

Board of Health Minutes
Monday, June 5, 2023 5:30 PM
Meeting Room C, Town Hall
25 Green Street, Ipswich, MA

Call to Order: Susan Hubbard called the meeting to order at 5:30 PM.

Members in attendance: Susan C. Hubbard, Dr. Susan Boreri and Amanda Donovan.

Others in attendance: Colleen Fermon, Director of Public Health, John Morris, Health Inspector, Jennifer Brown, Administrative Assistant, Joyce Redford, Hugh L. Graham, Avani Patel, Praful Shukla, Naila Mullins, Michael Connolly, Michael Hoey and Shawn M. Cayer.

Citizens Queries: None.

Minutes: Dr. Boreri made a motion to approve the May 1, 2023 Board of Health minutes. Susan Hubbard seconded the motion. The motion passed unanimously.

Hearings:

5:32 – Avani R. Patel for Richdale – 44 Market Street – Suspension of Tobacco Product Sales Permit

Richdale violated 105 CMR 665.000 Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems and the Ipswich Board of Health’s Restricting the Sale of Tobacco Products Regulation by selling a tobacco product to a person younger than 21-year-old. As a result of this violation, a hearing with the Board of Health was scheduled for Monday, June 5, 2023.

At the hearing, the Board of Health heard testimony from Joyce Redford, Director of the North Shore/Cape Ann Tobacco Policy Program. Ms. Redford explained that on April 19, 2023, a compliance check was conducted on behalf of the Ipswich Public Health Department by the North Shore/Cape Ann Tobacco Policy Program. Ms. Redford explained that at approximately 12:10 P.M., Backwoods cigars were sold to a person younger than 21 years of age by an adult male wearing a tank top and a white Apple Watch. Ms. Redford also provided the Board of Health with photographs of the tobacco product sold during the compliance check.

Ms. Redford noted that this was a first offense after a change in ownership.

Avani Patel was present at the hearing. At the hearing, Ms. Patel confirmed that the violation occurred.

Dr. Boreri questioned if Ms. Patel had the online training and education course regarding the sale of tobacco products to re-train her employees. Ms. Patel confirmed that Colleen Fermon had emailed her the link on May 10, 2023.

Susan Hubbard asked if the \$1,000.00 fine was paid. Ms. Fermon confirmed the \$ 1,000.00 fine was paid on May 8, 2023, in accordance with 105 CMR 665.045 (A) (1) for the first offense.

The Board of Health explained that, in accordance with 105 CMR 665.040 (D) Sale of a tobacco product by a retail establishment to a person younger than 21 years old shall result in the retail establishment being prohibited from selling tobacco products for up to 30 consecutive business days. The Board of Health recognized that this was the establishment’s first violation and explained that a 3-day suspension of the Tobacco Product Sales Permit is required in accordance with the Ipswich Board of Health’s Restricting the Sale of Tobacco Products Regulation.

Susan Hubbard made a motion to suspend the Tobacco Product Sales Permit, effective June 7, 2023 through June 9, 2023. All tobacco products must be removed from the retail establishment prior to the establishment opening on June 7, 2023 and cannot be returned until June 10, 2023. Subsequently, Susan Hubbard amended the timeframe for the suspension based on the operator’s request.

Susan Hubbard made a motion to suspend the Tobacco Product Sales Permit, effective June 6, 2023 through June 8, 2023. All tobacco products must be removed from the retail establishment prior to the establishment opening on June 6, 2023 and cannot be returned until June 9, 2023. Dr. Boreri seconded the motion. The motion passed unanimously.

John Morris, Health Inspector, will conduct a site visit on June 6, 2023 to ensure all tobacco

products have been removed from the retail establishment.

5:38 – Praful Shukkla for Ipswich Beverage – 146 High Street – Suspension of Tobacco Product Sales Permit

Ipswich Beverage violated 105 CMR 665.000 Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems and the Ipswich Board of Health's Restricting the Sale of Tobacco Products Regulation by selling a tobacco product to a person younger than 21-year-old. As a result of this violation, a hearing with the Board of Health was scheduled for Monday, June 5, 2023.

At the hearing, the Board of Health heard testimony from Joyce Redford, Director of the North Shore/Cape Ann Tobacco Policy Program. Ms. Redford explained that on April 19, 2023, a compliance check was conducted on behalf of the Ipswich Public Health Department by the North Shore/Cape Ann Tobacco Policy Program. Ms. Redford explained that at approximately 12:25 P.M. a pack of Marlboro cigarettes were sold to a person younger than 21 years of age by an adult female wearing a Harley Davidson sweatshirt. Ms. Redford also provided the Board of Health with photographs of the tobacco product sold during the compliance check.

Ms. Redford noted that this was a first offense since a change in ownership but added that she visited the retailer soon after re-opening in March, 2023 and provided him with all the proper signage, etc.

Praful Shukkla was present at the hearing. At the hearing, Mr. Shukkla confirmed that the violation occurred.

Dr. Boreri questioned if Mr. Praful had the online training and education course regarding the sale of tobacco products to train his employees. Mr. Patel confirmed that Colleen Fermon had emailed him the link on May 10, 2023.

Susan Hubbard asked if the \$1,000.00 fine was paid. Ms. Fermon confirmed the \$ 1,000.00 fine was paid, in accordance with 105 CMR 665.045 (A) (1) for the first offense.

The Board of Health explained that, in accordance with 105 CMR 665.040 (D) Sale of a tobacco product by a retail establishment to a person younger than 21 years old shall result in the retail establishment being prohibited from selling tobacco products for up to 30 consecutive business days. The Board of Health recognized that this was the establishment's first violation and noted that a 3-day suspension of the Tobacco Product Sales Permit is required in accordance with the Ipswich Board of Health's Restricting the Sale of Tobacco Products Regulation.

Dr. Boreri made a motion to suspend the Tobacco Product Sales Permit, effective June 6, 2023 through June 8, 2023. All tobacco products must be removed from the retail establishment prior to the establishment opening on June 6, 2023 and cannot be returned until June 9, 2023. Susan Hubbard seconded the motion. The motion passed unanimously.

John Morris, Health Inspector, will conduct a site visit on June 6, 2023 to ensure all tobacco products have been removed from the retail establishment.

5:41 – Naila Mullins for Cumberland Farms #6681 – 66 Turnpike Road – Suspension of Tobacco Product Sales Permit

Cumberland Farms #6681 violated 105 CMR 665.000 Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems and the Ipswich Board of Health's Restricting the Sale of Tobacco Products Regulation by selling a tobacco product to a person younger than 21-year-old. As a result of this violation, a hearing with the Board of Health was scheduled for Monday, June 5, 2023.

At the hearing, the Board of Health heard testimony from Joyce Redford, Director of the North Shore/Cape Ann Tobacco Policy Program. Ms. Redford explained that on April 19, 2023, a compliance check was conducted on behalf of the Ipswich Public Health Department by the North Shore/Cape Ann Tobacco Policy Program. Ms. Redford explained that at approximately 11:36 P.M. a pack of Backwood Cigarillos were sold to a person younger than 21 years of age by an adult female. Ms. Redford also provided the Board of Health with photographs of the tobacco product sold during the compliance check.

Ms. Redford said this is the establishment's second violation. The first violation occurred on May 20, 2021.

Naila Mullins, Store Manager, was present at the hearing along with Michael Connolly. Ms. Mullins confirmed that the violation occurred and explained that she has already used the online training and education course to re-train her employees.

Susan Hubbard asked if the \$2,000.00 fine was paid. Ms. Fermon confirmed the \$2,000.00 fine was paid, in accordance with 105 CMR 665.045 (A) (1) for the second offense.

The Board of Health explained that, in accordance with 105 CMR 665.040 (D) Sale of a tobacco product by a retail establishment to a person younger than 21 years old shall result in the retail establishment being prohibited from selling tobacco products for up to 30 consecutive business days. The Board of Health recognized that this was the establishment's second violation and explained that a 7-day suspension of the Tobacco Product Sales Permit is required in accordance with the Ipswich Board of Health's Restricting the Sale of Tobacco Products Regulation.

Susan Hubbard made a motion to suspend the Tobacco Product Sales Permit, effective June 7, 2023 through June 13, 2023. All tobacco products must be removed from the retail establishment prior to the establishment opening on June 7, 2023 and cannot be returned until June 14, 2023. Amanda Donovan seconded the motion. The motion passed unanimously.

John Morris, Health Inspector, will conduct a site visit on June 7, 2023 to ensure all tobacco products have been removed from the retail establishment.

5:45 – Michael Hoey – 56 Skytop Road - Refund of Soil Testing Fee

Michael Hoey presented, and the Board heard a request for a variance from Ipswich Board of Health Septic System Regulations, 8.3.

Soil Testing Procedures, 8.3 Applications must be completed by a Professional Engineer, Registered Sanitarian or Soil Evaluator. All fees are due at the time of application, are non-refundable and are valid only for the season in which the application is submitted. The amount of the fee will depend upon the current approved fee schedule. This fee is to be paid for each lot or parcel tested and is nonrefundable regardless if testing was conducted.

At the meeting, Mr. Hoey explained that his Septic System Inspector, Ronald Jenkins, conducted an inspection of the property on February 16, 2023 and said everything was fine. After he spoke with Colleen Fermon, Director of Public Health and John Morris, Health Inspector he had questions regarding groundwater. Mr. Hoey said Mr. Jenkins was told not to submit the report since the Ipswich Board of Health required a groundwater test be performed on the property to establish ground water. Mr. Hoey contacted David Lane to do the digging who brought in Dan Johnson. Mr. Hoey requested a variance from soil testing procedures for the \$400 testing fee since he did not pursue soil testing and he felt he was misled.

Both Colleen Fermon and John Morris disagreed with this assertion. Ms. Fermon said neither Mr. Hoey nor the System Inspector were ordered to do a groundwater determination. The Inspector, Ron Jenkins, had questions about the groundwater in relation to the septic system serving 56 Skytop Road. Mr. Jenkins was told a groundwater determination *could* be done to confirm the groundwater level on the property. He was also told to discuss it with his client and if the client didn't want to do this, Mr. Jenkins could submit the report and it would be reviewed to determine if a groundwater determination was necessary. Mr. Hoey was also told that Mr. Jenkins could submit the report and it would be reviewed to determine if a groundwater determination was necessary when he met with her. Without a report, no order would ever be issued. Additionally, a groundwater determination is not the same as soil testing and soil testing would not be required as part of a Title 5 inspection.

The Board of Health noted that all orders are issued in writing to the owner. The Board of Health also noted that the application notes the soil testing fee is not refundable.

Ms. Fermon explained that the soil evaluator, Daniel Johnson, submitted a groundwater determination application and a trench permit application on February 27, 2023 and it was scheduled for March 2, 2023. On February 28, 2023, Mr. Johnson called and canceled the groundwater determination and said he was going to file to do soil testing instead. Mr. Johnson submitted the soil testing application on March 2, 2023 and the testing was scheduled for March 15, 2023. Soil testing was rescheduled to March 22, 2023 by Mr. Johnson. Subsequently, Mr. Hoey canceled soil testing on March 21, 2023. Ms. Fermon said Mr. Hoey would need to have his soil evaluator explain why he chose to pursue soil testing instead of a groundwater determination. Ms. Fermon reiterated that there was no order issued for a groundwater determination and soil testing would never be ordered as part of a Title 5 inspection report review. The Title 5 inspection report was received on March 15, 2023 in the Public Health Department and subsequently, a passing determination letter was issued on May 22, 2023.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said she was not opposed to refunding the \$400.00. As she explained to Mr. Hoey, since the Board of Health's Regulation, 8.3, notes the soil testing application fee is not refundable, she couldn't refund it only the board of Health could.

The Board of Health discussed the request. Susan Hubbard made a motion to grant the variance and refund the \$400.00 soil testing fee once the cancelled check is submitted to the Public Health Department. Amanda Donovan seconded the motion. Dr. Boreri was opposed to granting a variance. The motion passed.

Susan Hubbard said that Mr. Jenkins and Mr. Johnson should be invited to appear before the Board of Health to explain what happened.

6:04 – Ronald Koning, Jr. – 80 Old Right Road – Noncompliance with Order to Repair Septic System

Colleen Fermon provided the Board of Health with some background information. In a letter dated March 2, 2023, the owner was informed that in accordance with the State Environmental Code, Title 5, 310 CMR 15.00, the Public Health Office received an inspection report from a licensed septic system inspector which indicated the sewage disposal system that serves the dwelling conditionally passed inspection since the distribution box was in poor condition and is not structurally sound. The Public Health Office agreed with this determination and ordered the owner to have an Ipswich licensed Septic Installer replace the distribution box within 60 days of receipt of the notice. Mr. Koning received the order on March 6, 2023 but as of May 5, 2023, the requisite repair had not been completed. Mr. Koning was ordered to attend the June 5, 2023 Ipswich Board of Health meeting on to discuss his noncompliance with a Board of Health Order.

At the meeting, the owner's representative, Hugh L. Graham of H.L. Graham Associates, Inc., explained that the dwelling served by the existing septic system was razed. It is the owner's intention to re-build the home and install a new septic system to serve the dwelling. Mr. Graham requested an extension, on the owner's behalf, to install the new system in lieu of replacing the existing distribution box. He noted that a proposed septic system design plan was submitted to the Public Health Office on June 2, 2023 for review.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said the owner does not need to replace the distribution box if it will not be used but a new timeline for bring the property into compliance with Title 5 is needed since the owner is under no obligation to install the new system instead of replace the distribution box without an order.

Susan Hubbard made a motion to grant an extension and modify the order to replace the distribution box. Ms. Koning was ordered to obtain compliance with Title 5 by either replacing the distribution box or installing the new system by December 15, 2023. Amanda Donovan seconded the motion. The motion passed unanimously.

6:08 – Dexmar Realty Trust - 8-10 Hammatt Street –represented by Shawn Cayer - Order of Correction for Violations of 105 CMR 410.000, State Sanitary Code, Chapter II

John Morris provided the Board of Health with some background information. As a result of a complaint received, a housing inspection was conducted on September 7, 2022 in accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation. An Order for Correction was issued to the previous owner on September 7, 2022. The previous owner was ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days of the receipt of the order. To date, the corrections have not been made. Shawn Cayer purchased the property on May 3, 2023 so it is his responsibility to obtain compliance with the State Sanitary Code 105 CMR 410.000105. The September 7, 2022 Violation Order was re-issued to Mr. Cayer on May 9, 2023. Mr. Cayer received the order on May 15, 2023. On May 23, 2023, he requested a hearing to discuss a timeframe for bringing the property into compliance.

At the June 5, 2023, Board of Health meeting, Mr. Cayer explained that 8 Hammatt Street, Unit 2, and 10 Hammatt Street are vacant. 8 Hammatt Street, Unit 1, is still occupied by the former property owner, Ms. Kyriakopoulos, and she has indicated that she will be vacating the unit on or about July 1, 2023 although she has until August 3, 2023 to vacate per their agreement. Mr. Cayer said he is in the process of putting together a comprehensive redevelopment plan for the property and noted that a surveyor has already been on site. He has removed all the debris, mold, etc. from 8 Hammatt Street, Unit 2, and 10 Hammatt Street as well as removing debris from the basement and out buildings. Additionally, prior to the transfer of title, the smoke alarms and carbon monoxide detectors were inspected in all 3-units.

Mr. Cayer attested that the Building Commissioner, James Bone, is in the process of revoking occupancy permits for 8 Hammatt Street, Unit 2, and 10 Hammatt Street due to inadequate means of egress. Once 8 Hammatt Street, Unit 1 is vacated, all 3-units will remain vacant until the requisite repairs are made and new occupancy permits are obtained. Mr. Cayer said he is unable to complete the requisite repairs by the June 15, 2023 deadline and requested a 1-year extension to redevelop the property and correct all violations in the process.

Susan Hubbard made a motion to modify the order and grant an extension until December 31, 2023 with the condition that 8 Hammatt Street, Unit 2, and 10 Hammatt Street remain vacant until compliance with the State Sanitary Code 105 CMR 410.000 is obtained. Dr. Boreri seconded the motion. The motion passed unanimously.

The Board of Health also said Mr. Cayer could attend the December 4, 2023 meeting if more time was needed to obtain

compliance.

Unless another extension is granted, John Morris, Health Inspector, will conduct a re-inspection after December 31, 2023 to confirm compliance. A \$75.00 re-inspection fee is applied to *each* re-inspection.

6:23 – Director of Public Health Report:

Housing Cases update:

- **9 Bunker Hill Road:** The owner is still in litigation for the eviction of the tenant. The case was continued until July 6, 2023.
- **59 Topsfield Road:** At the May 1, 2023 Board of Health meeting the owner was given until June 1, 2023 to obtain compliance with 105 CMR 410.000. A re-inspection was conducted on June 2, 2023 and the violations remain. A criminal complaint will be filed in court on June 6, 2023 for a failure to comply with a Board of Health order.
- **82 Jeffrey's Neck Road:** At the May 1, 2023 Board of Health meeting the owner was given until June 1, 2023 to obtain compliance with 105 CMR 410.000. A re-inspection was conducted on June 2, 2023 and the violations remain. A criminal complaint will be filed in court on June 6, 2023 for a failure to comply with a Board of Health order.

Polished, LLC Dental Clinic on June 20, 2023: After a 3-year hiatus due to COVID-19, the Polished Dental Clinic will resume in Ipswich. The program will take place at Ipswich Town Hall, Room C, on Tuesday, June 20, 2023 from 9am-4pm. Dental screenings, cleanings, sealants, fluoride, oral health evaluations and preventative treatments for adults and children will be provided by appointment only. Ellen Gould, Dental Hygienist, will run the program.

Behavioral Health Help Line presentation: Colleen Fermon will participate in a Zoom presentation given by a Representative of the Behavioral Health Helpline. The presentation will explain how the Behavioral Health Help Line connects individuals and families to the full range of treatment services for mental health and substance use offered in Massachusetts, including outpatient, urgent, and immediate crisis care. Pamela Lara, Public Health Nurse, John Morris, Health Inspector and representatives of the Library and the Council on Aging will also participate.

MDPH Public Hearing June 27, 2023 at 10:00 a.m. - Proposed amendments to 105 CMR 430.000: Minimum Standards for Recreational Camps for Children, State Sanitar: The Department of Public Health will hold a public hearing and comment period on proposed amendments on June 27, 2023. The purpose of these amendments is to implement the requirements of Section 90 of the FY2021 Budget, *Medical Specialty Camp Medication Administration*, which will authorize certain unlicensed individuals at medical specialty camps to administer diabetes medications.

Mosquito Testing: Mosquito testing will begin on June 12, 2023.

Beach Testing: Beach testing began on May 23, 2023 and will run through September 4, 2023 (Labor Day).

Next Board Meetings: The next meetings of the Board of Health are scheduled for July 10, 2023, August 7, 2023, September 11, 2023, October 2, 2023, November 6, 2023 and December 4, 2023. All meetings will start at 5:30 PM and be in Town Hall, Meeting Room C.

Adjourn: Dr. Boreri made the motion to adjourn at 6:40 PM. Susan Hubbard seconded the motion. The motion to adjourn passed unanimously.

Documents used at the June 5, 2023 Board of Health meeting:

- May 1, 2023 Board of Health Minutes.
- 105 CMR 665.00 and Ipswich Board of Health Regulation Restricting the Sale of Tobacco Products.
- April 24, 2023 memo from Joyce Redford and Excel spreadsheet for Richdale, Cumberland Farms #6681, and Ipswich Beverage.

- May 1, 2023 Violation Notices from Colleen Fermon for Richdale, Cumberland Farms #6681, and Ipswich Beverage.
- March 2, 2023 Conditional Pass letter from Colleen Fermon for 80 Old Right Road.
- May 3, 2023 and May 9, 2023 emails from Mike Hoey regarding 56 Skytop Road.
- May 5, 2023 email from Colleen Fermon regarding 56 Skytop Road.
- May 9, 2023 Housing Inspection Report and Order for Correction for 8-10 Hammatt Street.
- Chapter II of the State Sanitary Code, 105 CMR 410.00.
- 310 CMR 15.000, Title 5

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Amanda Donovan, Board Member