

**Board of Health
Meeting Minutes
March 2, 2015**

Members Present:

Tom Kinzer, Co-Chair
Bea Brunkhorst, Co-Chair
Sarah Thompson
Caroline Donnelly

Member Absent:

Anita Raj

Staff Present:

Heidi Porter, Director
Faye Andrews
Mary Aloyse Firestone

Also Attending:

Ken Zhang, Kikka Sushi, 170 Great Road
Moya Chhuak, Kikka Sushi, 170 Great Road
Cindy Watkins, 5 Williams St.
Jim Donovan, counsel for Watkins
Kenneth J. Leitner, Jr., 111 Springs Road
Nicholas R. Vercollone, Highline Construction, Boston
Michelle Vercollone

The meeting was called to order at 7:05 P.M. Mr. Kinzer chaired.

Hearing – Sanitary Code Violations, 9 Nickerson Road

Dr. Brunkhorst moved to open the hearing. Ms. Donnelly seconded the motion. Vote count: 4-0.

Mr. Kinzer said that the purpose of the hearing is to gather information; the Board may or may not make a decision at this meeting. He explained the ground rules for the hearing: there will be no discussion between attendees; remarks must be addressed through the Chair. Ms. Andrews summarized the identified violations that have yet to be corrected:

- tiles not secured in the bathroom; this could be due to water intrusion into the walls;
- chronic dampness in the family room;
- a trip hazard at the threshold from family room to the bathroom due to change in flooring;
- forced hot air escaping through a gap between flooring and baseboard behind the stove.

Mr. Leitner, owner of the rental property at 9 Nickerson Road, said that some items listed as violations had been addressed and that there had been a later inspection. He indicated that he had added heat in the family room; he said that the previous tenant for 5 years had had no problem. He said that the chronic dampness had been due to the operation of the current tenant's humidifier; he said that for the use of the word "chronic", there was a need for more than one inspection, more than one reading, and he showed a copy of the code. The area had been cleaned of evidence of chronic dampness. He said that the tenant doesn't call him. He had also repaired a faucet. There was a second inspection of the main bathroom; he said that the tenant refuses to use a shower curtain and that the water on the bathroom floor is from the shower and wet toys. He said that the bathroom is used as a play area and that the kids throw water "every which way." Ms. Andrews said that during her second inspection there was no water at the toilet area. Mr. Leitner said that the problem was due to misuse by the tenant. As to the trip hazard, he said that there had been no issue with a floor hazard on the first inspection: 2 types of flooring meet but are not connected. Mr. Kinzer asked who would have to look at the flooring. Mr. Leitner said that there is nothing in the state code that addresses the issue. Ms. Porter said that access to the site has to come from the tenant. Mr. Kinzer said that someone needs to verify the reports. Ms. Porter said that they don't know when or how the bathroom tiles went missing, but the fact remains that the tiles are missing, resulting in a pervious surface and must be corrected. Mr. Leitner said that the violation is written as against him. Ms. Thompson asked what words were used; Ms. Porter said, "evidence of chronic dampness" which is code specific language.

In the matter of heat coming out from behind the stove, Ms. Porter said that the system is not operating properly if heat is coming out where it is not supposed to, not “in good operating condition”, and may be a question of improper or ineffective ducting. Mr. Leitner said that he is willing to have it looked at; he added that NStar had inspected it October. He said that a laundry room is not considered habitable space, so a wooden floor is not required, but he did put one in. He said that he doesn’t want to be “used” by the tenant.

Dr. Brunkhorst moved to close the hearing; Ms. Donnelly seconded the motion. Vote count: 4-0.

Hearing – Sanitary Code Violations, 260-262 South Road:

Ms. Thompson moved to open the hearing; Dr. Brunkhorst seconded the motion. Vote count: 4-0.

Ms. Andrews said that the 2-family duplex owned by Dale Watkins had been inspected in November 2014. A contractor had since cleaned up a mold-like substance which was evidence of chronic dampness but there was still moisture evident, likely due to lack of insulation in the roof. The landlord was cooperative and was trying to comply. The tenant had since moved out. There was still evidence of dampness. Attorney Donovan asked permission to address the Board; he said that Mr. Watkins was ill and unable to attend, though Mrs. Watkins was in attendance. He said that the owner was trying to find the cause of the problem and needed to spend a lot of time and money. New windows had been installed. Mr. Watkins can’t put new tenants into the units without a sign-off from the Board of Health. He is asking for time; they want to do it right. Dr. Brunkhorst noted that they had requested 3 months. Mr. Donovan said that they will ask Ms. Andrews to come back and re-inspect the property. Ms. Thompson said that she saw no problem with that. Ms. Porter said that re-inspection would be by June 1. Ms. Donnelly moved that the property owners be allowed 3 months to resolve the problem; Dr. Brunkhorst seconded the motion. Vote count: 4-0. If the violation is not corrected, there will be another hearing. Ms. Thompson moved to close the hearing; Ms. Donnelly seconded the motion. Vote count: 4-0.

Request for Variance from the Food Code: Use of Acidification of Sushi rice as a Public Health Control, Kikka Sushi (located in Whole Foods Market), 170 Great Road:

Ms. Thompson moved to open the hearing; Ms. Donnelly seconded the motion. Vote count: 4-0.

Ms. Porter explained that Kikka is a new establishment which replaced Gengi at the Whole Foods Market. Mr. Zhang said that Kikka operates sushi counters in 22 Whole Food locations throughout the U.S. Mr. Kinzer asked about laboratory testing of sushi rice. Mr. Zhang said that they take samples to the food lab and receive a report back in a day or two. Ms. Porter explained the procedure; she said that the pH of the rice has to be below 4.6, Mr. Zhang said that Kikka’s sushi rice will be acidified to a pH of 4.2 or lower; he said that everyone is trained and that the logs are reviewed by the district manager monthly; they keep the logs for 3 months. Ms. Andrews said that the changeover from Gengi to Kikka was smooth and that she has observed their procedure. Ms. Donnelly asked about their fish. Ms. Andrews said that the fish has to be frozen for a certain period and Kikka had provided her with documentation.

Ms. Thompson said “As required by 105 CMR 590 and the 1999 Federal Food Code at section 3-502 and in accordance with the 1999 Food Code at section 8-103.10, I move that the Board of Health issue a variance to Kikka in Whole Foods at 170 Great Road for use of acidification of their sushi rice as a public health control with the understanding that: 1) the prepared HACCP Plan will be followed, signed by HACCP trained staff and reviewed annually; 2) the acidified rice will be submitted for annual bacteriological analysis; and, 3) a pH log will be maintained daily, documenting pH of each batch of rice made. Ms. Donnelly seconded the motion. Vote count: 4-0.

Ms. Donnelly moved to close the hearing; Ms. Thompson seconded the motion. Vote count: 4-0.

Geothermal Well Policy – Discussion and Vote:

Ms. Porter said that she had had inquiries about the geothermal policy; she explained open and closed systems. The Massachusetts Department of Environmental Protection (DEP) has taken a closer look at the technology and has arrived at a better understanding that the systems pose little environmental risk. A new DEP policy has been approved, but individual communities may or may not approve a system. Ms. Porter put together a revised policy for Bedford. Mr. Kinzer clarified: a revision not a revocation. Ms. Thompson said, no potable water wells will be allowed to be used as part of the geothermal system. Inspections by the staff are not warranted. Mr. Vercollone, who is in construction, volunteered some information on geothermal systems. He said that a closed loop glycol system is easier to clean; only requiring replacement of the pump filter. The open loop or standing column well system is less expensive. Tax credits of 30% apply to all materials related to the system. He said that people in the industry are very interested in the Bedford BOH vote. Dr. Brunkhorst moved to accept the revised policy. Ms. Donnelly seconded the motion. Vote count: 4-0.

Board Discussion of Sanitary Code Violations at 9 Nickerson Road:

Dr. Brunkhorst said that Mr. Leitner wishes to add information into the record. Mr. Kinzer said, in reference to the issue of tiles in the bathroom, that responsibility for replacing the tiles falls to the owner even though the problem may be the tenant's fault. Ms. Porter said that she thought that the tenant had moved; Mr. Leitner said that they are still in the house. Ms. Porter said that the tenant is not reluctant to call; there was a fourth call, that there was no electricity to certain areas of the house. Mr. Kinzer said that it was straightforward to verify the condition of the tiles; he asked about the probability that the case would go to court. Ms. Porter said that Leitner requested this hearing; the Board did not request the hearing. Going to court is not desirable. Ms. Thompson said that she believes Ms. Andrews about the trip hazard. Ms. Porter said that they will come back to the Board with photographs. Mr. Kinzer said that item 3 regarding non-functioning heat in the family room is now a non-issue; it was cold the day of the inspection; the space now has heating. Mr. Kinzer mentioned the humidifier; how do we know if there is chronic dampness? Ms. Porter said that at the time of the inspection, there was evidence of dampness; if the next inspection does not show dampness, the issue may already be closed out. The trip hazard between the family room and the proximal bathroom must be repaired. Forced hot air may be still escaping from the wall behind the stove; Mr. Kinzer asked how to determine that. Mr. Leitner said, NStar and the plumbing inspector; it is hot air not gas. Mr. Kinzer said that he can certainly sense frustration. Mr. Leitner said that he would be happy to caulk the gap. Ms. Porter asked that a heating contractor be consulted.

Ms. Donnelly moved to allow an extension to Mr. Leitner to resolve the following issues: 1. Replace missing tiles in the bathroom to ensure impermeable surface; 2. fix the trip hazard between the family room and proximal bathroom; and, 3. have a heating contractor fix the hot air leak. Sign-off within 3 days. Dr. Brunkhorst seconded the motion. Vote count: 4-0.

BOH Meeting minutes:

Dr. Brunkhorst moved to accept the minutes of the February 2, 2015 meeting as amended. Ms. Thompson seconded the motion. Vote count: 3-0-1.

Board of Health Action Items --- Old and New Business:

Update on BOH Liaison Assignments: None.

Mr. Kinzer said that he wanted to trigger some thoughts. This has been the same Board for some time. He wants to plant a seed to see whether someone else would like to take on the position of Co-chair. We need to cultivate someone for the future.

Director's Report:

Ms. Porter said that she has been busy with permitting and improved efficiency of communication with permittees. Concerning the approval of variances for hotel pools, all permittees are on board. Some hotels may decide to fill in the spa or construct a new one in accordance with the Pool Code.

She said that there has been a marked increase in Hepatitis C over the past year. Community Health Nurse Joyce Cheng is investigating whether the increase is significant, what is the cause (better reporting or diagnosis), and whether community outreach/education is warranted.

She provided comment on a planned Subdivision at 57 and 75 Hartwell Rd and 16 Beacon. The proponent has submitted a variance request to not install a sidewalk. She provided comment to the Planning Board that a lack of sidewalk was contrary to the "Resolution of the Bedford Board of Health – Planning for a Healthier Future Through the Built Environment and Community Design" and impacted walkability within Bedford.

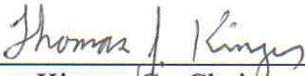
School nurses: The nurses are pleased with approved budget which allows for 7 hours per week for a nurse leader, additional hours for the part time nurse and new health record software. Ms. Porter needs to write a job description for the school nurse leader. The Board should plan to meet with the School Committee re: next steps in the school nurse transition to the schools. Ms. Thompson asked how to get Mr. Sills and the School Committee involved. Mr. Kinzer said that they have so much going on that they may not be thinking about it. Ms. Porter said, we have to make the ask. Dr. Brunkhorst asked, should we make a date to meet with them after Town Meeting? Ms. Porter said, no, we have to meet before Town Meeting; she suggested March 13 or 18, 2015. Mr. Kinzer asked, should we go with an agenda? Dr. Brunkhorst said, we should present potential next steps. Ms. Porter said that since the school nurse contract will be negotiated this FY16 starting this spring and staff need to be hired to fill the newly funded positions, it would be important for the schools to be involved now. Dr. Brunkhorst said, our vision is to get something in place by the beginning of the new fiscal year.

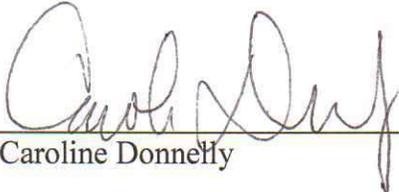
Ms. Porter said that we need a motion to alter the final FY16 budget figure from \$593,048 to \$600,388. Dr. Brunkhorst moved to approve the correct budget figure; Ms. Thompson seconded the motion. Vote count: 4-0.

Ms. Donnelly moved to adjourn the meeting; Dr. Brunkhorst seconded the motion. Vote count: 4-0. The meeting was adjourned at 9:37 P.M.

The next meetings of the Board will take place on April 6, May 4 and June 1, 2015.


Bea Brunkhorst, Co-Chair


Tom Kinzer, Co-Chair


Caroline Donnelly

Anita Raj

Sarah Thompson