

Gunnison County Environmental Health Board Minutes

February 3, 2022

The February 3, 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:

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

Absent Board Members:

Lucinda Lull, EH Board Member

Staff Present:

Crystal Lambert, Building and EH Official
Shannon Frias, Community Development
Charlie Dominquez, Community Development
Rebecca Ricord, Community Development

Other attendees as listed in text.

Call to order: A quorum was determined by Bembenek at 1:22 P.M.

Approval of Agenda: Decision to table the approval of officers and meeting times to next meeting. Agenda approve with changes.

Approval of Minutes: Moved by Earley seconded by Cudlip to approve the January 20, 2022 meeting minutes. The motion passed unanimously with Board members Earley, Bembenek, Cudlip and Barvitski voting yes.

Unscheduled citizens: None present or on ZOOM

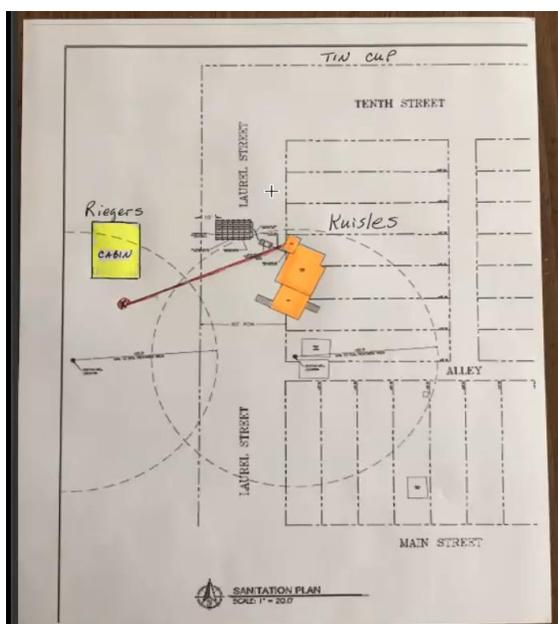
Sally Kuisle, (OWTS-21-00325): The Environmental Health Board conducted a public hearing to review the variance request to the Gunnison County On-site Waste Water Treatment System (OWTS) regulations for an OWTS on a parcel less than one-acre at 132 Laurel street in Tincup.

With a quorum present Vice Chairperson Bembenek 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 Sally Kuisle was present on ZOOM. Kuisle stated that she owns 123 Laurel Street in Tincup. Kuisle stated she realized she had a need for a new septic tank when a neighbor had to replace a tank a few years ago. Kuisle hired Sara Bergstrom to design a new system. Bergstrom visited the property and brought out Bill Parker who is licensed OWTS installer in Gunnison County. Parker witted the sewer line across Laurel street and it went all the way across to the neighbor and ended under the neighbor's deck. This was about 50 feet from the 2 water wells in their yard. West is the only direction to go. North and East have steep hillsides, and south is where the water well is. The previous owner stated that the system was installed in the early 70's. Kuisle shared photos of the cabin and parcel. This showed the slopes and layout. The cabin is 850 sq. ft. Kuisle shared a map of the lots.



The redline shows the sewer line going across Laurel Street into the neighbor's yard. The County Commissioners have approved to vacate a portion of Laurel street. The Rieger's, the neighbors, are going to give Kuisle a 30-foot easement for the leach field. Kuisle had a survey done recently. The survey confirmed there is a 60% graded slope on the North and East sides. The Rieger's and Kuisle are going to split the 60% of Laurel Street.

Staff Comments:

EH Official Lambert stated she put together a packet with the variance request submittal analysis and the supporting documents. Including a draft action for consideration of the Environmental

Health board. The proposed plan is a replacement system on an already developed parcel. This is unusual for EH board to consider. The current system is located on the neighboring parcel encroaching on the wells. This proposal includes an element of the County granting a street vacation the BOCC wanted to ensure that the variance request would be approved by the EH board before the street vacation goes in to place. The proposed plan appears to meet all requirements for an OWTS except the one-acre requirement. The alternative is to not do anything and Kuisle continues to use the old tank. It is a metal septic tank that is deteriorating and the leach field is on the neighbor's property. Staff does not believe this is an option at all. Staff recommends approval for the variance request as proposed. Staff conducted a site visit and took pictures.

Public Comments and Responses: None

Review Body Comments:

Environmental Health Board Member Earley stated that the applicant mentioned a vacate and a 30-foot easement. Earley wanted to know what the 30-foot easement is for. Kuisle responded that, when the county vacates Laurel Street, her and the neighbors each get 30 feet. The neighbors will own 30 feet and are going to give her an easement.

Cudlip mentioned that the BOCC is asking that the variance be approved before they issue a vacation of Laurel street. Cudlip asked for clarification. Lambert stated that the BOCC wanting to make sure the variance is approved before they issue a vacation because the need for the vacation will not be present if the variance is not approved.

Cudlip asked about the easement and when it will be recorded. Kuisle stated she will be hiring an attorney to complete each step but did not want to hire anyone until a decision was made on the variance in case it was denied.

Barvitski asked about the 30-foot easement. Wanted to make it clear that the 30-foot easement would become Kuisle's property. Lambert informed the board that the 30 feet on the Kuisle side will be her property. Before they can issue a septic permit, they need the easement recorded. The tank will be on Kuisle property and half the leach field will be on the neighbor's property.

Bembenek asked about decommissioning the old tank. Kuisle stated she will do whatever is needed. Kuisle stated that it was recommended to fill the tank with sand. Lambert commented that that would not stop the deterioration. And suggested getting rid of the tank completely. Kuisle reminded the board that the tank is under the back section of the cabin and she would have to tear down a portion of the cabin.

Barvitski stated that Bergstrom is aware of the County regulations on abandoning the tank and they need to make sure it is done correctly.

Bembenek asked if there are regulations/requirements that state what has to be done when a tank is abandoned or should that be included in the variance as a potential condition of approval. Lambert stated that it is a requirement in the regulations. Dominguez stated that at inspections they make sure the old tanks are decommissioned correctly.

Moved by Barvitski and seconded by Earley to close the public hearing. The motion carried unanimously.

Lambert read the staff recommendations and noted approval of the application and decision of approval required. The approval includes that it is a standalone, unique variance request that only pertains to this parcel. Earley stated they need to require the recording of the easement as a condition to the approval. Lambert will add that to the approval as number 1 and bump everything down. Earley asked if language should be added about the vacation. Lambert stated that the vacation of Laurel street is a condition of approval in the BOCC decision for a vacation. Beth Baker joined the meeting. She explained that she worked with Kuisle on the lot cluster which was also required. Both the street vacation and the lot cluster had to be approved. The BOCC was concerned that they would be giving away land with a vacation and a vacation would not be necessary if the variance was not approved. If the variance is approved then the vacation is approved. Kuisle asked if she should get her lawyer to write up the easement and recorded. Lambert commented that she could do that but should make sure the wording is adequate. Cudlip added that they need to add wording in the condition that the easement is recorded. Lambert added that the easement recording will stay with the property forever.

Moved by Barvitski with the condition of a platted easement and seconded by Cudlip to approve the application/decision for Sally Kuisle (OWTS-21-00325): for an OWTS on a parcel less than one-acre at 132 Laurel Street in Tincup, before the Gunnison County Environmental Health Board (as amended.) The motion carried unanimously with the condition of the recorded easement added under condition #1.

Bembenek adjourned the meeting of the Environmental Health Board at 1:57 PM

DRAFT-ENVIRONMENTAL HEALTH BOARD VARIANCE REQUEST ACTION

APPLICANT: Sally Kuisle

DATE: February 3, 2022

SITE LOCATION: 132 Laurel Street, Lots 18-24, Block 1, Tincup

ACTION: Request for a variance to the Gunnison County OWTS Regulations for an OWTS on a parcel less than one-acre

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 replacement OWTS on a parcel less than one acre to serve an existing dwelling.

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.9.* of the *Gunnison County OWTS Regulations* states that an OWTS shall not be permitted to be installed on a parcel of land less than once acre in size.

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.9* of the *Gunnison County OWTS Regulations* has been received.

PUBLIC HEARING:

On February 3, 2022, 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. The proposed OWTS meets

minimum horizontal distance requirements from water features, pertinent physical features and property lines. The existing aging system that the proposed OWTS will be replacing is partially on the neighboring parcel, does not meet the required setback distances to water wells and has a rusting metal tank.

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.9 of the *Gunnison County OWTS Regulations* for Sally Kuisle at her parcel, 132 Laurel Street, Lots 18-24, Block 1, Tincup, under OWTS application 21-00325, 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.

Shannon Frias, Administrative Assistant III
Gunnison County Community Development Department