



**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF THE BOARD OF HEALTH**

**Town of Arlington**

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Arlington, Massachusetts 02476

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**A P P R O V E D**  
**Board of Health Meeting Minutes**  
**Wednesday, February 26, 2014**  
**Ground Floor Conference Room**  
**Arlington Senior Center**  
**5:30pm**

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

Staff in Attendance: Natasha Waden, Health Compliance Officer, James Feeney, Health Compliance Officer, Shawn Freund, Intern

Absent: Christine Bongiorno, Director of Health and Human Services

Others in Attendance: Mr. Angelo DiGirolano (Ristorante Olivio); Adnan Rahim (Arlington Gulf); Gloria Ojimba; Sarah Tayler

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

**Meeting called to order by Dr. Michael Fitzpatrick at 5:30 pm.**

A Motion was made by Dr. Marie Walsh Condon, which was seconded by Mr. Kenneth Kohlberg to accept the December 11, 2013 Board of Health Meeting Minutes as submitted.

**Vote: Motion Approved Unanimously (3-0)**

**Hearing: Ristorante Olivio – 2 compartment sink use**

Mr. Angelo DiGirolano, owner of Ristorante Olivio, addressed the Board to ask for a variance to allow for a 2 compartment sink rather than a 3 compartment sink for use at his establishment, if he should install new equipment at the restaurant.

Ms. Waden informed the Board that in January Mr. DiGirolano contacted the Health Department to discuss the possibility of changing his menu and adding new equipment (1 fry-o-later and 1 broiler) to his establishment. The cost of the new equipment is approximately \$1,600. The establishment seats 120 people and requires continuous warewashing. Upon review and

assessment, it was identified that the establishment uses a dish machine and a 2-compartment sink for the purpose of cleaning and sanitizing equipment. It is the Health Department's policy, in accordance with Food Code Chapter 4-301.12(E); 4-101.10, and 8-102.10, to prohibit the use of a 2-compartment sink for the purpose of cleaning and sanitizing dishware and utensils. The Department also requires an establishment who utilizes a dish machine for ware washing to also install a 3-compartment sink with grease trap. Mr. DiGirolano indicated he has been in business for 12 years and has not had a problem. He indicated the cost would be too high to make this modification in their plans and stated he is just trying to survive, and is therefore requesting a variance. Ms. Waden informed that Board that she had requested that Mr. DiGirolano provide 3 estimates of the cost to convert a 2-compartment sink to a 3-compartment sink. Mr. DiGiralono indicated he acquired only one estimate because he would not change his plumber of many years. He did not provide written estimates but verbally stated the cost would be \$3,000. Mr. Feeney inquired what the \$3,000 entailed, but specifics were not provided other than to retrofit a new 3-compartment sink into the existing space. The Board reviewed photographs of the existing layout.

Dr. Michael Fitzpatrick stated that the Massachusetts Food Code requires the use of a 3-compartment sink, and if any renovations or upgrades are made to other equipment or the restaurant itself, they are required to "bring it up to code".

Mr. DiGirolano stated he was verbally told by the Board of Health and Fire Department to order the equipment, which he has already done. Ms. Waden shared with the Board an e-mail dated 1-21-14 she had sent to Mr. DiGirolano indicating that approval was contingent upon installation of a 3-compartment sink as well as additional requirements.

**Motion:** A motion was made by Dr. Marie Walsh Condon which was seconded by Mr. Kenneth Kohlberg to deny the request of Ristorante Olivio to be granted a variance to use a 2-compartment sink, if renovations are made or equipment is added to the establishment, and to uphold the Health Department recommendation.

**Vote: Motion Approved Unanimously (3-0)**

### **Hearing: Arlington Gulf – Tobacco Sales to a minor**

On February 6, 2014 the Arlington Board of Health conducted tobacco compliance checks in Arlington. Present from the Board of Health were James Feeney and Shawn Freund, as well as a 16 year old female who assisted with the compliance checks.

Mr. Feeney informed the Board that at 4:18 pm the minor entered Arlington Gulf located at 85 River Street and requested to buy a pack of cigarettes, and was sold a pack of Marlboro "Reds." The pack of cigarettes was presented to the Board. He further informed the Board that he had in hand payment of the fine in the amount of \$100, which was provided by Mr. Rahim at the start of the meeting. Mr. Adnan Rahim of Arlington Gulf apologized to the Board and indicated it was a new employee who had just started that made the sale. He stated he stops numerous under aged customers from purchasing cigarettes. He informed the Board he was at another location in the store, and heard the girl's voice at the conclusion of the sale, and "knew she was underage" and stated he actually followed her out in an effort to "stop the sale" but it was too late. Mr. Feeney verified he witnessed Mr. Rahim follow her out as soon as she exited the store.

Mr. Feeney informed the Board this was the first violation since the new Regulations went into effect in July of 2013. He stated that the slate for each establishment was essentially wiped clean when the new Regulations went into effect last year. Under the new Regulations, this violation will remain on the record for 36 months. Upon inquiry from Dr. Michael Fitzpatrick, Mr. Feeney shared with the Board that there was a sales violation in January 2013 and prior to that, the last sales violation was in 2008.

**Motion:** A motion was made by Dr. Marie Walsh Condon, which was seconded by Mr. Kenneth Kohlberg to implement the issuance of a first violation, including a fine of one hundred dollars (\$100.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days.

Vote: Motion Approved Unanimously (3-0)

The Arlington Board of Health will follow up with Mr. Rahim regarding the suspended license for 7 consecutive business days.

### **Discussion: Draft Regulations Restricting the Sale of Marijuana**

Preliminary Regulations Restricting the Sale of Marijuana have been drafted, and were shared with the Board. Mr. James Feeney and Mr. Shawn Freund shared information with the Board regarding this preliminary draft, which was based on the State guidelines and drafts provided by Mr. D.J. Wilson of the Massachusetts Municipal Association (MMA). Currently no permits have been requested or granted by the State for medical marijuana dispensaries in Arlington at this time. Only 35 permits will be issued in the State with not more than 5 in each County in Massachusetts in the year 2014.

The Board discussed the possibility of:

- Zoning along the Mass Ave Corridor or elsewhere as determined by Town Meeting
- Hours of Operation of any licensed establishment in Arlington (9:00 am – 10:00 pm) (as a starting point)
- Capping the number of permitted establishments in Town to three (3) (as a starting point)
- Complexities regarding other products “laced” with marijuana or other creative delivery methods including but not limited to food products (i.e. pot brownies) which the FDA would not consider food, whereas Marijuana is not considered an “approved food additive”, and would not be monitored by the Board of Health
- Patient/Caregiver hardship cultivations
- Violation penalties (including possible revocation of license)
- Inspections including scheduled and/or unannounced and any possible legalities related to unannounced inspections.

-The Board's role in the permit process (i.e. prior to issuance of permit, abutter notification and/or public hearings, or only if violations occur). Different requirements for the three types of permits issued including to the dispensary/establishment; employee; and home/caregiver cultivation for hardship permit requests were also discussed.

-Complexities of consumers under the age of 18 and Doctor's approvals (i.e. pediatrician, pcp, and the exclusion of family practitioner)

Mr. Kenneth Kohlberg reiterated his desire to take a comprehensive look at Regulations in other communities as they are developed and implemented to see what is working and not working.

It was reported that Christine Bongiorno will be meeting with other officials in Town such as Police, Zoning, Legal Department, Town Manager's Office, and others to discuss in greater detail the draft Regulations. Their considerations will be incorporated into the draft Regulations. Ms. Waden informed the Board, they will be given regular updates as the process continues.

Ms. Waden also informed the Board that D.J. Wilson of the MMA will be holding a meeting for municipal officials interested in regulating medical marijuana. Information regarding this meeting will be provided to the Board.

#### **Update: New Contract Food Inspector:**

Ms. Waden informed the Board that a new contract food inspector, Mr. Jared Orsini, has begun conducting inspections in Town. Mr. Orsini is a Registered Sanitarian, and works with the Brookline Health Department. This brings the total number of contracted food inspectors to 3, which will reduce the work load of existing contracted food inspectors.

#### **Environmental Updates**

Mr. Feeney informed the Board that he recently learned the Massachusetts Department of Environmental Protection is expediting the timeline for Sunoco/TD Bank to address contamination concerns.

Mr. Feeney informed the Board that some renovation work is expected at Arlington High School, and the Office will try to monitor any related environmental concerns.

#### **Restaurant Updates**

Ms. Waden and Mr. Feeney informed the Board:

The following Restaurants have closed:

- Broadway Diner
- Savory Plate
- Nicola (currently out of business)

Possible Change of Ownership at:

- Olympic Pizza
- Great Wok

Awaiting pre-operational inspection:

- Brightview
- Bagelville

Sono is currently open for business.

### **Public Health Nurse Updates**

Ms. Waden informed the Board that there has been a Measles outbreak in Framingham, however, to date, no Arlington residents have been reported as being impacted by this outbreak. They will inform the Board of updates as appropriate.

### **Public Comment:**

No public comment.

**Meeting was adjourned at 6:57 pm.**

**Next Scheduled Meeting: April 2, 2014**