

**Board of Health Minutes**  
**Monday, August 1, 2022 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 and Dr. Susan Boreri. Amanda Donovan was not in attendance.

**Others in attendance:** Colleen Fermon, Director of Public Health, Jennifer Brown, Public Health Administrative Assistant, Lea Smith, Jane O’Leary, Hans Strauch, Mike Duval, Gerard McDonald, and Steven Barrett.

**Citizens Queries:** None.

**Minutes:** Dr. Boreri made a motion to approve the July 11, 2022 Board of Health minutes. Susan Hubbard seconded the motion. The motion passed unanimously.

**5:30 - Public Hearing:**

Susan Hubbard opened the public hearing for the amendments to the regulation, Restricting the Sale of Tobacco Products advertised in the Ipswich Local News on July 13, 2022 which was at least 14 (fourteen) days prior to the hearing in compliance with Ipswich’s General By-laws.

Susan Hubbard read the published legal notice:

Notice is hereby given, the Ipswich Board of Health will conduct a Public Hearing on Monday, August 1, 2022 at 5:30 pm at the Town Hall, Meeting Room C, to discuss amendments to the regulation, Restricting the Sale of Tobacco Products. As drafted, the regulation prohibits a permit renewal if three sales to persons under 21 occurs three times during the permit year, includes a cap the number of Tobacco Product Sales permits at ten, prohibits Adult Only Retail Tobacco Stores, prohibits any new permits within 500 feet of a school or within 500 feet of an existing permittee, includes a dual fine system for local and state regulations violations and adds a tolling periods of 36 months for violations. Complete copies of the draft regulation are available at the Public Health Department. Susan C. Hubbard, Chairman Board of Health.

Ms. Hubbard established ground rules for the hearing, informing those present that: testimony would be limited to the issues directly related to the subject matter of the hearing; only one person will be permitted to speak at a time for a period of 5 minutes or less; all discussion will go through the Chair; all parties will be expected to conduct themselves civilly; and argument between parties will not be permitted.

Susan Hubbard opened the floor for comment and asked if anyone wished to be heard regarding the proposed amendments to the regulation.

Joyce Redford, Director of the North Shore/Cape Ann Tobacco Policy Program, requested the Board of Health consider October 1, 2022 as the date the amended regulation would become effective. The Board members considered the request.

With no other testimony offered, Susan Hubbard closed the evidentiary portion of the hearing.

Susan Hubbard made a motion to approve the amendments to the regulation, Restricting the Sale of Tobacco Products. The amended regulation will take effect on August 10, 2022. Notice of the amended the regulation, Restricting the Sale of Tobacco Products will be done in the Ipswich Local News. Tobacco retailers will also be notified of the amended regulation by email.

**Hearings:**

**5:35 - Drew Marc-Aurele and Jane O’Leary for A.P. Marcorelle, Inc. – 30 Central Street – Violation of 105 CMR 665. 010 (A) and Suspension of Tobacco Product Sales Permit**

A.P. Marcorelle, Inc. violated 105 CMR 665.000 MINIMUM STANDARDS FOR RETAIL SALE OF TOBACCO AND ELECTRONIC NICOTINE DELIVERY SYSTEMS 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, August 1, 2022.

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 July 14, 2022 at approximately 12:18 pm, a compliance check was conducted on behalf of the Ipswich Public Health Department by the North Shore/Cape Ann Tobacco Policy Program. The person sent into the retail establishment asked for a Black and Medium and was told the establishment did not have any available for sale. Subsequently, the person asked for Marlboro Gold cigarettes. Ms. Redford provided the tobacco product sold during the compliance check conducted on July 14, 2022. She noted that a pack of Marlboro Gold cigarettes were sold to a person younger than 21 years of age.

Jane O'Leary was present at the hearing along with Lea Smith. At the hearing, Ms. Smith confirmed that the violation occurred but said she was not involved in the transaction.

Dr. Boreri questioned if the retail establishment provided employees with training and education regarding the sale of tobacco products. Ms. Smith explained that the establishment reviews this with employees but they do not have a formal training program in place.

Ms. Redford said the state developed an online retail training regarding tobacco sales. This training is helpful to retail store managers/owners and their employees. The training is anonymous and free. Ms. Redford said she would forward a link with this information to the operator.

Additionally, she clarified that every person needs to be asked for identification every time. She noted that this was the operator's first offense selling to a minor.

Susan Hubbard said 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 considered the length of the suspension and recognized that this was the establishment's first violation.

Susan Hubbard made a motion to suspend the Tobacco Product Sales Permit for A.P. Marcorelle, Inc. for 3 days, effective August 3, 2022. All tobacco products must be removed from the retail establishment on August 3, 2022 through August 5, 2022. Dr. Boreri seconded the motion. The motion passed unanimously.

Colleen Fermon will conduct a site visit on August 3, 2022 to ensure all tobacco products have been removed from the retail establishment.

The Board of Health reminded the operator that, in addition to the order and permit suspension, a fine of \$1,000 is imposed pursuant to 105 CMR 665.045 (A) (1) for the first offense. A.P. Marcorelle, Inc was ordered to pay the amount of one thousand (\$1,000.00) dollars by check or money order made payable to the Town of Ipswich within twenty-one (21) days of receipt of the July 18, 2022 order; by August 11, 2022. The payment must be remitted to the Public Health Department, 25 Green Street, Ipswich, MA 01938. Failure to comply with this order may result in additional penalties as permitted by law. The fine related to the violation shall apply against the retailer or the business agent and not an employee thereof.

#### **5:44 – Hans Strauch for Ipswich Bottle Shop. – 188 High Street – Violation of 105 CMR 665. 010 (A) and Suspension of Tobacco Product Sales Permit**

The Ipswich Bottle Shop violated 105 CMR 665.000 MINIMUM STANDARDS FOR RETAIL SALE OF TOBACCO AND ELECTRONIC NICOTINE DELIVERY SYSTEMS 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, August 1, 2022.

At the hearing, the Board of Health heard testimony from Joyce Redford, Director of the North Shore/Cape Ann Tobacco Policy Program. On July 14, 2022 at approximately 11:07 am, a compliance check was conducted on behalf of the Ipswich Public Health Department by the North Shore/Cape Ann Tobacco Policy Program. The person entered the retail establishment and asked for Marlboro cigarettes. Ms. Redford provided the tobacco product sold during the compliance check conducted on July 14, 2022. She noted that a pack of Marlboro cigarettes were sold for \$12.50 to a person younger than 21 years of age.

Hans Strauch was present at the hearing along with Mike Duval. At the hearing, Mr. Strauch confirmed that the violation occurred.

Dr. Boreri questioned if the retail establishment provided employees with training and education regarding the sale of tobacco products. Mr. Duval explained that the establishment reviews this with employees but they do not have a formal training program in place at this time due to employee turnover. Previously, prior to 2020, the establishment did train employees. Currently, the plan to purchase equipment to check identifications.

Ms. Redford said the state developed an online retail training regarding tobacco sales. This training is helpful to retail store managers/owners and their employees. The training is anonymous and free. Ms. Redford said she would forward a link with this information to the operator.

Mr. Duval questioned if the regulation was the same for out of state identifications.

Ms. Redford explained out of state government issued identification is acceptable. Additionally, she clarified that every person needs to be asked for identification every time. North Shore/Cape Ann Tobacco Policy Program don't use out of state youth. Youth are not sent in with identification.

Ms. Redford said this was the operator's first offense selling to a minor.

Susan Hubbard noted 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 considered the length of the suspension and recognized that this was the establishment's first violation.

Susan Hubbard made a motion to suspend the Tobacco Product Sales Permit for Ipswich Bottle Shop for 3 days, effective August 3, 2022. All tobacco products must be removed from the retail establishment on August 3, 2022 through August 5, 2022. Dr. Boreri seconded the motion. The motion passed unanimously.

Colleen Fermon will conduct a site visit on August 3, 2022 to ensure all tobacco products have been removed from the retail establishment.

The Board of Health also reminded the Ipswich Bottle Shop that, in addition to the order and permit suspension, a fine of \$1,000 is imposed pursuant to 105 CMR 665.045 (A) (1) for the first offense. The Ipswich Bottle Shop was ordered to pay the amount of one thousand (\$1,000.00) dollars by check or money order made payable to the Town of Ipswich within twenty-one (21) days of receipt of the July 18, 2022 order; by August 11, 2022. The payment must be remitted to the Public Health Department, 25 Green Street, Ipswich, MA 01938. Failure to comply with this order may result in additional penalties as permitted by law. The fine related to the violation shall apply against the retailer or the business agent and not an employee thereof.

#### **5:49 - Richard Mueller and Karen Gibson-Mueller – 28 Eagle Hill Road–Represented by H.L. Graham Associates, Inc. – Septic System Design Variances**

Gerard McDonald, P.E., presented, and a hearing was conducted for the approval of a tight tank plan # 22-2205 designed by Gerard McDonald, P.E., dated June 29, 2022 and revised July 26, 2022 for the 3 bedroom dwelling located at 28 Eagle Hill Road, Ipswich, Massachusetts.

Susan Hubbard asked if the abutter at was notified. Mr. McDonald provided the certified mail card for 26 Eagle Hill Road to the Public Health Department as proof of notification.

This is a voluntary upgrade of the existing 3-bedroom system. Mr. McDonald provided an orientation of the property and explained that this is a small lot consisting of mostly clay. He said the soils did not support the use of a conventional subsurface soil absorption system and proposed the use of a tight tank for the upgrade. Mr. McDonald clarified that variances are needed due to site constraints including the Area of Critical Environmental Concern (ACEC), the coastal buffer zone, and the flood plain. He requested the following variances:

- A reduction in the setback between the tank and the cellar wall. A 5 foot setback is provided.
- A reduction in the setback between the tank and the property line. A 2 foot setback is provided.
- A reduction in the setback between the tank and the garage slab. A 2 foot setback is provided.
- A reduction in the 150 foot setback between the tight tank and the Area of Critical Environmental Concern (ACEC). The tank is 27 feet from the ACEC.

The Board members reviewed the septic design plan.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon recommended granting the variances as requested with the following conditions:

1. A 2-year operation and maintenance and service contract with a septage hauler licensed to operate in Ipswich, designating disposal location of contents, must be submitted to the Board of Health prior to issuance of Disposal System Construction Permit.
2. The flow from the dwelling to the tight tank is limited to a 3-bedroom dwelling. No increase in flow is allowed.
3. A Lifetime Maintenance restrictive covenant for the tight tank must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
4. The approval letter must be recorded at the Southern Essex County Registry of Deeds, and a recorded copy submitted to the Public Health Office prior to issuance of Disposal System Construction Permit.
5. Conservation Commission approval must be obtained prior to issuance of the Disposal System Construction Permit.
6. An Ipswich licensed installer must come to the Public Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee. The installer will receive the disposal system construction permit, the trench permit and a signed copy of the approved plan.
7. In accordance with 310 CMR 15.260 (5), when a sanitary sewer connection becomes available, the owner of the tight tank shall connect to the sewer within 30 days and the tight tank system shall be abandoned in accordance with 310 CMR 15.354.

Dr. Boreri made a motion to approve the plan with the conditions as enumerated by Colleen Fermon. Susan Hubbard seconded the motion. The motion passed unanimously.

#### **5:54 - Discussion: Dr. Steve Barrett – Ipswich Aware – Youth Substance Use Prevention Program**

Dr. Steve Barrett presented.

Mr. Barrett is a retired family physician and has been a part of Ipswich Aware since he moved to Ipswich. He currently serves as Chairperson.

Ipswich Aware is a volunteer organization made up of residents, member of the Ipswich Police Department and the School Department, Ipswich YMCA Director of Public Health, and local churches and mental health providers to address issues of substance abuse, education, and prevention in Ipswich.

The focus of the new program is substance abuse prevention in youth through:

1. Parent Education – Provides tools for better communication with children regarding drug use. Material from SAMHSA (Substance Abuse and Mental Health Services Administration), a federal program with proven techniques to work to reduce substance abuse, is provided to parents. The information will be disseminated through the schools in weekly emails to parents, is presented at curriculum night, and is broadcast through ICAM.
2. Positive Activities for Children – Provides alternative activities for youth to be involved in with their input.

Dr. Barrett asked if the Board of Health would support/endorse the program. If so, would the Board of Health provide brochures at the Public Health Department? There will also be brochures available at the Ipswich Library and the YMCA.

Susan Hubbard made a motion that the Ipswich Board of Health will support Ipswich Aware. Dr. Boreri seconded the motion. The motion passed unanimously. The Public Health Department also agreed to make brochures available at the office.

#### **6:25 - Director of Public Health Report:**

- **Remote Meeting Update:** On July 16, 2022, Governor Baker signed into law An Act Relative to Extending Certain State of Emergency Accommodations, which, among other things, extends the expiration of the provisions pertaining to the Open Meeting Law to March 31, 2023. Specifically, this extension allows public bodies to continue holding

meetings remotely without a quorum of the public body physically present at a meeting location, and to provide "adequate, alternative" access to remote meetings. The Act does not make any new changes to the Open Meeting Law other than extending the expiration date of the temporary provisions regarding remote meetings from July 15, 2022, to March 31, 2023.

- **New England Biolabs:** Dr. Boreri attended New England Biolabs's semi-annual IBC (Institutional Biosafety Committee) meeting on July 20, 2022.

Colleen Fermon said a RDNA registration application was received in the Public Health Office. The application was sent to the consultant, Rebecca Ryan-Carusio, for review. Ms. Ryan-Carusio said she would review the application by August 31, 2022. The current approval expires on September 3, 2022.

- **COVID-19 Update – COVID-19 Cases, Positivity Rates and Vaccinations:**

- Colleen Fermon said that Ipswich currently has 6 active COVID19 cases, people under isolation.
- Ipswich had a COVID-19 positivity rate of 3.8% on July 21, 2022 and a positivity rate of 3.6% on July 28, 2022. Ms. Fermon explained that this was a snapshot of COVID-19 positivity rates since many people are testing at home and results are not being reported for data collection.
- Dr. Boreri said vaccines to address new COVID-19 variants are expected in October 2022.

- **Syringe Services Program Update:** The Syringe Services Program will begin on August 4, 2022. A press release was published in the Local News last week. Flyers were posted around town. The program will begin at the Ipswich Housing Authority next to The Open Door to start. Currently, ONESTOP is trying 3 different locations and times to see what works best. Ipswich residents are encouraged to contact the program directly for more information on times and locations.

- ONE STOP will be at the fall 2022, Ipswich Electronics Collection, to collect sharps.

- The Board of Health members asked if a sharps collection bin could be made available at Town Hall. Ms. Fermon noted that this service could possibly be offered and she is discussing it with One Stop but they would need to provide the container and it would need to be managed to not present a hazards.

- **COVID-19 Test Kits:** The Public Health Department received 2,520 COVID-19 test kits. Ms. Fermon said the test kits are being distributed by the Ipswich Public Health Department, Ipswich Public Library, Council on Aging, Recreation and the Town Managers Office. The kits were also provided to some local food establishments, local churches and some businesses.

- **Mosquitos:** The Northeast Massachusetts Mosquito Control and Wetlands Management District is conducting an application to control adult mosquitoes on Monday August 1st, 2022, in the evening between the hours of 8:00pm and 12am. The areas to be treated are town owned properties including the Town Hall Fields at 25 Green St, Ball Fields at 65 Mile Lane, the Winthrop School, Doyon School, Ipswich High and Middle School, Giles Firman Park, Bialek Park, Father Ryc Park, Benjamin Howe Memorial Park, Great Neck Park, Daniel Boone Park and Pony Express Fields. The Barrier and adulticide application to control mosquitoes is not a response to a virus. Spraying is being done prior to school reopening since August and September tend to be the worst months for mosquito activity and virus. By spraying prior to school reopening, the School Department will not have to comply with the Children's Protection Act requirements and procedures necessary regarding the use of pesticides within a school, daycare center or school age child care program facility.

**Next Board Meetings:** The next meetings of the Board of Health are scheduled for September 12, 2022, October 3, 2022, November 7, 2022 and December 5, 2022. All meetings will start at 5:30 PM and are held in Town Hall, Meeting Room C.

**Adjourn:** Susan Hubbard made the motion to adjourn at 6:27 PM. Dr. Boreri seconded the motion. The motion to adjourn passed unanimously.

Documents used at the August 1, 2022 Board of Health meeting:

- July 13, 2022 Legal Notice for the Local News Restricting the Sale of Tobacco Products Draft Regulation.
- Email dated July 13, 2022 from Colleen Fermon to Tobacco Product Retailers.
- Ipswich Compliance Check Memo and Excel Spreadsheet from Joyce Redford dated July 15, 2022.
- 105 CMR 665: Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems.
- Violation letter dated July 18, 2022 from Colleen Fermon to AP Marcorelle Co., Inc,
- Violation letter dated July 18, 2022 from Colleen Fermon to Ipswich Bottle Shop.
- Tight Tank Design Plan for 28 Eagle Hill Road.
- June 1, 2022 email from Dr. Steve Barrett regarding Youth Substance Use Prevention Program Outline for Ipswich Aware.

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Susan C. Hubbard, Chairperson

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Dr. Susan Boreri, Board Member