. He further stated he would only agree to a re-inspection of the areas referenced in the Correction Order and no other areas may be inspected without a warrant.

Motion: A Motion was made by Dr. Marie Walsh Condon which was seconded by Mr. Kenneth Kohlberg to sustain the Correction Order for the property located at 30 Hamilton Road Unit # 304 dated August 7, 2014.

Vote: Approved Unanimously (3-0)

Hearing: Housing Code Violations: 37 Harvard Street

Mr. Feeney informed the Board the owner of 37 Harvard St., Mr. R. Robert Osborn, requested a Hearing after receiving a Correction Order dated August 28, 2014. Upon further discussion with Mr. Feeney, Mr. Osborn decided not to address the Board at tonight's meeting, but requested the right to address the Board at a later date if needed.

Discussion: Draft Amendments Restricting the Sale of Flavored Tobacco

Ms. Waden presented the Board with a list of draft amendments to the existing Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. Ms. Waden explained the amendments, which further regulate the sale of flavored tobacco products, were drafted by DJ Wilson of the Mass Municipal Association and include the following:

1. Added 4-5 Statements to Section A: Statement of Purpose
2. Amended Section C: Definitions
3. Added Section H: Sale of Flavored Tobacco Products Prohibited (Note: Will change the language in the title of Section H to match the preceding Sections titles as it relates to Prohibition.

Ms. Waden will schedule a public hearing regarding these amendments and will notify Tobacco and Nicotine Delivery Products Sales Permit holders. The Board also discussed updating the language regarding the maximum number of Tobacco and Nicotine Delivery Product Sales Permits.

Hearing: Appointment of Agent to the Board: Charlotte Milan

Mr. Feeney informed the Board that Charlotte Milan is the Recycling Coordinator for the Department of Public Works in Arlington. As Recycling Coordinator, Charlotte receives many complaints, and serves as the liaison to JRM, the waste hauler. Charlotte is out in the field regularly, and is taking a proactive effort to ensure trash and recycling compliance within the Town.

Currently Charlotte will respond to complaints, survey problematic areas, and refer them to the Board of Health Office for follow-up and enforcement. The Office of the Board of Health asks the Board to designate Charlotte

Milan as an authorized agent of the Board of Health for the purposes of enforcing Town bylaw Title III, Article 1, Section 22: Placing of Rubbish for Removal and Board of Health Dumpster Regulations, and for the Removal and Transportation of Garbage, Rubbish, Offal, and Other Offensive Substances (Adopted March 19th, 1985, Revised December 9th, 1998).

Motion: A Motion was made by Dr. Marie Walsh Condon which was seconded by Dr. Michael Fitzpatrick to Appoint Charlotte Milan as an authorized agent of the Board of Health for the purposes of enforcing Town bylaw Title III, Article 1, Section 22: Placing of Rubbish for Removal and Board of Health Dumpster Regulations, and for the Removal and Transportation of Garbage, Rubbish, Offal, and Other Offensive Substances (Adopted March 19th, 1985, Revised December 9th, 1998).

Vote: Approved (2-0, with 1 Abstention for Mr. Kenneth Kohlberg)

Environmental Updates

Ms. Waden informed the Board that the Department is still responding to rat complaints, and is working with DPW to bait problematic areas, and provide education to residents.

Mosquito samples in Arlington have tested positive for West Nile Virus. A press release has been issued and education regarding prevention measures is being provided.

Restaurant Updates

Possible change of ownership at Kathmandu

Conditional Approval for Art Lounge has been granted

Plan Review received for Woo Ri

Ristorante Olivio: Ms Waden informed that Board that in February of 2014 Mr. Angelo DiGirolamo, owner of Ristorante Olivio requested a variance to use a 2-compartment sink at his establishment, which was denied by the Board. An agreement was made with Mr. DiGirolamo to install the 3 bay sink with Grease Trap within 6 months. To date the installation has not taken place. Ms. Waden will conduct an inspection next week, and follow-up with the Board at the next meeting.

Public Health Nurse Updates

Vaccine has arrived and flu clinics have started. The Board of Health will be offering a flu clinic at Town Day.

Public Comment:

None

Meeting was adjourned at 6:55 pm.

Next Scheduled Meeting: October 22, 2014