

MINUTES

8:00 PM

PRESENT: M. DeSapio
T. Kratzer
P. Lubitz
R. Phillips
S. Stryker
J. Kopen, Attorney

CALL TO ORDER

The meeting was called to order by M. DeSapio at 8:01 PM.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat, Courier News and Express Times and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Septic Waiver – Block 26, Lot 21 – 115 Kingwood Locktown Road

K. Hoffman, design engineer, was present for the application this evening. The property contains two residences, one a three bedroom and one a two bedroom. The waiver being requested is due to the regional water table being determined at 18" when 24" is required. There will be a 48" separation between the regional water table and the proposed level of infiltration. The system will be mounded. The existing system failed due to the fact that water table is too high. The original system is approximately 30 years old. He stated the current tanks will be pumped and filled. The septic system is being located 163' from the property line. There is currently a tenant on the property. The pit bail test #1 showed 3.19" per hour and was performed at 92". The second set of soil logs were in the same field. Soil log #3 had 1.11" per hour at 119". #2 is just a soil log. The two soil logs were along the wood line. The system is designed for a little larger than a 5 bedroom home. There are currently two systems on the site. There will be one common system on the site. There will be expansion. The applicant will be apply for a GP25, which allows for no expansion. The gravity line is 4" and the pump line is 3". There is an alarm in the pump tank. If the pump was to fail, there is a full day of reserve in the tank to allow time to remediate the problem. There will be an alarm in both residences. There was no water on the surface and did not observe any at the 2 bedroom dwelling.

It was moved by M. DeSapio seconded by R. Phillips and carried to grant the waiver from the high water table and the approval is conditioned upon the applicant obtaining a GP25 permit.

P. Lubitz stated the Board has seen other ones with a 25% overbuild on the system. With the above system and the wetlands containment area, the system cannot be expanded. The applicant will be spending a great deal of money on a new system with no assurance the system will not fail in the future. He is not prepared to vote yes until the Board can think of a systematic way to deal with the failing systems in the Township. The Board had

two separate engineers appear before them and it was the first engineer's opinion to include a 25% overbuild. The engineer's testimony could not definitely state the system would not fail in the future. Everyone has to make their own decision.

S. Stryker stated the Board has to rely on the fact that these homeowners who have to resolve the problem. They are relying on the professional engineers that are designing the system. It has been designed so that it will not potentially fail. There is nothing guaranteed. The Board can sit here all night and negate all these issues. The Board has to look at these issues and rely on the engineers that they are professionals and designing the systems for the worst case scenario to the best of their ability.

K. Hoffman stated the design for a 5 bedroom dwelling is actually 50 gallons less than this design. The first bedroom in dwelling #1 would be 200 gpd and the two additional bedrooms would be 150 gpd each. For dwelling #2, the use would be 200 gpd for the first bedroom and 150 gpd for the second bedroom. In his opinion, he has seen systems that were designed wrong in the first place. The system this evening is mounded to 4' above the regional water table. The system will be 5 or 6 feet out of the ground. The design comes down to more of the engineers out there identifying the correct water table and designing for the appropriate conditions. No expansion would be allowed due to the GP25 permit. The two current systems on the property are underground. With the height of the water table, how can you expect the current system to work?

All members voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz, who voted **NAY**.

Septic Waiver – Block 35, Lot 12 – 319 County Road 519

K. Hoffman stated the application is for an existing three bedroom dwelling. A home inspection diagnosed a failing system. The designed is based on Soil lot #1 and 2 and a pit baill test. The waiver being requested is due to the regional water table being determined at 12" when 24" is required. There will be a 48" separation between the regional water table and the proposed level of infiltration. The system will be mounded. Excavation to a decent depth was not possible. The house is a 100 year old plus dwelling. The system, in his opinion, is approximately 40 to 50 years old. There were two laterals from the house. Due the high water table, they have probably not worked since day one. Effluent was coming out of the ground. There are two residents in the dwelling. The house is for sale at this time. Soil log #1 pit baill was 3.7" and soil log #2 was 4.5". The results showed there was permeability at all locations. He described the process for a pit baill test. The inground pool is downgradient of the proposed septic system. Septic tanks are supposed to be water tight. Failure with the septic tank would have to be remediated. Prior tanks had concrete baffles which deteriorated and failed. The current pvc baffles expand the life time of the tanks. The other building on the property is used as an art studio. Due to the need for a GP25, there will be no expansion in the dwelling or art studio. The system is designed with all the bells and whistles.

It was moved by M. DeSapio seconded by S. Stryker and carried to grant the waiver from the high water table and the approval is conditioned upon the applicant obtaining a GP25 permit. All members voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz, who voted **NAY**.

P. Lubitz stated he would to ascertain some consistency on the Board's decision, such as a requirement of overbuilding the system.

Septic Waiver – Block 40, Lot 10 – 153 Byram-Kingwood Road

K. Hoffman stated the property was located at 153 Kingwood Byram Road. The water table on the site is 12". The septic system is designed for a level of infiltration of 48" above the water table. The property has two existing dwellings. The failing system was found as a result of a sale of the property. Dwelling #1's system was found to be functioning at the time of the inspection. Dwelling #2's system was failing at the time of the inspection. Dwelling #2 is a two bedroom structure. The system had a septic tank going to a couple of laterals in the rear of the property. There were two soil logs. The result of Soil Lot #1 was 3.92" per hour. The result of

Soil Log #2 was 2.07" per hour. The proposed system is a pump system and is designed for just the 2 bedroom dwelling. The site has a requirement of a GP25 permit. There will be no expansion or change of use on the property. The system was worked on by previous homeowners. It was apparent when they dug into the old system. It contained newer stone, new gravel and new looking items. It was an attempt at some type of repair. No permits were taken out for the repair. Both dwellings are currently vacant. The original system was below the ground. The proposed system will be a mound system. It is his belief that the first system did not have a chance to work due to the high water table. There was no head pressure for it to function properly. If the dwelling had been occupied, he believes there would have been ponding and breakout on the surface. In response to a question by a Board member in regard to adding capacity by adding height, he responded the DEP has computed the required elevation of the system based on the water table present on the property so there is enough head pressure. The DEP arrived at the 4' height. He has designed systems with a 7' mound. He has done 100 of these per year and has not seen any problems.

In response to a comment made by a Board member regarding removing one of the structures from the property, J. Kopen responded the owner could have a potential claim of the taking of the property. She is not indicating if they would be successful or not. She responded the basis for the denial of a waiver would be if it would be a potential detriment to public health. An individual could bring a claim for adverse condemnation against the municipality since they prevented them from making use of a dwelling. If there is an existing dwelling and the waiver denied them the ability to make use of the property as a dwelling, she thinks it is a potential taking of the property claim. The municipality may be justified in doing so under some situation, such as public health and safety reasons. She has not researched the issue. She stated the Board has the ability to place reasonable conditions on an approval.

K. Hoffman stated the GP25 is required when you are installing a septic system on an existing dwelling that is located in wetlands or in a transition area and there is no location on the site that is outside of the wetlands or transition area that is feasible. The need for a GP25 prohibits any expansion or change of use of the property. The GP25 will pertain to the entire parcel. It is done by a Block and Lot basis and not broken down by dwelling.

The Board discussed the possibility of making a requirement of more frequent pumping than the typical 3 year schedule. K. Hoffman stated the Board might want to ask for one or two years, which would not be out of the realm. The owner is going to be renting the property. It might be to his benefit. B. Rubin, current owner, is a building/fixer upper. He is not going to reside on the property. He will sell it. K. Hoffman stated the owner will abide by the conditions of approval. The system is slightly over designed by 1.69 rather than 1.33. He stated a pressure dosing system, according to state requirements, is designed at 1.33 sq ft per gallon. Having designed the system at 1.69 the system has already been increased by 23%. He would have no problem increasing it the 2%.

It was moved by P. Lubitz, seconded by S. Stryker and carried to require a 3 year pumping schedule with the requirement of the installation of a Zable 8300 or equivalent effluent filter and an increase in the design to total of 25% above the minimum state requirement. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who **ABSTAINED**.

Septic Waiver – Block 33, Lot 2.01 – 4 Barcroft Road

K. Hoffman stated the existing system is marginal. It is not in complete failure. During high water times, the system becomes inoperable. The owner is not selling the property but is upgrading the system. The proposed system is designed 48" above the water table of 18". It is mounded with a pump to gravity system. The original system was installed on February 18, 1997. The original system is 100% in the ground with a curtain drain. The existing system will be abandoned but the two current tanks will be used with the new system. Soil Log #1 had a rate of .51" per hour. They excavated to 116". The property does not have a wetlands issue. If this site wanted to expand, it could be expanded. The current system did not work from day one. It does not work during the wet season but works fine during the dry season. They encountered mottling at 18". The 24 hour water level

was 5.83'. The static water level was 70". The system is not designed for expansion. It is designed for a 4 bedroom home. Any expansion would require DEP approval because of the high water table.

It was moved by P. Lubitz, seconded by R. Phillips and carried to require a 3 year pumping schedule with the requirement of the installation of a Zable 8300 or equivalent effluent filter. All members present voted **AYE** on **ROLL CALL VOTE**.

Ordinance No. BOH – 2010 -01 - CHAPTER 153, ARTICLE 2 - "NON-PUBLIC WATER SYSTEMS AND WELLS" - Introduction and Adoption on First Reading

M. DeSapio read the ordinance by title.

J. Kopen the following additional changes were made in addition to the ones discussed at the April Board of Health meeting:

Page 2 – "HYDROFRACTURING" shall mean the process that involves pumping water into the open-hole portion of a bedrock well under high pressure to create fractures in the bedrock. The procedure involves using a single or double (straddle) packer to isolate the zone in the well that is being hydro-fractured.

"TOWNSHIP HYDROGEOLOGICAL CONSULTANT" shall be that professional with the qualifications as described in definition 33, "Qualified Hydrogeological Consultant", who has been appointed through resolution passed by the Township of Kingwood, or the Board of Health of the Township of Kingwood, to perform professional Hydrogeological Consultant services for the Township.

Page 3 – 153-24 – Reworded - A construction permit shall be issued if: 1) a newly-drilled well delivers 10 or more gallons of water per minute and 2) a well-water sample is analyzed for the parameters required by the State [See N.J.A.C. 7:10-12.6 and ~~5:21-5.3~~] and the sample complies with the indicated water quality standards (See N.J.S.A.58:12A-26 et. seq. and N.J.A.C. 7:9E-1.1 et.seq.).

Page 11 – 153-29(9)(c) "WATER QUALITY EVALUATION" shall be amended by adding the word "mercury" after the word "nitrate" and before the word "and" in the third line of subsection (c).

T. Kratzer described the GSR32 model to the Board members and its requirements.

It was moved by P. Lubitz, seconded by T. Kratzer and carried to adopt on first reading **Ordinance No. BOH – 2010 -01 - CHAPTER 153, ARTICLE 2 - "NON-PUBLIC WATER SYSTEMS AND WELLS"**. All members present voted **AYE** on **ROLL CALL VOTE**.

Gebhardt & Kiefer – Voucher for Legal Services – Bunker Hill

J. Kopen stated the oral argument on the motion for summary judgment from Bunker Hill stated they had vested rights and the Township should be estopped from enforcing the well ordinance against them. She filed a cross motion for summary judgment that the Township had the right to enforce the well ordinance against Bunker Hill. Judge Buchsbaum denied both motions. There is a case management conference scheduled for June 4, 2010, where they were going to meet with the judge and set forth a schedule for discovery. She will provide a report to the Board.

Approval of Minutes

It was moved by P. Lubitz, seconded by T. Kratzer and carried to approve the minutes of April 21, 2010. All members present voted **AYE** on **ROLL CALL VOTE**.

CORRESPONDENCE

Local Boards of Health Assoc – Newsletter;

County of Hunterdon – Block 9, Lot 24 – D. Laudenbach reported M. MacConnell responded to the County that the ordinance was repealed in 1991.

PRIVILEGE OF THE FLOOR

J. MacConnell stated the well committee needs to continue to meeting. The ordinance is a living document. The committee should meet every three or four months and review new issues. There should be some limits on the development of the Township due to the water and septic issues. The Board should require mandatory filters on all septic waivers. The Township also needs a septic committee.

It was moved by T. Kratzer, seconded by S. Stryker to recommend the Township Committee establish a septic subcommittee and the continuation of the well subcommittee. All members present voted **AYE** on **ROLL CALL VOTE**.

ADJOURNMENT

It was moved by M. DeSapio, seconded by P. Lubitz and carried to adjourn the meeting at 10:13 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary