

**Gunnison County Environmental Health Board Minutes
January 20, 2022**

The January 20, 2022 Gunnison County Environmental Health Board meeting was conducted in the Gunnison County Blackstock Center 2nd floor meeting room, located at 221 N. Wisconsin #D, Gunnison, Co. 81230 and by ZOOM virtual online meeting.

Board Members Present:

Lucinda Lull, EH Board Member
Bill Barvitski, EH Board Member
Ashley Bembenek, EH Board Member
Shea Earley, EH Board Member
Lynn Cudlip, EH Board Member

Absent Board Members:

Eddie Balch, EH Board Member
Corey Brindal, EH Board Member

Staff Present:

Crystal Lambert, Building and EH Official
Beth Baker, Manager of Administrative Services

Other attendees as listed in text.

Call to order: A quorum was determined by Lull at 1:20 P.M.

Approval of Agenda: No changes to the agenda required.

Approval of Minutes: Moved by Bembenek seconded by Earley to approve the November 18, 2021 meeting minutes, as amended. The motion passed unanimously with Board members Earley, Bembenek, and Lull voting yes, and Board members Barvitski and Cudlip abstaining.

Unscheduled citizens: None present or on ZOOM

Theresa Kaiser (OWTS-21-00293): The Environmental Health Board conducted a public hearing to review the variance request to the Gunnison County On-site Waste Water Treatment System (OWTS) regulations for a second OWTS on a single parcel at 27711 County Road 12.

With a quorum present Chairperson Lull opened the public hearing.

Environmental Health Official (EH Official) Lambert confirmed adequate public notice. The notices were published in the CB News and the Gunnison Country Times. All property owners within 500 feet of the parcel boundaries were notified by certified mail of the public hearing. The agenda 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.

Application Presentation:

Applicant Theresa Kaiser was present on ZOOM. She said she is requesting a second septic system on her parcel, for a proposed second residence.

Staff Comments:

EH Official Lambert explained there is an existing house and septic on another area of the 40-acre parcel. Kaiser has applied to build a second residence and second septic on the 40-acre parcel. Lambert and Planner Rachel Sabbato have conducted a site visit. Lambert noted Kaiser's original plan was to use an old existing septic system. Lambert determined the location of the new residence would involve extensive trenching over to the new residence. She advised against the use of the older septic system.

Applicant Kaiser agreed to apply for a second system; involving a new tank, new soil distribution area, and pump. Lambert affirmed all the setbacks and OWTS requirements are being met, as required by the OWTS regulations. Lambert explained because this is a request for second system on a single parcel a variance is required.

EH Official Lambert explained the new proposed development of a new single-family residence (SFR) is located right off of an access road, creating limited impacts. In-between the proposed dwelling and existing dwelling is a small island of wetlands.

EH Official Lambert confirmed the application when compared to the regulations does not trigger prohibition. The cabin will be located off the access road and away from the original residence.

EH Official Lambert said the configuration makes sense and staff is recommending approval of the application by the EH Board.

Public Comments and Responses: None

Review Body Comments:

Environmental Health Board Member (EHBM) Lynn Cudlip asked where the drinking water well is located. Kaiser said it close to the electric lines, about 25 ft. from the lines. It is up gradient and at least 100 ft. from the system. EHBM Cudlip and Earley asked if it the proposed system was also at least 100 ft. away from the neighbor's drinking water well.

EHBM Barvitski asked for confirmation the green structure on the site map is a garage; Lambert confirmed it is the garage. She added the actual house has measured to be approximately 400 ft. away.

EH Official Lambert said, if need be, the elements of the system could be moved closer to structure and at least 100 ft. away from the well and the neighboring well.

EHBM Bembenek noted a condition of approval should be added to ensure the system meets all the setbacks. Following a discussion, the Board members agreed to add the following finding. "Staff will confirm and verify that the horizontal setback distances from components of the OWTS to all drinking water wells is met with the system design and final installation." The additional condition will be added as number one in the staff decision document.

Moved by Cudlip seconded by Bembenek to close the public hearing. The motion carried unanimously, with EHBM Lull, Bembenek, Barvitski, Cudlip and Earley voting yes.

Lull read the staff recommendations and noted approval of the application and decision of approval required:

- Staff confirmation setbacks are met in the final design.
- All setbacks including from the well on the adjacent property will be met.
- Confirmation can be conducted at the time of the foundation inspection; as long as it does not get done prior to the inspection.
- Staff will confirm and verify that the horizontal setback distances from components of the OWTS to all drinking water wells is met with the system design and final installation.

Moved by Bembenek seconded by Earley to approve the application/decision for Theresa Kaiser (OWTS-21-0093): a second OWTS on a single parcel at 27711 County Road 12, before the Gunnison County Environmental Health Board (as amended.) The motion carried unanimously, with EHBM Barvitski, Earely, Bembenek, Cudlip and Lull all voting yes.

Lambert read the action form, into the record. The variance approval follows.

WHEREAS, Theresa Kaiser has applied for a variance from a standard of *Gunnison County On-site Wastewater Treatment System Regulations (OWTS), Section 3.A.10.* which states that no more than one OWTS shall be permitted for single undivided parcel. The parcel is at 27711 County Road 12, 39.176-acres in Tract 48, Section 11 13S89W, Gunnison County, Colorado; and

WHEREAS, the parcel has an existing dwelling that is served by an existing OWTS and the property owner is proposing a second OWTS to serve a second dwelling; and

WHEREAS, *Section 3.M. of the Gunnison County OWTS Regulations.* defines a process of review for requests for variance from this Section, and after the required conduct of a public hearing and a review of relevant facts related to the requested variance, the Gunnison County Environmental Health Board did, on January 20, 2022, approve with conditions the application for variance;

NOW, THEREFORE, the cited application for a variance is approved with the following Findings and Conditions as determined by the Environmental Health Board in that action:

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 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 incorporate, 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 3.A.10. of the *Gunnison County OWTS Regulations* for Theresa Kaiser at her parcel, 27711 County Road 12, 39.176-acres in Tract 48, Section 11 13S89W, under OWTS application 21-00293, with the following conditions:

1. Staff will confirm and verify that the horizontal setback distances from components of the OWTS to all drinking water wells is met with the system design and final installation.
2. 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.
3. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

4. 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.
5. 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.

Lull closed the meeting of the Environmental Health Board at 2:30 PM

/S/ Beth Baker
Manager of Administrative Services
Gunnison County Community Development Department