

Gunnison County Environmental Health Board Minutes

February 15, 2024

The February 15, 2024 Gunnison County Environmental Health Board meeting was conducted in the Blackstock Meeting Room at 221 N Wisconsin St Gunnison, CO. 81230 and by ZOOM virtual online meeting.

Board Members Present:

Bill Barvitski, EH Board Member
Brooke Zanetell, EH Board Member
Lynn Cudlip, EH Board Member
Shea Earley, EH Board Member

Staff Present:

Crystal Lambert, Building and EH Official
Rebecca Ricord, Community Development
Charlie Dominguez, Community Development
David Holt, Community Development
Misty Castillo, Community Development

Other attendees as listed in text.

Call to order: Meeting called to order at 1:35 by Cudlip.

Approval of Minutes: June 30th 2022 minutes, under decision on page 12 refers to the wrong address and needs to be amended. No minutes were approved.

Board discussed updates with the permit OWTS-22-00138 6746 County Rd 742. Lambert updated the board of the state of CO OWTS revision to regulation 43 and is in process with provisions and they're looking at addressing short-term rental OWTS systems and updating the system to accommodate additional capacity for more occupancy.

Unscheduled Citizens:

Jay Kelleher (ZOOM)
Joseph David Baker (ZOOM)
Zack Baker (In person)
Lucinda Clauter Lull (ZOOM)

Baker (OWTS-23-00146) The Environmental Health Board conducted a Public Hearing for a variance to the Gunnison County Onsite Wastewater Treatment System (OWTS) Regulations for an OWTS on a parcel less than one-acre at 20 Paul Pl.

Ricord confirmed there was adequate public notice on Gunnison County website, applicant provided affidavit posting on site and certified mail receipts showing notice of public hearing sent.

Lambert noted there was an error with the address posting on the agenda.

Voting Members: Cudlip was seated as chair. Zanetell and Barvitski.

Earley recused himself due to being an adjacent owner of the parcel.

Cudlip confirmed a quorum.

Application Presentation: Z. Baker submitted all required and requested paperwork and commented that all setbacks are being followed in the plans and requested additional comments and guidance from the board. Board discussed the address, parcel was subdivided and address will be corrected at the assessor's office if need be. Ricord will do more research and verify address with GIS. Lambert explained that addresses will be formerly assigned when building permit is issued. The address will be 20 Paul Pl. until further notice.

Staff Comments: Ricord lead staff comments.

APPLICANT/OWNER:	Joseph Baker
Project description:	The applicant is proposing a variance for an OWTS on a parcel less than one acre to serve a future residence. The parcel is currently vacant.
current status of owts application:	The OWTS application was denied by the Environmental Health Office because <i>Section 3.A.9. of the Gunnison County OWTS Regulations</i> states that an OWTS shall not be permitted to be installed on a parcel of land less than once acre in size.
Environmental Health Board Action Requested:	A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to <i>Section 3.A.9 of the Gunnison County OWTS Regulations</i> has been received and was prepared by the applicant.
PROPERTY LOCATION:	20 Paul Pl, Lot 19, Mitzel's Green Acres
AREA DESCRIPTION:	The parcel is 0.87 acres in Mitzel's Green Acres near Hwy 135 in the Almont area approximately 7.5 miles north of the City of Gunnison, Colorado.
ATTACHED EXHIBITS:	OWTS application Aerial view of parcel and surrounding parcels Variance Request and Proposed Design Report Site plan and system layout Staff site inspection photos Development Draft Action
ENVIRONMENTAL BOARD TASKS AT PUBLIC HEARING:	Acknowledge receipt of application by applicant name, name of development (if applicable) and date of application Confirmation of adequate public notice: <ul style="list-style-type: none"> • Posting of legal notice in the County's official newspaper at least 20 days prior the hearing. • Posting of public hearing notice at the County posting locations. • Mailing of public hearing notice to all owners of properties who own surface rights within 500 feet

	<p>of each boundary of the entire parcel at least 20 days prior to the hearing.</p> <ul style="list-style-type: none"> • Posting of the public hearing notice in a conspicuous location at or near the parcel. <p>Hear applicant presentation Hear staff comments Ask questions, identify and consider issues Hear applicant response and staff response Continue public hearing or close public hearing.</p>
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1. ***Staff conducted a site visit with property owner’s son, Zach Baker, and project engineer Tyler Harpel on September 12, 2023. Mr. Baker walked staff through where the future dwelling, well and proposed system will be located

Variance Request Submittal Analysis		
Variance request submittals shall include the following items:	Applicant Submittal Summary	Staff Comments
<p>Site-specific request identifying the specific criteria from which a variance is being requested. Section 3.M.1.b(1)</p>	<p>The variance is being requested for an OWTS to be permitted to be installed on the referenced parcel which is less than one acre in size.</p>	<p>Per <i>Section 3.A.9 of the Gunnison County OWTS Regulations</i>, an OWTS shall not be permitted to be installed on a parcel of land less than one acre in size. This is a local County requirement above the State minimum. The State of Colorado OWTS Regulations do not contain a requirement for minimum parcel size.</p>
<p>Technical justification by a professional engineer or professional geologist, which indicates the specific conditions which exist and/or the measures which will be taken that support a finding that the variance shall result in no greater risk than that associated with compliance with the requirements of the OWTS Regulations. Section 3.M.1.b(2)</p>	<p>All the horizontal setback requirements between components of the OWTS and water, physical and health impact features are proposed to be met and there should be no greater risk to public health and safety. Gunnison County has more stringent horizontal distance requirements than the State Regulations and those more stringent setback distances will be met with the proposed system. The proposed system design includes pressurized distribution to an unlined sand bed.</p>	<p>Though this is a small parcel, less than one acre, all of the required setback distances from system components to waterbodies and pertinent physical features can be met with the proposed plan. The water service to this parcel, and other parcels in the Subdivision is by wells. The applicant has provided a site plan that</p>

		shows all setbacks are being made to neighboring wells and system components.
A discussion of alternatives considered in lieu of the requested variance. Section 3.M.1.b.(3)	There are no alternatives known. The subdivision and this parcel were created prior to creation of the Gunnison County OWTS Regulations.	No known feasible alternatives. The subdivision and parcel predate modern septic regulations and surrounding parcels are developed.
Technical documentation for selected alternative, which may include a testing program, which confirms that the variance does not increase the risk to public health and to the environment. Section 3.M.1.b.(4)		N/A-the applicant is not proposing an alternative system design. The proposed system meets the technical requirements of the OWTS Regulations.
A statement of the hardship that created the necessity for the variance. Section 3.M.1.b.(5)		The small, less than one acre, parcel was created prior to modern septic regulations requiring a minimum of one-acre.

Section 3.M.2.: Prohibitions on the granting of variance requests	
Prohibitions on the granting of variance requests:	Staff comments:
No variance shall be issued where the property can accommodate a conforming OWTS. Section 3.M.2.a.	The OWTS will conform to the technical, design and setback distance requirements of the OWTS Regulations. The variance request is for a system on a parcel less than one acre.
No variance shall be issued to mitigate an error in construction involving any element of property improvements. Section 3.M.2.b.	N/A
No variance shall be allowed on the grounds of cost of compliance. Section 3.M.2.c.	N/A
No variance shall be issued if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks defined in Table 7-1 of this regulation without proof of compliance of Section 3.M.5. Section 3.M.2.d.	The minimum setbacks to on-site and off-site physical features appear to be met with the proposed development plan.
No variance shall be issued if it reduces the separation to ground water or bedrock based on	N/A

the level of treatment in Table 7-2. Section 3.M.2.e.	
No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors. Section 3.M.2.f.	Future development on the adjacent undeveloped parcel would require thoughtful planning in relation to the proposed development and minimum setback distances of a future well location.
No variance shall be issued for the installation of a higher level treatment system based on sizing or separation reductions without the Department having a maintenance and oversight program. Section 3.M.2.g.	N/A

Staff Recommendation on the application for a variance to the *Gunnison County OWTS Regulations*:

It appears that the proposed OWTS design meets the design criteria and setback distance requirements of the Gunnison County OWTS Regulations. The location of the system limits the future location of a well on the adjacent undeveloped neighboring parcel but appears to provide enough space, although it will be limited. Staff recommends approval of the Baker application for a variance to the Gunnison County OWTS Regulations, Section 3.A.9, to install the proposed OWTS on Lot 19, Mitzel's Green Acres

Board Discussion:

The board discussed the lots and any requirements that have been established prior to lot being subdivided and prior to 1995 regulations, and if there is going to be opportunity for other properties to be developed with the applicant. Cudlip commented that there is a road that won't be built on around the lot and would be a buffer for the property.

Public Comments:

Ricord read Mitchell Green Acres HOA Comments. HOA supports the owner in pursuing their plans for septic system provided that applicant adheres to all requirements including setbacks, maintain appropriate well spacing from other lots, and follow Gunnison County guidelines.

J.D.Baker expressed his appreciation to the board. Asked if permit had been approved. Barvitski explained that the application cannot be approved at the time of the hearing due to an error in the posting location for the hearing and informed him of the process going forward. J.D.Baker asked if there's an anticipated time and when there is another meeting will it be approved. Cudlip explained the board will have to wait for public comment and couldn't suggest it be approved. J.D.Baker wanted to know if there is anything he needed to do about the address. Ricord will investigate the matter further and get in touch when she has more information. Z. Baker asked for a time frame for the next meeting. Lambert explained there will be a re-notice within 20 days, she proceeded to elaborate on the process for re-notice, and that it can be scheduled any time after March 12th. Z. Baker asked what the next steps were after the 20 days. Lambert and Barvitski outlined the subsequent actions that would be taken. Z.Baker wanted to ask if he could start drilling for a well as soon as possible, Lambert told him if he would like to drill at any time he could as long as the setbacks are being followed when the OWTS and buildings are installed.

Jay Kelleher (17 Paul Pl.) was present to observe the proceedings regarding the property and to extend his best wishes to his new neighbors.

Applicants response to Public Comments: Z. Baker assured the board there would be no rush and that he would be able to have someone on site to drill for the well whenever possible.

Review Body Response to Public Comment: Meeting tentatively scheduled for March 21st at 1:30pm at the community development meeting room at 221 N. Wisconsin St.

Additional Staff Comments: Cudlip requested any further comments and proposed continuation of the public hearing at a later date. Discussion followed.

Moved by: Barvitski, **Seconded by:** Zanetell to continue the public hearing to March 21, 2024 at 1:15 PM. The motion passed unanimously.

Minutes by: Misty Castillo

Senior Administrative Assistant

Gunnison County Community and Economic Development

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