



# ***Billerica Board of Health***

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Mike Grady, Chairman  
Robert Reader, Vice Chairman  
Sandra Giroux, Secretary  
Marie O'Rourke  
Amit Gandhi, Ph.D.

Kristel Bennett, Director

## **BOARD OF HEALTH MINUTES February 7, 2022**

Mike Grady, Chairman called the meeting to order at 7:00 p.m. Also in attendance were Robert Reader, Vice Chairman, Sandra Giroux, Secretary, Marie O'Rourke, Amit Gandhi, Ph. D., Kristel Bennett, Director, Joanne White, Recording Clerk and Shelagh Collins, Health Agent.

### **OPEN MICROPHONE**

Mr. Grady asked if anyone would like to comment on Open Microphone.

Daryl Deshler, 305 Andover Road identified himself. Mr. Deshler explained that he would like to ask a question regarding the mask mandate.

Mr. Grady replied that all questions regarding the mask mandate would be addressed when the Board reviews the COVID-19 Public Health Order.

A resident in the audience stated that the Select Board Meeting and the Board of Health Meeting overlap. Would it be possible to schedule the Board of Health meeting to another evening so that residents could attend both meetings?

### **ACCEPTANCE OF MINUTES**

Mrs. O'Rourke made a motion to accept the Meeting Minutes of January 10, 2022.

Mrs. Giroux seconded. So voted unanimously.

### **BOARD OF HEALTH BUSINESS**

#### **Board of Health Activity Reports**

Mr. Grady stated the first item under Board of Health Business is the Health Department Activity Reports.

Copies of the Health Department Activity Reports for January are included in the Board's package.

Mr. Grady stated the first activity report is from the Public Health Nurse, Christine West.

Mrs. Bennett stated that she had no additional comments.

Mrs. Giroux thanked Christine West, the Public Health Nurse for all her work and efforts during the COVID crisis.

Dr. Gandhi also thanked Christine West for all her hard work.

Mr. Grady stated the next activity report is from Health Agent, Phavy Pheng.

Mrs. Bennett replied no additional comments.

Mrs. Giroux asked if Phavy has received the written request from the owner to extend the time to clean up his property at 11 Kingston Road. How long does the owner have to submit the request?

Mrs. Bennett replied that Phavy will be going back to court and the owner will provide the request at that time. The court system is backed up.

Mrs. Giroux asked about the status of the unsanitary conditions at 16 Linnell Circle and what is the turn-around time for Elder Services to provide a report to Phavy.

Mrs. Bennett replied that Bethany Slack, Community Services Coordinator is involved as well. Elder Services is also backed up due to COVID.

Mrs. Giroux asked if the fine was paid by the occupant at 10 Cunningham Lane for the marijuana odor in a smoke free condo unit.

Mrs. Bennett replied that she does not know and will ask Phavy.

Mrs. Giroux asked has any progress been made with the deplorable conditions of the dwelling at 133 Salem Road.

Mrs. Bennett replied that she will get back with the status of that complaint.

Mrs. O'Rourke asked if the Council On Aging or Elder Services has provided any information regarding the status of the woman living in her car at 40 Broad Street.

Mrs. Bennett replied that Phavy met with the owner and the owner informed Phavy that the utilities were functioning however she refused to give Phavy permission to access the dwelling to verify.

Mrs. O'Rourke asked is she living in her car.

Mrs. Bennett replied that as far as we know she is still living in her car.

Mr. Grady stated the next activity report is from Health Agent, Shelagh Collins.

Mrs. Bennett replied no additional comments.

Mrs. O'Rourke thanked Mrs. Collins for providing more information in her report.

Dr. Gandhi asked what was discussed at the Department of Elementary and Secondary Education (DESE) Seminar. Dr. Gandhi thanked the Board of Health, Town Staff and Nurse in setting up the COVID clinics. Their continuous efforts are really appreciated.

Mrs. Bennett replied that the webinar explained the updated COVID-19 protocols and contact tracing and availability of testing kids for parents.

Mr. Grady stated the last activity report is from the Community Services Coordinator, Bethany Slack.

Mrs. Bennett replied no additional comments.

Mrs. Giroux recommended that Ms. Slack use the same reporting format to be consistent with the rest of the staff. Also, what is the plan for office hours and where are they going to be held?

Mrs. Bennett replied that she would provide the comments from Mrs. Giroux to Ms. Slack.

Mr. Grady asked the Board Members if they had any other comments or concerns.

### **Health Director Update**

Mr. Grady stated the next item under Board of Health Business is the Health Director's Update.

Mrs. Bennett explained that the COVID Cases are continuing to trend down. The Town Manager, John Curran has provided a copy of the statics of the COVID-19 cases and vaccinated residents. I met with the Mr. Curran and to review the proposed FY23 Board of Health Budget.

Mr. Grady asked the Board Members if they had any questions.

The Board Members did not have any questions.

### **FY2023 Budget**

Mr. Grady stated the next item under Board of Health Business is the FY2023 Budget.

Mrs. Giroux asked why is Stormwater Management going to be handled by the Engineering Department.

Mrs. Bennett explained that the plan is to hire a Stormwater Engineer to review all projects so that the Board of Health can focus on addressing mental health and provide general oversight of

environmental health operations. The Town Manager made that change to help alleviate the Board of Health of some of the work that they are doing.

Mrs. Giroux asked is that a temporary change? How is that going to affect a project when this Board has to review the project for drainage. Is the plan to have the engineer submit a report to the Board or come before the Board and explain the proposed drainage plan?

Mrs. Bennett replied that she has been meeting with the Engineering Department to discuss what is the best way to move forward with the projects that have drainage concerns. We may have a Stormwater Management Committee to provide information and updates to the Board.

Mrs. Giroux stated that would add another step to the process.

Mrs. O'Rourke stated that she does not agree with the new position on Mrs. Bennett's Wish List. Does the Health Department still contact Mr. Berube for help? Does he come in more because we do not have stormwater management?

Mrs. Bennett replied yes, we still contact Mr. Berube. Mr. Berube reviews septic system plans and coordinates consultations for flood plain issues. Stormwater Management is mainly handled by BETA Group or Brian Dunn, MBL Land Development. Conservation and Engineering also use BETA Group and MBL to streamline project reviews. The reason we contact Mr. Berube is because my attention has been focused on COVID. Mr. Berube has a great deal of septic knowledge and flood plain in Billerica. It is very beneficial for us to have Mr. Berube. He has the best knowledge on making decisions for the Town.

**Next Meeting – March 7, 2022**

Mr. Grady stated the last item under Board of Health Business is the schedule for the next meeting. The next Board of Health Meeting is scheduled for March 7, 2022.

**7:15 p.m. Pini's Pizzeria – 749 Boston Road – Administrative Hearing**

Mr. Grady stated the first hearing is Pini's Pizzeria, 749 Boston Road, Administrative Hearing.

Mrs. Bennett explained that Pini's Pizzeria is before the Board tonight because of the violations concerning the Board of Health COVID-19 Public Health Order. The complaint states that face coverings are not being worn by the staff inside the establishment. Health Agent, Shelagh Collins who is present tonight has spoken with the Person In Charge (PIC) on several occasions regarding the mask mandate. The PIC told Ms. Collins that she was not going to enforce the order and mandate her staff to wear a mask. The first time Ms. Collins spoke to the PIC she just issued a warning. The second and third time Ms. Collins issued a fine with the citation. To date, the fines have not been paid. Ms. Assetta informed Ms. Collins that she is appealing with the Lowell District Court and will continue to not enforce the mask mandate.

Serina Assetta, owner of Pini's Pizzeria, 749 Boston Road identified herself. Ms. Assetta explained that we complied with the mask mandate the first year of COVID until it was rescinded. At that time we had several employees that have a breathing problem including myself and my wife.

A couple of my employees passed out from constantly wearing a mask. A couple of my employees threatened to quit on me. When we were told to get vaccinated, all my employees did. I don't have the right to ask my employees what their medical problems are. I own 2 businesses, one in Billerica and one in Somerville that is now moving to Medford. The entire time that this mask mandate has been in effect only 6 of my employees, from both of my businesses had COVID. We sanitize everything. I comply and do everything I have to do. I have seen many people in Billerica not wearing their masks properly. I do a lot for this community. I do a very good job running my business. I follow all the food code regulations. It says on the back of the citation that I can appeal it to Lowell District Court so I did. I want them to decide. I don't know why I am here. This isn't right.

Mr. Grady asked the Board Members if they had any questions for Ms. Assetta.

Mrs. Giroux thanked Ms. Assetta for coming this evening. Mrs. Giroux asked when did you file with Lowell District Court?

Ms. Assetta replied in October 2021.

Mrs. Giroux asked Ms. Assetta if she has received anything from the court system.

Ms. Assetta replied she has not heard anything from Lowell District Court.

Mrs. Giroux asked is that normal?

Officer Sean Coffey, Billerica Police Department stated that it is normal because the court system is extremely backed up.

Mrs. O'Rourke thanked Ms. Assetta for coming in. You stated that your employees have medical issues, did you mention that to Ms. Collins. Mrs. O'Rourke explained that Ms. Collins is only doing her job. When the Health Department gets a complaint Ms. Collins has to follow up and respond to the complainant. You are not being singled out. The Health Department has received many calls regarding masks not being worn in food establishments. Ms. Collins is required to follow up each complaint that she receives.

Ms. Assetta stated if a customer comes and requests that we wear a mask, we put one on. I have a problem with my lungs since I have been wearing the mask. It is very difficult to wear a mask in the kitchen for 12 hours everyday. The employees that can wear a mask are wearing them. Some of us can't wear the mask. However, we will put a mask on when a customer requests that we put one on.

Mr. Reader asked would it be a problem to pull the mask up when a customer comes in. You don't have to wear a mask when no one is in the establishment.

Ms. Assetta asked is it sanitary to always be touching the mask? Masks are not required in Burlington. My wife and I have health issues.

Mr. Reader replied we are not worrying about Burlington. Put the mask on when a customer comes in. I own a business in Billerica and I tell them when a customer comes into the store they have to put a mask on.

Dr. Gandhi thanked Ms. Assetta for explaining her side. Dr. Gandhi asked Ms. Assetta if she would encourage her staff to wear masks?

Ms. Assetta replied that she would. Ms. Assetta reiterated that some of my employees do wear a mask all the time. What am I supposed to do close down my business over the mask mandate?

Mr. Grady asked Ms. Collins for her comments.

Ms. Collins stated that she goes to restaurants everyday and responds to a lot of mask complaints. Since the mandate has been put in place, I have received many complaints from other food service establishments. When I talked to you about it, I felt like you disrespected me. I am trying to help.

Ms. Assetta replied I did not disrespect you, I was just being very honest with you. I do not think you are trying to help me. My customers have not complained.

Ms. Collins stated that since the mask mandate was put into effect there has been at least 4 complaints regarding no masks at your establishment. You can check the file. When I spoke with one of your staff members about wearing his mask, he said to me good luck with that. Since you were not in compliance with the order, I issued a citation.

Ms. Assetta stated she was not aware that any of her employees spoke to Ms. Collins like that.

Ms. Collins explained that she has also fined other food service establishments.

Ms. Assetta stated that she has always been respectful to Ms. Collins. I keep my kitchen clean and comply with all the Board of Health regulations. I have been in the restaurant business for 17 years. I know what I am doing. I have never been written up before. I don't know what you really want me to do. More than half of my staff wears their mask.

Mrs. O'Rourke made a motion to wait for the decision from Lowell District Court regarding the violation, then the Board will take appropriate action.

Mr. Reader seconded. So voted unanimously.

**7:25 p.m. Michael O'Regan – 420 Boston Road – Requesting a Waiver of Regulations**

Mr. Grady stated the last hearing is Michael O'Regan, 420 Boston Road requesting a Waiver of Regulations.

Michael O'Regan, 29 Arthur Street, Beverly identified himself. Mr. O'Regan explained that he is proposing to open a tattoo studio at 420 Boston Road and would like to waive the need for full walls. I am proposing to have half walls for an open concept. Most of the shops that I have worked in have the open concept. We can use partitions made of wood or screens. I was hoping to use no partitions at all, but half walls will work.

Mrs. O'Rourke asked how many stations will you have.

Mr. O'Regan replied 4 or 5 stations depending on how much space we have.

Mrs. Giroux asked will 5 stations fit in that area.

Mr. O'Regan replied I measured the area and 5 stations should fit.

Mrs. Giroux asked do you plan on protecting the client's privacy.

Mr. O'Regan replied that he would use Japanese Bi-Fold doors for client's that request privacy.

Mrs. Bennett replied that this is a new waiver for open concept tattoo establishments. It is becoming more popular. My concern is to ensure that sanitation rules are followed. Without the walls more air movement will be allowed throughout the establishment.

Mr. O'Regan explained that we still will be using Best Practices for sanitation. Nothing changes. There will be a sink at every station.

Mrs. Giroux asked what would be the difference of having a 6-8 foot Japanese screen as a partition as to having the half wall. The Japanese screen will meet the requirements and still be movable and will provide privacy.

Mr. O'Regan replied that it will benefit the studio, if no one is in the studio there will be more space for free movement.

Mrs. Giroux stated a free-standing screen will still provide the 8-foot requirements and it still will be movable and would meet the requirements of the Board of Health and provide privacy. Is that something you can agree to?

Mr. O'Regan replied that would work.

Mrs. Bennett asked would the partitions be in place during procedures or is the intention to have the partitions there for privacy?

Mr. O'Regan replied that the partitions would be used for privacy and it would allow us to push them aside when no one is in the studio.

Mr. Grady asked how many Tattoo Studios do we currently have?

Mrs. Bennett replied 2.

Mr. Grady asked are they required to have permanent walls.

Mrs. Bennett replied yes, they have permanent walls.

Mr. Grady stated that he would like to see the bi-fold walls be permanent. If the other studios need to have permanent walls, then I recommend that all the tattoo studios be the same. If Mr. O'Regan would like to have 8-foot Bi-Fold doors I have no problem with the Japanese Bi-Fold doors

but they have to be up and in place all the time. I am asking you if you are okay with having the Japanese Bi-Fold doors permanently in place.

Mr. O'Regan asked can we have half walls.

Mrs. Giroux asked if he doesn't have clients can the doors be pushed back.

Mr. Grady stated he does not have a problem with the walls being pushed back when no one is there.

Mrs. O'Rourke asked do you have another tattoo studio?

Mr. O'Regan replied no.

Mrs. O'Rourke asked where did you work before.

Mr. O'Regan replied that he worked at Boston Tattoo Company.

Dr. Gandhi stated that he was impressed by all the details provided by Michael O'Regan for the waiver.

Mr. Grady asked if the Board Members had any further questions.

The Board Members did not have any further questions.

Mrs. Giroux made a motion to grant Mr. O'Regan the Waiver of Regulations for the solid walls and have the 8 foot Japanese Bi-Fold doors at the tattoo studio, to be located at 420 Boston Road with the stipulation that the partitions have to be in place when a client is being serviced if there are no clients in the establishment the bi-fold doors do not have to be fully opened they can be folded based upon the following findings of fact and subject to the following conditions:

#### **FINDINGS OF FACT**

1. The proposed Body Art Establishment described in the applicant's request is within an area subject to protection under the Board of Health's Rules and Regulations, Chapter 3, Section 3.
2. The applicant proposes to operate a tattoo establishment at 420 Boston Road. The applicant proposed to make modifications to the premises to comply with the Billerica Board of Health Regulations, Chapter 3, Section 3 *Body Art, Body Piercing, Body Tattooing*.
3. The applicant has been a professional tattoo artist since 2018. The applicant is proposing to have an open concept tattoo studio utilizing non-stationary barrier between tattoo workstations allowing for a comfortable tattoo experience with an open dialogue.
4. The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

**CONDITIONS**

Special Conditions# 10, 12, 15 and 25.

- A. These conditions, imposed by the Board of Health, cannot be changed without the written approval by the Board of Health and only after a proper public hearing is held.
- B. The applicant shall use 8 foot tall bi-fold partitions to separate the tattoo workstations, these partitions shall be in place when tattoo practitioners are performing tattoos on clients.
- C. This waiver shall be subject to periodic review by the Board of Health to ensure compliance with applicable rules and regulations.
- D. This waiver cannot be transferred from one person to another person, from one body art establishment to another or from one type of operation to another.

Mrs. O'Rourke seconded. So voted unanimously.

**7:35 p.m. Review of Board of Health COVID-19 Public Health Order**

Mr. Grady stated the last item is the Review of the Board of Health COVID-19 Public Health Order.

The Board reviewed the Board of Health COVID-19 Public Health Order and the statics provided by the Town Manager, John Curran.

Mrs. Bennett explained that the Public Health Order for masks has been in place for 5 months. The cases are trending down however we are still in the red for high community transmission. 72% of the population in Billerica is fully vaccinated. At this point in time, I recommend that the order be rescinded and an advisory be put in place.

Mrs. Giroux stated that Billerica's vaccination rate is 72% as of today. Our original order stated that 75% be fully vaccinated. I recommend that we rescind the mask mandate on February 28, 2022 in conjunction with the Department of Elementary and Secondary Education (DESE). If cases continue to trend down an advisory would be put in place on March 1, 2022. This order excludes town and municipal buildings because it is under the Town Managers purview. The reason I recommended February 28<sup>th</sup> is because it is after the surge and February vacation. That is my motion.

Mrs. O'Rourke seconded.

Mr. Grady stated that before a motion can be made, the Board will discuss their recommendations.

Mrs. O'Rourke stated that the order was initiated because of the information we received regarding the COVID-19 cases in Billerica. The Board put the mandate in place in the best interest of the community. The Board has been criticized for putting this mandate in place. Now that the cases

are trending down, I agree that the order can be rescinded. The Board of Health does not have the staff to check on all the establishments to see if everyone is wearing a mask. Now that the cases are trending down it is time to rescind the order.

Mr. Reader asked why are we waiting until February 28, 2022 to rescind the mandate. It is obvious that the mask mandate is not working. If we rescind the mask mandate it does not affect the schools. I recommend that the mask mandate be rescinded as soon as possible.

Dr. Gandhi stated that he agrees with the respected Board of Health Members' opinions. The higher vaccination rates and lower positivity reports in the last 3 weeks are very good signs that helped me to make the decision to lift the mask mandate in Billerica as of February 8<sup>th</sup> at noon.

Mrs. Giroux stated that the reason she chose February 28<sup>th</sup> was because that is when the mandate for the schools will be lifted. It does not look good that students have to wear a mask in school and their parents do not have to wear a mask.

Mr. Grady stated that he feels strongly that the numbers are trending in the right direction and there is no reason why we cannot rescind the mask mandate right away. People are tired of wearing a mask.

Mrs. Giroux stated that the only reason she rescinded the mask as of February 28<sup>th</sup> is because the original mandate stated that the town be 75% fully vaccinated and Billerica is only 72% fully vaccinated. Wearing masks for another 3 weeks cannot hurt.

Mr. Grady stated it is time to treat this like the flu. There will always be a surge. The masks have served a purpose. It is getting to the point that we have to move on. We have done the best we could. We don't want to make this political.

A resident asked how many of the Board Members live in Billerica?

Mr. Grady replied we all live in Billerica and volunteer our time. We don't get paid.

Mrs. Giroux stated that she made a motion and stands by her motion.

Mrs. O'Rourke rescinded her second to the motion. I agree with the Chairman, Mr. Grady. So there is no motion.

Mr. Reader made a motion to rescind the Public Health Order for the Mask Mandate effective Tuesday, February 8<sup>th</sup> at noon and an advisory to be placed in effect. John Curran, Town Manager will need to approve this order for town and municipal buildings that are under his purview.

Mrs. O'Rourke seconded. Four (4) voted and one (1) vote opposed (Mrs. Giroux).

Mrs. O'Rourke made a motion to adjourn.

Mr. Reader seconded.

The Board adjourned at 8:15 p.m.

Mr. Grady stated that the meeting is closed.

Dianna Ploss stated that she wanted to make a public comment. Ms. Ploss told the audience that what you are watching is communism. You don't have to wear a mask. What the Board did is illegal. When a Board tries to tell businesses what to do that is fascism. The Board had no business putting a mask mandate in place. You need to sue them. She asked Amit Gandhi what kind of a doctor are you?

Dr. Gandhi replied a research scientist. I have my Ph.D.

Dianna Ploss replied it is misleading. People think you are a medical doctor. Every town and city got money to make sure they were in full compliance.

Respectfully submitted,

Sandra Giroux  
Secretary

Joanne M. White  
Recording Clerk