

Maynard Board of Health Meeting
May 28, 2025

The Maynard Board of Health (BoH) met on Tuesday, May 28, 2025. Kathy McMillan, Maura Flynn and Lisa Thuot were present. Also present were Moira Carter, Public Health Nurse; Steven Silverstein, Executive Director, Municipal Services; Mrugesh Patel, owner Maynard Corner Store and Jodi Ann Brighenti from Boards of Health Tobacco Control Alliance (TCA).

Motion made to open Maynard BoH meeting at 6:35pm; Maura Flynn seconded.

Opened Board of Health Hearing at 6:40pm. The hearing was requested by Mr. Patel in response to his having received a notice of violation from the TCA. The hearing was conducted in accordance with Regulation 4, 1853, Ch. 11 of the State Tobacco Code.

Jodi spoke first, advising she conducted an inspection 4/8/25 during which it was discovered that the Corner Store was offering for sale “flavored tobacco product” or “tobacco product flavor enhancer”.

This was the store’s second violation within a 36 month period, which leads to a \$2,000.00 fine and permit suspension for 7 consecutive business days. The store’s previous violation history included a 5/31/23 offering for sale of a flavored tobacco product; there was a hearing for that violation, as per request of the retailer, resulting in a reduced permit suspension of one day. BOH advised then that the remaining 6 days of suspension was to be added on if there was another violation within the following 36 month period.

TCA recommended a 13 day suspension from 5/30/25 to 6/11/25, which would include adding the 6 days from the previous violation.

TCA explained that they review, with all retailers, what constitutes a flavored tobacco product, which is defined as “characterizing flavor not found naturally occurring in tobacco”, and includes example prohibited products. The Corner Store signed off that they had received this education in FY 2024 and FY 2025 which included the Backwoods “white”, “black”, “smooth”, and “bold” flavors as these have been found to have characterizing flavors not found naturally occurring in tobacco. During FY24 inspections, if these products were found at a store, the owners were educated about the regulation and asked to remove them. Ranjit Reddy, a manager at the Corner Store, signed on 6/6/24 that he received the corresponding retail education about these products. On 4/8/25 it was again Mr. Reddy who was managing the store when the violating products were identified and cited.

Kathy then invited Mr. Patel to speak. Mr. Patel presented the manufacturer’s list of available products. He stated that he wasn’t given the education on these products in 2024 and did not know about this potential violation. He ordered the offending products because they were on the list of “allowed” products per the manufacturer.

Kathy asked if this was the same type of violation as the one the Corner Store had in 2023, but was informed that the previous violation was due to the selling of a different prohibited product, hemp wrappers.

Mr. Patel stated that vendors did not receive an adequate education and that they receive conflicting information from manufacturers.

Kathy asked Jodi to explain the TCA's role for Maura, who is a newer board member. Jodi explained that TCA is the town's tobacco control agents and they are tasked with determining, in part, which products have "characterizing flavor not found naturally occurring in tobacco". TCA will test products, on behalf of 46 member towns/cities, to determine whether they have this characterizing flavor.

Maura admitted confusion as it looked to her like the products cited as in violation were admissible according to the state not banning them outright. Jodi explained that the TCA determines which products are banned then educates the retailers about not selling those products, regardless of whether those products appear on a manufacturer's letter. Joan Hamlet of TCA conducts a controlled "sniff test" to identify presence of a characterizing flavor. Jodi emphasized that not selling the prohibited products is ultimately the retailer's responsibility, even if the manufacturer says that the product is "ok"; for this reason TCA is very diligent in educating retailers.

Lisa added that she believed the determination of characterizing flavor was also highly problematic and compared tobacco regulations with those of marijuana.

Jodi added that The Corner Store signed off on having received education in June and August 2024, but that they had ordered the offending product in September 2024. Mr. Patel had also been in contact with Joan on a regular basis and could have requested clarification from her as to the acceptability of the flavored products in question. Jodi clarified that BOH's duty is to determine whether the violation occurred or not and that she presented evidence to prove that these products, even after education, were on the shelves of the Corner Store.

Joan Hamlett then joined the meeting (virtually). Lisa questioned Joan as to the rationale behind the sniff test protocol, especially seeking clarification as to the seemingly non-scientific nature of the way the test is administered. Joan replied that the sniff test came out of a court case (*Cumberland Farms v. Board of Health of the Town of Yarmouth*) and that the tester goes into "a room with no florals, no food. We wear no perfumes.... no soaps with any type of perfumes and whatnot... and we do a blind test." The TCA then determines whether there's an essence that's not naturally occurring in a tobacco leaf, e.g. a fruit, spice, or other enhancer-type flavor. Joan added that all of their member towns, including Maynard, previously approved of this protocol for use by TCA to determine offending products on the towns' behalf. Once a product is documented as being prohibited TCA notifies every retailer in writing that the specific product is no longer allowed.

Maura made a motion to close the hearing, Lisa seconded; the hearing was closed at 7:27pm. Board commissioners agreed to finalize deliberation at their next meeting.

Other business: The Select Board approved a process for releasing opioid abatement funds. Applicants for this money include internal agencies to Town Hall, like MPD, MFD, the public health department, and the rest of Town Hall. A quarter of all funds are reserved for the public at large, e.g. Boys and Girls Club has expressed interest in applying for money.