

**Gunnison County Environmental Health Board Agenda**  
**November 18, 2021**  
**Planning Commission Meeting Room, Blackstock Government Center OR**  
**Zoom meeting (see Teleconference Information below)**

**1:15 p.m.** Call to order; determine quorum  
Approval of Minutes from 9-9-2021 meeting  
Unscheduled citizens

**1:30 p.m.** William and Cynthia Graf, Public Hearing for a variance to the Gunnison County OWTS Regulations for reduced setbacks to a wetland boundary at 21 Glacier Lily Way, Lot 21 Glacier Lily Estates, OWTS-21-00208

**Adjourn**

Join Zoom Meeting

<https://us06web.zoom.us/j/86828988757?pwd=bmVPenp4MTNiZkNMbm9SVVBLdVhrdz09>

Meeting ID: 868 2898 8757

Passcode: 003612

One tap mobile

+17207072699,,86828988757#,,,,\*003612# US (Denver)

+13462487799,,86828988757#,,,,\*003612# US (Houston)

Dial by your location

+1 720 707 2699 US (Denver)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 868 2898 8757

Passcode: 003612

Find your local number: <https://us06web.zoom.us/j/86828988757?pwd=bmVPenp4MTNiZkNMbm9SVVBLdVhrdz09>

**GUNNISON COUNTY ENVIRONMENTAL HEALTH BOARD MINUTES  
November 18, 2021**

The November 18, 2021 Gunnison County Environmental Health Board meeting was conducted in the Gunnison County Blackstock Government Center, 2<sup>nd</sup> floor meeting room, located at 221 N. Wisconsin #D, Gunnison, CO, 81230 and by Zoom virtual online meeting, Gunnison, CO, 81230

**Present Were:**

Lucinda Lull, EH Board Member  
Eddy Balch, EH Board Member  
Bill Barvitski, EH Board Member  
Ashley Bembenek, EH Board Member  
Shea Earley, EH Board Member

**Staff Present:**

Crystal Lambert, Building and EH Official  
Shannon Frias, Administrative Assistant III

Other attendees as listed in text.

**Call to order:** A quorum was determined by Lull at 1:20 pm.

\*\*\*\*

**Approval of Agenda:** Agenda approved

\*\*\*\*

**Approval of Minutes:** **Moved by:** Barvitski, **seconded by** Lull to approve the September 9, 2021 meeting minutes. The motion passed unanimously with Board members Barvitski and Lull voting yes. Earley, Balch, and Bembenek abstained

\*\*\*\*

**Unscheduled citizens:** None.

\*\*\*\*

**William and Cynthia Graf OWTS-21-00208:** The Gunnison County Environmental Health Board conducted a Public Hearing. Request to reduce setbacks to a wetland boundary at 21 Glacier Lily Way, Lot 21 Glacier Lily Estates.

**Voting members:** Board member Lull was seated as the chair. Barvitski, Balch, Bembenek and Earley.

Lull confirmed a quorum and opened the public hearing.

Bill Barvitski recused himself from the board.

Environmental Health Official Crystal Lambert confirmed adequate public notice. The notice was published in the Crested Butte News and Gunnison Country Times. All property owners within 500 feet of the parcel boundaries were notified by certified mail of the public hearing. It was posted at the new posting location on the Gunnison County Community Development website. The applicant submitted the certified mailing receipts, photo and affidavit of posting on the parcel. Lambert verified that the sign was posted onsite.

William Graf, was present by Zoom. William Laird builder for the applicant, was present by zoom.

Audience members presented in text.

**Application Presentation:**

Graf stated that he and Cynthia Graf purchased the land in 2018. The proposed residence will be their full-time residence after Mr. Graf retires in 4 months. Once they submitted the application they found that they needed a wetland delineation. Once the delineation was complete they found they had 2 things to deal with. 1. They needed to move the driveway and the building footprint but more problematically was 2. The septic field because Glacier Lily was one of the earlier developments in Crested Butte. Most the houses had septic systems and they declined to bring in a pump station when they put the sewers in. Therefore, there is no sewer access point. We then assumed we needed a septic system. Once the delineation was done there was literally 109 square feet which just meets the 100-foot setbacks required by Gunnison County. There was no place to design and put a septic system on this property. We briefly looked at the sewer option which is nonexistent because of the take off point for a pump station is not close. The closest one would be down valley toward Saddle Ridge and they would have to cross a lot of other properties to get to it, it would not be feasible to do. Therefore, they had Bill Barvitski redesign the septic system trying to meet at least the state setback requirement. The remainder of the concerns were adjusted through their architect for the house footprint.

Bill Barvitski commented that Mr. Graf has tried to speak with Town of Crested Butte Water and Sanitation and there were no options. The 100-foot setback overlaps everywhere on the property. There is only one place on the property, the northeast corner, that has the square footage for a septic system. Even a septic system would only be sized for 1-bedroom and it wouldn't meet the 10-foot setbacks. They are restricted to where they are with that system if the property is going to be developed at all. If this variance is not allowed this site becomes undevelopable to any size home or any size septic system. They are meeting all the setbacks except the wetland's delineation.

William Laird stated that there use to be a clubhouse and 2 apartments with a full septic system on this lot in the 2000's. The HOA tore that down and re mapped it for private sale. Laird commented that he spoke with Mr. Graf about the 1 opposition comment letter that asked about exhausting all avenues.

Laird commented that the wetlands are somewhat a creek that flows through. They are not natural wetlands. The wetlands don't go into a tributary of water. They end near the Saddle Ridge Ranches. They are created by a ditch from Smith Hill ranches that has been diverted over time. And it has created a manmade wetland. The wetlands don't go into a tributary of water.

**Staff Comments:**

Lambert shared the site plan that was included in the permit application. It shows the footprint of the proposed building that the applicant submitted after they moved the building back to achieve the inter restrictive buffer requirements. Lambert pointed out the access to the property and the 25' inner buffer between the access and the wetlands. Lambert then pointed out the other wetlands which also included a 25' inner buffer. Lambert explained that the sewer line would cross the 2<sup>nd</sup> inner buffer and be trenched through wetland "B" on the map and continue north while maintaining the 10' setback to property lines.

Barvitski asked for Lambert to share the site map with the OWTS design. Barvitski explained that before the delineation the field was in the same general location but it was as single field that was going from the upper north point straight down but since the delineation he broke it into 2 separate fields. That is where they could get the extra 50 foot of clearance. Barvitski explained that there is no feasible spot on the property to meet the 100-

foot setbacks. The most logical place due to topography and all other designs of the house that still meet the 25' setbacks for the house structure it makes the most sense to put it in that location.

Lambert did a site visit to the property on September 15, 2021. Lambert shared pictures that she took. She stated as she walked the property the field area is flat and it is previously disturbed ground. Behind the tennis court is the proposed building site. As she walked the property she determined that the spot proposed for the septic is the best spot for a septic. If you are going to develop this lot the design spot is the best spot for this lot. She walked the whole property and the spot chosen is the most practical and with the least problems. Looking at application for variance and applying the requirements of the septic regulations there is prohibitions on the granting of a variance for certain requests: No variance should be issued where property can accommodate a conforming septic. Lambert stated that after walking the site the parcel is an unusual shape, there are wetlands on and around the parcel and high ground waters. The proposed development design appears to meet the minimum requirements as much as it can giving the constraints. The design of the septic meets all of the requirements except the minimum setback to the wetland boundary. Lambert stated that there is another option is to not meet the 10' setback to the property line and push it all the way to the property line. With that option you will be asking for 2 variances, not meeting the property line setbacks and still not meeting wetland setback.

From Lamberts perspective you do not want to decrease the property line setback.

The applicant's submittal for the variance included all of the required items, the site-specific requests, and technical justification. They are meeting the states requirement of 50' but not the local requirement.

Lambert stated that staff took into consideration the application of the proposed design, walking the site, and talking with the builder onsite, staff is recommending approval of the proposed design as submitted.

### **Public Comments and Responses:**

Donovan Nichol from the Glacier Lily neighborhood and is the HOA president. The HOA board has talked about this topic. Mr. Nichol has been on the lot and site numerous times since July. Mr. Nichol has been in contact with Billy Laird and the Graf's. Nichol built his house in Glacier Lily beginning g in 2013. On behalf of the HOA and the board they are in complete support of the Graf's building and their plan. The HOA and board would like to see the approval of the variance. There is a private water system in Glacier Lily. They take the water quality and conservation seriously. It is clear to the HOA that the proposed location of the septic is the best location. If you follow the water path through the lot it is an irrigation ditch that crosses to neighbor lot and next to their leach field. Then it crosses the fence boundary into Saddle Ridge. Flows to their holding pond then under the highway to irrigated pasture. The source of the water that has seeped into this area and caused the designation of a wetlands, seems to be an irrigation ditch. It is the Meridian ditch that Glacier Lilly owns about 40%. In Mr. Nichol's opinion, designated wetlands B is a stretch.

He believes that his time there that most of the water there is from the irrigation ditch. It is common in Glacier Lily to have surface water. The ditch is turned on the first week in June and the analysis was done the 3<sup>rd</sup> week of July. If you go in September it is dry. As Laird had mentioned 20 years ago there was a clubhouse and apartments with septic and leach field. In it was torn down. And in 2008 it was re platted and accepted by Gunnison County as a building lot.

**Review Body Comments:**

Balch asked Bill Barvitski on the irrigation ditch where it enters the area where the tennis court is, you indicate that will be pipe, is that correct? Barvitski replied yes, they are in pipes. They are culverts. They run underneath a walk bridge and a driveway bridge behind the tennis courts. Balch asked if there was any consideration to put the complete ditch across the property in pipe? Barvitski stated that he isn't sure if that would take away from the true delineation of the wetlands. Balch asked if the applicant would consider ditch and piping. If it does reduce the amount of moisture on the ground that would help reduce the potential for a problem. Barvitski stated that within the regulations if we cross wetlands we have to encase the sewer line with additional schedule 40 sewer line. They are double casing the sewer line. Graf stated that he doesn't know what that would entail. Balch stated that he wanted to know if the applicant would be willing to pipe the area. That would give him more assurance that there wouldn't be any impact from the applicant soil treatment area. Laird asked where are they proposing to put the pipe? Laird stated they are willing to do what would make everyone comfortable. If it would help in anyway to line the culvert or put pipe there but they want to do the least amount of digging and changing of the land. Nichol stated they have looked at that quite a bit and understanding what is designated wetlands and if the wetlands are agricultural water they may be re-designated in the future to agriculture and not wetlands. It could be lined or piped.

Lull stated that the question on the floor is about wetlands and a pipe. That is an item the board will have to look at another time. There is an appropriately drawn up variance request on the table today.

Bembenek supports what Lambert had stated about piping and culverting not part of today's hearing

Lambert explained that if the board ever wants more information or they want something else additional a public hearing does not have to be closed, it can be continued. Once public hearing is closed the options are : approval as proposed, approval with conditions, or denial.

Barvitski suggested that a pipeline would disturb the ground more. We have to look at it as wetland today. We can't decide what it will be in a year.

Laird stated that the pipeline would make more of a disturbance. The plans we have we would plow the line through the ditch so we wouldn't disturb the ditch. The team has planned a lot of silt fencing and keeping the project tight in the zone where it is. They would be only crossing the ditch once when putting the pipe in. Come in from 2 different points to build and install the septic. Only looking for a few extra feet of the variance. Everything possible to keep it intact.

Earley stated over the past couple years they have done a lot of E. Coli sampling in the upper end of the valley in the watersheds and have identified issues in Slate River and Washington Gulch. Variances like this don't help that issue. Earley then asked about the 10-foot setback from the property line. If they come back and ask for the variance for the setback to the property line, how much space is there from the property line to the actual road footprint? If you look at the assessor's page it looks like there is quite a bit of space in between the actual footprint of the road and the property line. Is there enough buffer where road was put in and the property line?

Barvitski stated that if they go to the property line they still will not meet the 100. Maybe gain 10 to 12 feet.

Earley asked if they did the variance to the property line would the leach field meet the 100 feet setback? Barvitski answered that they still would meet the setbacks.

Bembenek asked a follow up question to Earley's. Can you go lateral with the fields? Make them wider and shorter to meet the setbacks? Barvitski stated that there are regulations. The maximum width is 12 feet. That is

4 laterals per bed. That is where they are restricted with that. There are exceptions to that. The Environmental Health board can allow a variance to wider beds.

Barvitski stated that the good thing about this design is with 2 separate fields there is alternating distribution.

Balch asked Barvitski, one elevation through the wetlands is 9095 and what is the elevation of where the field is going to be? Barvitski didn't have the exact number because the topo survey was done after the application was submitted but it does level out. Balch stated that it was going to be down grade from the wetlands. Barvitski confirmed. Balch commented that it would drain away from the wetlands. It would have to go uphill to get to the wetlands. Barvitski added it also has to go through 3 feet of sand.

Earley asked if the tennis court was owned by the HOA. Yes. Have they ever discussed providing an easement so people could straddle the property line and use some of the tennis court property to house the leach field? There is very limited space between the north end of the tennis court and the road. Directly to the west of the tennis court is all parking lot, and to the north it is grass to the road. It wouldn't be large enough for a field.

**Moved by:** Balch, **seconded by** Bembenek to close the public hearing. The motion passed unanimously, with Board members roll call 4-0: Lull, Earley, Balch and Bembenek voting yes.

Lull read the staff recommendations:

*It appears that the proposed development plan and OWTS design utilizes the parcel layout, topography, and physical features as much as possible to provide for the greatest degree of compliance with the Gunnison County OWTS Regulations. The closest proposed setback distance to the wetland boundary is just under 75 feet and does not meet the county requirement for 100 feet, however, the State minimum of 50 feet is met. Staff recommends approval of the Graf application for a variance to the Gunnison County OWTS Regulations. Section 7.D and Table 7-1, for the proposed design.*

Lambert shared the draft variance request action form. Bembenek had one requested change to the document. Requests that in the first paragraph at the end, that there is a reference that the actual horizontal distance is approximately 75 feet. In the paragraph under title, Gunnison County Environmental Health Office Action.

**EH Determination of Application:**

**ENVIRONMENTAL HEALTH BOARD VARIANCE REQUEST ACTION**

**APPLICANT:** William and Cynthia Graf

**DATE:** November 18, 2021

**SITE LOCATION:** 21 Glacier Lily Way, Lot 21 Glacier Lily Estates

**ACTION:** Request for a variance to the Gunnison County OWTS Regulations for reduced setback distance to wetlands

**PREPARED BY:** Crystal Lambert, Building and Environmental Health Official

---

**PROPOSED PROJECT:**

The applicant is requesting a variance to the Gunnison County OWTS Regulations for a reduced setback distance to a wetland boundary.

**GUNNISON COUNTY ENVIRONMENTAL HEALTH OFFICE ACTION:**

The application and proposed design plans have been reviewed by the Environmental Health Office for compliance with the OWTS Regulations and the land use requirements of the County. The proposed septic design meets the design criteria of the Gunnison County OWTS Regulations and the minimum horizontal distance requirements from water features, pertinent physical features and property lines are met with the exception of the distance between the wetland boundary and the soil treatment area/unlined sand filter is not the required 100 feet. The proposed approximate horizontal setback distance from the soil treatment area/unlined sand filter to the nearest wetland boundary is approximately 75 feet.

The OWTS application was denied by the Environmental Health Office because *Section 7.D and Table 7-1* of the *Gunnison County OWTS Regulations* states that a soil treatment area/unlined sand filter shall be at least 100 feet away from a wetland boundary.

**APPLICANT'S REQUEST FOR A VARIANCE:**

A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to *Section 7.D and Table 7-1* of the *Gunnison County OWTS Regulations* has been received.

**PUBLIC HEARING:**

On November 18, 2021, the Gunnison County Environmental Health Board conducted a Public Hearing on this request for a variance.

**FINDINGS:**

Based on a review of all the information included with the OWTS application, the request for a variance, and staff reports for this project and consideration of any and all testimony and public input received relative to this application, the Gunnison County Environmental Health Board finds that:

1. Action on this request for a variance from the *Gunnison County OWTS Regulations* is property-specific and limited to the circumstances unique to this application.
2. The applicant has demonstrated that the requested variance from the *Gunnison County OWTS Regulations* is warranted by unique and existing site-specific configuration and site size that make compliance with the Regulations technically infeasible.
3. The applicant has provided justification through specific conditions that exist which support a finding that approval of the requested variance will result in no greater risk than that associated with compliance with the requirements of the *Gunnison County OWTS Regulations*.
4. The applicant has demonstrated that approval of the requested variance will not be in violation of any minimum standards established in any other applicable federal or state rule or regulation.

5. The applicant has demonstrated that the proposed OWTS will not be a nuisance or injurious to public health, safety or welfare.
6. The applicant has demonstrated that no substantial injury will result from the granting of the requested variance.
7. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Department file relative to this application; including all exhibits, references and documents.

**DECISION:**

The Gunnison County Environmental Health Board, having reviewed the proposed application and supporting documentation, site observations and public testimony does approve the requested variance to Section 7.D and Table 7-1 of the *Gunnison County OWTS Regulations* for William and Cynthia Graf at their parcel, 21 Glacier Lily Way, Lot 21 Glacier Lily Estates, under OWTS application 21-00208, with the following conditions:

1. The OWTS shall be designed and installed in accordance with the *Gunnison County OWTS Regulations* and the *Gunnison County Land Use Resolution*, including but not limited to setback requirements, design standards, requirements for system components and general technical standards.
2. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
3. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
4. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

**Moved by:** Balch, **seconded by** Lull to approve the application for William and Cynthia Graf, OWTS-21-00208 before the Gunnison County Environmental Health Board with changes to the action requested by Bembenek. Roll call vote 4-0. Lull, Shea, Ashley and Eddy voting yes. The motion passed unanimously

\*\*\*

**Adjourn:** Moved by Balch and seconded by Earley. Lull closed the meeting of the Environmental Health Board at 2:40 PM.

\*\*\*\*

/S/ Shannon Frias  
Administration Assistant III  
Gunnison County Community Development Department