

**Gunnison County Environmental Health Board  
Agenda: September 3, 2020**

**1:15 p.m.** Call to order; determine quorum  
Approval of Minutes  
Unscheduled citizens

**1:30 p.m.** Nick Spallone, Brenda Spallone, Michael Spallone, and Kirsten Paulson, Public Hearing, request to install a second OWTS on a single parcel at 449 County Road 818. OWTS-19-00297

**Adjourn**

LINK TO THE ZOOM MEETING CAN BE FOUND AT:

<https://www.gunnisoncounty.org/144/Community-and-Economic-Development>

On Line Meetings tab

**ADA ACCOMMODATIONS:** Anyone needing special accommodations as determined by the *American Disabilities Act* may contact the Community Development Department prior to the day of the hearing.

**GUNNISON COUNTY ENVIRONMENTAL HEALTH BOARD  
SEPTEMBER 3, 2020**

The September 3, 2020 Gunnison County Environmental Health Board meeting was conducted by Zoom virtual online meeting, Gunnison, CO 81230.

**Present Were:**

Lucinda Lull, Chairperson  
Ashley Bembenek, Vice Chairperson  
Bill Barvitski, EH Board Member  
Eddy Balch, EH Member  
Shea Earley, EH Board Member  
Lynn Cudlip, EH Board Member, Alternate  
Corey Bryndal, EH Board Member, Alternate

Crystal Lambert, Building and EH Official  
Charlie Dominguez, Building and EH Inspector  
Rebecca Ricord, Administrative Assistant

**Alternate members seated for the day:** Board member Lynn Cudlip and Corey Bryndal, Bill Barvitski will recuse himself for the hearing.

Other attendees as listed in text.

Lambert went over the Gunnison County Environmental Health Zoom meeting protocol.

**Call to order:** A quorum was determined by Lull at 1:26 pm. The meeting was properly noticed and verified by Lambert.

\*\*\*\*

**Approval of Minutes: Moved by:** Barvitski, **seconded by** Balch to approve the June 18, 2020 meeting minutes as amended. The motion passed unanimously with Board members Lull, Barvitski, Earley, Balch, Bryndal and Cudlip voting yes. Bembenek abstained because she was not present at the meeting.

\*\*\*\*

**Unscheduled citizens:** None present.

\*\*\*\*

**Nick Spallone, Brenda Spallone, Michael Spallone, and Kirsten Paulson, OWTS-19-00297:** The Gunnison County Environmental Health Board conducted a Public Hearing. Request to install a second OWTS on a single parcel at 449 County Road 818.

Barvitski recused himself to represent applicant in public hearing.

Chairperson Lull confirmed a quorum and opened the public hearing.

Alternate Board members Cudlip and Bryndal were seated.

Environmental Health Official Crystal Lambert confirmed adequate public notice. The notice was published in the Gunnison Country Times, and the applicant submitted the certified mailing receipts, photo and affidavit of posting on the parcel. It was posted at the new posting location on the Gunnison County Community Development website.

Engineer Bill Barvitski, representing applicants Spallone and Paulson, was present by Zoom. Nick Spallone, applicant, was present by Zoom.

Spallone stated that he has applied to add another septic system on their 42 acre parcel due to logistics of where they want their dwelling to be and where the current system is. The current system is approximately 400 feet away through hay meadow, irrigation ditches and parking areas. They would have to also go around the barn. Believes that the new site will be on higher ground, is a better site for a leach field, and closer to the new dwelling (within 150 feet). They don't cross any ditches, they stay away from the property line and the soils seem good. They are still doing a raised field with respect to the ground water. They had looked at another site but believed that it would have caused more problems because it would have been further, through more hay meadows, irrigated area and ditches. He would like the board to consider the plan they chose as an option.

Barvitski stated that they looked at trying to figure out how to combine into one system but logistically it could not work with the irrigation ditches, the lowland, irrigated fields, the length of pipes that they would need and the maximum burial in tanks of four feet. Logistically it didn't work so that is why they are requesting the variance for two systems on the parcel.

Lambert reported that she was able to visit the site and conduct a site inspection. It was quite a distance from the residence and the barn. There were animals, horses, livestock and irrigation ditches. The irrigation ditches concerned her if they were trying to connect to the current system, where animals could potentially be walking on system components and would need to cross several water ways and the sheer distance. Having two systems on the parcel makes sense to Lambert because they can meet setbacks back to water bodies and all pertinent physical features. They are proposing a raised system, with an online sand filter. It's not a higher-level treatment system so an Operation and Maintenance Agreement would not be required in accordance with the regulations. It seems that they can meet all the requirements of the OWTS regulations, other than no more than one system on a parcel is allowed. During the site visit she went around the barn to the other side and saw the existing system. It's a big tank, with a pump, to a raised field and it's going the other way, opposite of where the new house is going to be. They would have to reroute the plumbing for the existing structure, abandon the fancy system to connect into a new system. Staff is recommending approval of the proposed application.

Bryndal stated that it looks like the pipe will be crossing three separate ditches Lambert stated that that was if they were going to try and connect the barn to the existing system. It seems like there would be more risk to public health, safety and welfare and impacts to water quality if they were to connect both structures to the existing system. The parcel is big enough to accommodate two co-compliant systems.

Bryndal stated that it looks like the only thing holding them back is the difference between the State regulations of two septic systems per parcel or acre and the local county regs. Lambert stated that the State is silent on how many systems are on a site, as long as they comply with the minimum requirements of the regulations. It's Gunnison County's own thing to create a regulation above and beyond what the State says and only allow one system per parcel and if you want two or more then you have to go to the Environmental Health Board and request a variance. That way a group of people are looking at an application for variance and not just staff administratively. Bryndal asked whether this application presents any risks. Lambert stated that she sees no risks, only if the system was going to be shared.

Earley asked why the County regs state that only one system is allowed on a parcel. Lambert stated that it is having a group of people review an application and talk about what the future implications could be, other than one person reviewing and deciding. Earley asked whether the current system on the property is in good repair. Lambert reported that it seems to be in good condition, the field is raised and seems in good condition. The tank risers seemed water tight. Barvitski reported that he physically looked at it and it is a raised system, pump system, and equal distribution. It was designed by an engineer. It's not just a gravity system like the old school systems were. It was installed in 2002. Everything seems to be working as designed. If it was failing they would see leaching out of the raised bed and there isn't anything that shows that.

Cudlip asked about capacity and whether they will be expanding the new residence in the future. Spallone stated that there are no plans to expand on the new structure. That will be their final living dwelling. There is ample

room to expand if they wanted to but there aren't any plans to right now. Cudlip asked whether there are any plans to expand on the existing dwelling. Spalone said that there aren't any plans to expand.

Barvitski reported that he will be leaving the room before discussion on the decision starts.

Lambert reported that staff has not received any public comments in reference to the variance request.

**Moved by:** Balch, **seconded by** Bryndal to close the public hearing. The motion passed unanimously, with the Board Members Lull, Bryndal, Earley, Balch, Bryndal, Bembenek and Cudlip voting yes.

Barvitski turned off his video and left the room.

**EH Determination of Application:** Moved by Balch, seconded by Cudlip to approve the application with the conditions that have been listed in the draft decision from staff, for Nick Spallone, Brenda Spallone, Michael Spallone, and Kirsten Paulson (OWTS-19-00297) before the Gunnison County Environmental Health Board. The motion passed unanimously, with Board members Lull, Earley, Balch, Bembenek, Bryndal and Cudlip voting yes.

The Board members agreed they supported the staff requirements as stated.

### **ENVIRONMENTAL HEALTH BOARD VARIANCE REQUEST ACTION**

**APPLICANT:** Nick Spallone, Brenda Spallone, Michael Spallone, and Kirsten Paulson

**DATE:** September 3, 2020

**SITE LOCATION:** 449 County Road 818

**ACTION:** Request for a variance to the Gunnison County OWTS Regulations for a second OWTS on a parcel

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

---

#### **PROPOSED PROJECT:**

The applicant is requesting a stand-alone OWTS on their parcel to serve a future residence. There is an existing OWTS on the 42.85 acre parcel that serves an existing bathroom in a barn, however, the system is over 350 feet away from the future house site.

#### **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.

The OWTS application was denied by the Environmental Health Office because *Section 3.A.10.* of the *Gunnison County OWTS Regulations* states that no more than one OWTS shall be permitted for an undivided parcel.

#### **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 3.A.10* of the *Gunnison County OWTS Regulations* has been received and was prepared by Bill Barvitski, PE of Trout Creek Engineering, LLC.

**PUBLIC HEARING:**

On September 3, 2020, 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 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. The proposed development meets minimum horizontal distance requirements from water features, pertinent physical features and property lines.
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 3.A.10* of the *Gunnison County OWTS Regulations* for Nicholas Spallone, Brenda Spallone, Michael Spallone, and Kirsten Paulson at their parcel, 449 County Road 818, Tract D, The Messner Family Partnership, LLLP, under OWTS application 19-00297, 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.

\*\*\*\*

Lull closed the meeting of the Environmental Health Board at 1:59 P.M. **Moved by:** Balch, **seconded by** Bembenek to adjourn meeting. The motion passed unanimously, with Board members Lull, Bryndal, Bembenek, Earley, Balch, and Cudlip voting yes.

\*\*\*\*

/S/ Rebecca Ricord  
Administrative Assistant  
Gunnison County Community Development Department