



## **BOH MEETING MINUTES 08-15-2022**

Council Committee Room, 140 Main Street

Jim Griffin, Chair

Joseph Tennyson, MD, Vice-Chair

Also in attendance: Clerk Tina Nolin, Olivia Dufour, and Chris Delude

Absent: John Garside

**The meeting was called to order at 6:30 pm.**

### **Reading and Approval of Minutes**

- Minutes from the June 6, 2022, meeting: Vice-Chair Tennyson motioned to approve and place the minutes on file; Chairman Griffin seconded the motion; the motion passed with a 2-0 vote. There was no meeting of the Board in July.

### **AAA Vape & Smoke Shop Public Hearing**

Chairman Griffin opened the public hearing regarding the August 3, 2022, AAA Vape & Smoke Shop Cease and Desist Order: Tobacco permit suspension and potential permit revocation due to 4<sup>th</sup> violation within a 36-month period at 6:31 pm

The owner of AAA Vape & Smoke, Mr. Ashraf Youssef, was not present.

Chairman Griffin asked if there was anyone who wished to speak in favor of the AAA Vape & Smoke Shop. Hearing none, he asked if there were any questions from the public. Hearing none, the Chairman asked for anyone who wished to speak in opposition to AAA Vape & Smoke Shop.

Olivia Dufour, Manager of the MetroWest Tobacco Control District and an Agent for Tobacco Control for the Marlborough Health Department, reviewed with the Board the historic timeline of violations at AAA Vape & Smoke Shop. Subsequently, Ms. Dufour updated the Board on the report and photos of the undercover buy that was conducted under her supervision with the undercover buyer, Chris Delude, from the Framingham Health Department's Community Health division on July 21, 2022. Also, presented to the Board was the July 22, 2022, inspection report and photos from the joint inspection conducted by Ms. Dufour and Health Agent Nick Corcoran.

Ms. Dufour reminded the Board that the last time she presented to them regarding this vape shop, they had been fined \$5000 and their license had been suspended for 30 days. During this period of permit suspension, Ms. Dufour and her team conducted several compliance checks, and each time the store remained in compliance. However, on July 21, 2022, the Marlborough Health Dept. received an anonymous complaint concerning the sale of flavored tobacco/vape product being sold at the AAA Vape & Smoke Shop. Upon notifying Ms. Dufour, she set up an undercover buy to go into the store to establish evidence that flavored vape products were in the store for the purpose of selling to the public, to see the process they were using to sell flavored vapes and determine if they were carding customers who were purchasing products.

Undercover buyer, Chris Delude who works under the supervision of Ms. Dufour, described the buy as follows. He walked into the store they asked what he wanted, and he asked if they had any flavored products at which point the owner, Ashraf Youssef, who was working the counter at the time pulled

out a duffle bag from under the counter and placed it on the counter. Mr. Delude chose a Fume brand product in Raspberry-Watermelon (exhibited at the meeting), completed the purchase, and left the store. They did not card him.

Once Ms. Dufour had the evidence from the undercover buy, she notified the Marlborough Health Dept. and Health Agent Nick Corcoran joined her for an inspection of the store on July 22, 2022. Conducting the inspection, they found “massive” amounts of flavored tobacco products in a variety of locations, especially in a room they were initially told was only a bathroom. While most of the product found was vape, there were also some non-vape-flavored tobacco products as well. Following the inspection, agents Dufour and Corcoran watched as the store owner boxed up and removed the product from the store. Ms. Dufour explained to the Board that she did not have the authority to confiscate the product. Following the inspection and report, the store owner, Ashraf Youssef, was sent, via constable, a *Correction/Suspension Cease and Desist & Notice of Hearing* that listed the \$5,000 fine, possible suspension, and possible revoking of his license as well as the hearing date and time set for today.

Following Ms. Dufour’s presentation, the Chairman pointed out that he was very disappointed to hear that it was the owner himself who was in the store selling the illegal product.

Chairman Griffin added that he hoped Mr. Youssef would appear at the meeting before they finished the discussion and voted. He then asked if there was anyone else wanting to speak in favor or opposition to AAA Smoke & Vape Shop. Hearing none, he asked if there were any further questions from the public. Hearing none, the Chairman then asked for questions and comments from the Board.

Vice-Chair Tennyson asked Ms. Dufour what the owner’s (Mr. Youssef) response was when he was presented with the inspection and violations. Ms. Dufour reported that the first flavored products they found under the counter he said were old and leftover from when they were allowed to sell those products. Ms. Dufour pointed out, however, that by now she has been to the shop numerous times and cleared out products and the State has also visited and cleared out products – so, she knew that was not true. Ms. Dufour then stated, that upon finding the rest of the flavored product, he simply said, “I’m Sorry, I don’t know what to say.” He did not make excuses or try to defend himself. He seemed remorseful at the time; however, it was a repeat of what he has said previously when we did inspections and found products he shouldn’t be selling.

The Board had no further questions, the public hearing was closed at 6:45 pm.

Before moving to a motion and a vote Chairman Griffin summarized the actions of AAA Vape and Smoke Shop that brought them to this hearing. Over the last 11 months the store has been:

- Fined a total of \$13,000 (\$1,000 in September 2021, \$2,000 in December 2021, \$5,000 in March 2022 and \$5,000 in July of 2022)
- Cited for selling flavored products on four occasions: February 3, 2021 (warning issued), December 1, 2021, March 25, 2022, and July 22, 2022
- Cited for tax issues by the DOR on September 16, 2021 (for selling untaxed tobacco products including flavored products)
- Cited for violating the DOR suspension of his license (December 2021)

In addition, Chairman Griffin noted that Mr. Youssef has not shown any evidence or submitted any proof that he was trying to comply with Massachusetts State Law 105 CMR 665.000 regulating the selling of flavored vape products. The Chair also noted that previous 30-day suspensions do not seem to have been effective or educational.

Chairman Griffin motioned to revoke permanently the Retail Tobacco permit held by Ashraf Youssef for AAA Vape and Smoke Shop located at 530 Boston Post Road E. Vice-Chair Tennyson seconded the motion. The motion passed 2 to 0 votes.

At 6:47 pm after the Public Hearing and vote were completed, Mr. Youssef entered the meeting room. Chairman Griffin told him what had transpired and the Board's Decision. Mr. Youssef said he was in the process of selling the business. It was explained to Mr. Youssef that that process was like any other new license. The buyer would have to apply for the license and provide all supporting documents. He was told there was no transferring of licenses as he now had no license, because there is no cap on such licenses in the City of Marlborough.

#### **Scheduling of Next Meeting**

The Board's next monthly meeting will be on Monday, September 12<sup>th</sup>, at 6:30 pm.

#### **ADJOURN**

Chairman Griffin motioned to adjourn the meeting at 6:51 pm; Vice-Chairman Tennyson seconded the motion. The motion passed with a 2-0 vote.

Respectfully submitted,

  
James H. Griffin

9/12/2022  
Dated