

Board of Health Minutes
Monday, November 16, 2009, 6:00 PM
Meeting Room B, Town Hall
25 Green Street, Ipswich, MA

Call to Order: Susan Hubbard called the meeting to order at 6:00 PM.

Members attending: Susan Hubbard and Chuck Hill.

Others attending: Health Director Colleen Fermon, Health Administrative Assistant Jennifer Brown, Maureen Lee, Robert Gambale, John Bruni, and Richelle Reynolds.

Citizens Queries: None

Minutes: Susan Hubbard made a motion to postpone the approval of the October 19, 2009 minutes until the December 2009 meeting of the Board of Health. Chuck Hill seconded the motion. The motion passed unanimously.

Public Hearings:

The following proposed changes were advertised in the Ipswich Chronicle on October 25, 2009 and November 5, 2009.

Fee Schedule: The Board of Health is adding categories to the fee schedule in an effort to clarify fees for the types of food establishments listed on the food establishment permit application.

Susan Hubbard read the following proposed changes to the Ipswich Board of Health Fee Schedule:

Food Service- Takeout	fee- \$100
Food Service- Institution	fee- \$200
Residential Kitchen for Bed and Breakfast Home/Establishment	fee- \$100
Mobile Food Plan Review	fee- \$25
HACCP Plan Review	fee- \$50
Manufacturing/Bottling of Carbonated Nonalcoholic Beverages	fee- \$75 (50% to state)

John Bruni asked for clarification on take out. Colleen explained takeout as an establishment offering unpackaged or exposed food that is intended for individual service that is to be consumed off site.

Susan Hubbard made the motion to accept the proposed fee schedule changes. Chuck Hill seconded the motion. The motion passed unanimously.

Board of Health Food Regulation Changes:

Susan Hubbard read the proposed changes.

Delete 1, 3 and 4; they are covered by existing state regulation 105 CMR 590.00/1999 Federal Food Code.

Amend 2 by inserting the words “retail sale” after residential kitchens. This change clarifies which types of residential kitchens are prohibited. Residential kitchens in bed and breakfast homes and residential kitchens in bed and breakfast establishments are allowed.

No changes proposed to 5 except renumbering it as 3.

Add the following language as 1:

Each food establishment shall employ at least one full-time equivalent (FTE) person in charge who shall be an on-site manager or supervisor and is at least 18 years of age and who by being a certified food protection manager has shown proficiency of required information through passing a test that is part of an accredited program recognized by the Department of Public Health. This provision shall not apply to:

- (a) Temporary food establishments offering non-Potentially Hazardous Foods such as bottled water/carbonated beverages, coffee; commercially packaged snacks, candy, and ice cream; nonperishable baked goods, fresh fruit (excluding cut melons), hot dogs, frozen preformed hamburgers and condiments.
- (b) Daycare operations which serve only snacks;
- (c) Satellite feeding sites, which receive prepared meals from commissaries for immediate service.
- (d) Food establishments selling only commercially pre-packaged foods that do not require temperature control.

Documentation that at least one full-time equivalent person in charge is a certified food protection manager shall be prominently posted in the establishment next to the food establishment permit.

Susan Hubbard made the motion to accept the proposed Board of Health Food Regulation Changes. Chuck Hill seconded the motion. The motion passed unanimously. Establishments must be in compliance with provision 1 within sixty (60) days from the date of publication of adopted changes.

6:10 – Hearing - John Bruni – Bruni’s Market, 36 Essex Street, Ipswich – noncompliance with HACCP plan for Reduced Oxygen Packaging.

John Bruni and Richelle Reynolds were present and a hearing was held to discuss if the HACCP approval for Bruni’s Market should be suspended or revoked since two (2) field verifications resulted in violations of the approved HACCP plan.

In a letter dated February 25, 2009, Bruni’s was notified that a formal HACCP verification would occur in the field since a full HACCP review had not been done. On March 20, 2009, Allen Gromko, Ipswich Food Inspector met with Richelle Reynolds and conducted a routine Food Establishment Inspection and a HACCP Field Verification. While the Establishment Inspection identified no violations, the review of the HACCP Plan for Reduced Oxygen Packaging (ROP) of raw meats identified completely inadequate documentation and recordkeeping. There were no records of production, temperatures and corrective actions available. Subsequently, a letter dated March 30, 2009 was sent which reiterated that as a condition of the ROP HACCP approval, Bruni’s is required to comply with the HACCP plans and procedures that were submitted to the Board of Health. They were asked to submit a plan of correction within fourteen (14) days.

Some information was received by the Health Department on May 4, 2009. Additional information was submitted on May 11, 2009 and supplemental information on June 10, 2009. A July 29, 2009 letter was sent explaining that additional information was still needed and a thirty (30) day deadline was given. The establishment was also informed that a review of the changes would occur in the field during their next routine inspection.

The Health Department received the additional information requested on September 5, 2009.

A routine inspection on October 15, 2009 by Maureen Lee, Food Inspector, revealed that complete HACCP plan records are not being maintained. The production log had not been completed since October 2, 2009 although ROP chicken and beef items were in a display case with a sell by date of October 18 and 19, 2009 indicating they were packaged fourteen (14) days earlier if the HACCP Plan is being followed. Additionally, ROP seasoned pork had no ingredient label.

A re-inspection conducted on November 12, 2009 revealed expired Reduced Oxygen Packaging (ROP) product in the display case.

Colleen invited Maureen Lee, Food Inspector, to give her input since she has reviewed the written HACCP information submitted and conducted the inspection done on October 15, 2009 and the re-inspection conducted on November 12, 2009. Maureen reviewed the violations.

Richelle stated that the production log was not incomplete, as cited at the October 15, 2009 inspection. She asserted that the information had yet to be transcribed from a worksheet into the log. Maureen stated that at the time of inspection the worksheet was not mentioned or shown to her.

Susan Hubbard felt that having not having a complete production log, which is required as part of their HACCP approval, was unacceptable.

Colleen questioned who verifies the log is complete. Richelle verifies the log and signs off that it is complete.

Maureen stated that if a worksheet is used and Bruni's wants to incorporate it into the HACCP plan then it must be officially part of the plan. The worksheet can not be used to show compliance if it is not part of the HACCP plan.

Colleen reminded Richelle and John that as a condition of their HACCP approval, they are required to comply with the HACCP plans and procedures that were submitted and approved.

Susan asked what the next step should be.

Colleen felt that Richelle had the knowledge to successfully implement the HACCP plan but for some reason it is not working out.

Maureen suggested creating a HACCP checklist that can be given to Bruni's to identify the records that will be checked during an inspection.

Susan Hubbard made a motion not to suspend the HACCP plan approval at this time. The Health Office will develop a HACCP plan checklist that will identify the records that will be checked during an inspection. The checklist will then be given to Bruni's. In the meantime, complete HACCP records must be maintained. A re-inspection will occur after the checklist has been distributed. Chuck Hill seconded the motion. The motion passed unanimously.

The Board also reviewed recent violations cited due to improper labeling.

In a letter dated September 22, 2008, all food establishment operators were notified that all packaged foods must be labeled in compliance with Massachusetts and Federal labeling regulations. These regulations address the minimum information required on a food label, open-dating, health claims and allergen labeling. Additionally, they were informed that during routine inspections, compliance with these regulations would be verified.

It was noted that Massachusetts and federal labeling regulations require that on every food label all ingredients are listed in descending order of predominance by weight, with a complete listing of sub-ingredients.

Richelle stated that all the potato and egg salads have proper labeling now. John stated that proper labeling could not be done at this time since they are too busy during the holidays. For the dinners-to-go they need to re-work the label size and then database all the sub-ingredient information. Additionally, a different size label is necessary for the display case. Both the size of the labels and the sku numbers have to be adjusted as well as the ingredients. As an interim measure Chuck Hill suggested that a sign be put in the display case that ingredient information will be given upon request.

Susan Hubbard asked Maureen for her thoughts. Maureen felt that Bruni's should be held accountable for developing food labels that comply with Massachusetts and federal labeling requirements, including all foods intended for retail sale (dinners-to-go), since they have had more than a year to come into compliance.

Since this has not happened, Maureen suggested streamlining dinners through the holidays to achieve compliance and then widen the variety of dinners offered after the holidays when they can handle labeling a greater variety of products.

Richelle stated that streamlining dinners through the holidays would cause a loss of business for the store. It was noted by the Board that Bruni's is currently in non-compliance with federal, state, and local regulations and must begin do something to immediately to achieve compliance. John stated that they are making improvements and getting up to speed now that there is more stringent enforcement.

Susan Hubbard made a motion that all packaged foods must be labeled in compliance with Massachusetts and Federal labeling regulations by January 16, 2010. Chuck Hill seconded the motion. The motion passed unanimously.

Mr. Bruni asserted that the Food Inspector did the October 15, 2009 inspection without being accompanied by a person in charge. The Board confirmed that an inspection may occur during the food establishment's hours of operation and other reasonable times and once the Inspector has announced her intention to conduct an inspection, the person in charge must allow the Food Inspector to do the inspection even if person in charge is unavailable to accompany the Inspector.

7:10 – Hearing - Robert Gambale – 31 Kimball Avenue – order to correct violations of 105 CMR 410.000, Minimum Standards of Fitness for Human Habitation.

Robert Gambale presented, and a hearing was conducted regarding the orders to correct issued on August 18, 2009 and October 30, 2009 for violations of 105 CMR 410.000 Minimum Standards of Fitness for Human Habitation found at 31 Kimball Avenue.

A re-inspection conducted on October 26, 2009 revealed incomplete repairs. On November 13, 2009 another inspection revealed that all the repairs were corrected except the screen door was not replaced.

Mr. Gambale asked to be relieved of having to install a screen door since the tenant already has both an interior and exterior door that leads to the back yard. He currently has a building permit for the installation of a deck and would like to finish the trim and then add a three (3) season door.

Susan Hubbard made a motion that the back screen door did not have to be installed since both an interior and exterior door are already in place. Chuck Hill seconded the motion. The motion passed unanimously. All other violations identified in the Board of Health order letter dated August 18, 2009, have been corrected.

Mr. Gambale requested it noted for record that none of the violations cited in the August 18, 2009 letter caused the dwelling at 31 Kimball Avenue to be uninhabitable. Colleen confirmed that if, at the time of inspection, the dwelling was found to be uninhabitable she would have declared the building unfit for human habitation.

During the re-inspection on October 26, 2009 the tenant stated that a written letting agreement was never provided outlining that the gas was to be paid by the tenant. In the order to correct dated October 30, 2009, a violation of 105 CMR 410.354: Metering of Electricity and Gas was cited since a written letting agreement which provides for payment by the occupant for gas had not been provided. On November 10, 2009 Mr. Gambale provided the Health Office with a copy of the lease for 31 Kimball Avenue, Ipswich, Massachusetts. The Board reviewed the letting agreement and an email from the tenant.

Mr. Gambale informed the Board that the lease provided was a standard national tenant lease. It was noted that the tenant did not convert the gas bill into her name as outlined in number eight (#8) of the letting agreement. It was also noted that at the time of the walkthrough the tenant did not note any damage, defects, or inoperable conditions as outlined in number eleven (#11) of the lease.

Susan Hubbard made a motion that the tenant is responsible for all utilities; excluding water, as stated in the lease. Chuck Hill seconded the motion. The motion passed unanimously. All other violations identified in the Board of Health order letter dated October 30, 2009, have been corrected.

7:20 – Hearing - Kathleen Marini, Assistant Town Clerk- appointment as Alternate Burial Agent

Colleen Fermon presented, and a hearing was held to consider the designation of an Alternate Burial Agent during Town Hall operating hours when the Burial Agent, Pan Carakatsane, is not available.

An alternate Burial Agent is necessary so there is always an original signature on death certificates.

Kathleen Marini was appointed the position of Alternate Burial Agent for the Town of Ipswich. As the Alternate Burial Agent she will handle the issuance of permits for the disposition, removal and transportation of human remains, in addition to, examining, accepting and signing death certificates during Town Hall operating hours when the Burial Agent is not available.

7:25 - Report of the Health Agent:

Regionalization: Colleen attended a regionalization meeting for Boards of Health in Salem. Initially the intent of regionalizing was to combine assets and strengthen Health Departments. Unfortunately, with the current economic climate it has become a way to cut costs.

140 Jeffrey's Neck Road; proposed accessory apartment:

The homeowner received approval to add an accessory apartment from the Zoning Board of Appeals (ZBA). Subsequently, on October 23, 2009 a building permit application for the creation of an accessory apartment was filed with the Health Office. In my October 28, 2009 letter the homeowner was informed that the building permit application was reviewed on October 28, 2009 and not approved since all the necessary information was not submitted. The homeowner was also informed that the property is served by a septic system that was designed for three (3) bedrooms. According to the Title 5 inspection report and the Assessor's record card, it appears that the dwelling already contains three (3) bedrooms. He was informed that a review of floor plans for the entire dwelling must be done to determine the existing number of bedrooms in the dwelling based on the definition of bedroom in 310 CMR 15.000 Title 5. If the dwelling already contains three (3) bedrooms, based on the definition of bedroom in 310 CMR 15.000 Title 5, the building permit application for the accessory apartment can not be approved by the Health Office unless a new septic system design, meeting new construction standards, is approved.

The Health Office received a revised building permit application for the addition of a second kitchen for the property on November 2, 2009. The building permit application was reviewed on November 16, 2009 and not approved since the property is served by a septic system that was designed for three (3) bedrooms and according to the floor plans submitted, the dwelling already contains three (3) bedrooms. The floor plans for the accessory apartment and the addition of a second kitchen were exactly the same.

I determined that the dwelling already contains three (3) bedrooms based on the definition of bedroom in 310 CMR 15.000 Title 5, so the building permit application for the accessory apartment or the addition of the kitchen can not be approved by the Health Office unless a new septic system design, meeting new construction standards, is approved or one (1) bedroom is eliminated to result in a total of three (3) bedrooms being maintained.

The Board agreed with Colleen's determination. She asked about a deed restriction. The Board did not want to accept a deed restriction to allow a second kitchen or an accessory apartment. They wanted the septic system to be changed in accordance with an increase in bedrooms.

H1N1 Flu Update:

- The Board of Health will hold an H1N1 clinic on November 20, 2009 for children six (6) months to four (4) years and pregnant women.
- Registration for school H1N1 Clinics is underway. Approximately 1,000 consent forms have been received.
- Colleen is meeting with the school superintendants on November 17, 2009 to discuss the possibility of having H1N1 Clinics in early December.
- The last seasonal flu clinic was held today at Town Hall.
- The schools report a decrease in student absenteeism during the last few weeks.

Timothy White; 19 Greenspoint Road and 151 Argilla Road:

On an Official Title 5 Inspection Form, the inspector is required to document the estimated depth to high groundwater in section D of the report.

Title 5 reports were submitted to the Health Department for 19 Greenspoint Road and 151 Argilla Road by Mr. White. This office determined that the reports did not adequately convey the depth to groundwater and it was unclear how Mr. White got his numbers.

Previously, Mr. White was requested to attend the August 2009 Board of Health meeting to discuss Title 5 Inspection reports for 8 Pine Street and 4 Adeline Drive and the process of determining high groundwater.

At the August 10, 2009 Ipswich Board of Health meeting It was the decision of the Board of Health that prior to his determination of the estimated depth to high groundwater as part of a Title 5 inspection, the following must occur;

1. Conduct a Board of Health file review of groundwater information for all properties within 150 feet of the septic system being inspected and the results documented and submitted with the inspection report, in accordance with Board of Health Septic System Regulation 10.3. If available, note the depth to high groundwater that is obtained through redoximorphic features found during soil testing as outlined in CMR 310 15.103 (3) (a). Since pre-1995 testing did not take into consideration redoximorphic features, the information from testing prior to 1995 must carry low weight in your analysis unless this is the only available information.
2. Consider all available information within 150 feet of a given property such as landscape features, the elevation of nearby water bodies, or evidence of groundwater infiltration in other subsurface structures (for example, cellars), or hand augering to determine depth may aid in determining whether the system is located in the groundwater. Soil testing from other sites must be adjusted, as appropriate; to reflect elevation differences or other factors that may affect the estimated high groundwater elevation on the property being inspected.
3. Describe the methods used to determine high groundwater elevation in the inspection report.
4. Provide your reasoning on the inspection report when a leaching system appears to be below high groundwater (based on high groundwater on another property) but you feel it passes inspection.

Although the inspector does the file review he does not seem to use mottling in his high groundwater determinations. He is not providing an explanation for the depths he gives for high groundwater, It was the decision of the Board to have the Title 5 reports forwarded to the Department of Environmental Protection (DEP) for review and enforcement, if necessary.

Next Board Meeting: The next meetings of the Board of Health were scheduled for December 7, 2009 and January, 4, 2009 at 6pm.

Adjourn: Susan Hubbard made the motion to adjourn at 7:45 PM. Chuck Hill seconded the motion. The motion to adjourn passed unanimously.

Susan Hubbard, Chairperson

Charles Hill, Board Member

