

The regular meeting of the Board of Health was called to order at 7:32 p.m. Present for this meeting were Tracy Carluccio (Board Chair), David Wang-Iverson, Tony Berberabe, Les Hamilton, Pauline Serafin, and Bogdan Slecza. Ted Peyrek, Larry Tatsch (Vice Chair) and Charles Van Horn were absent. Christine Rosikiewicz, Board Secretary, was present.

In compliance with the Open Public Meetings Act this meeting was advertised as a regular meeting in the January 24, 2013 issue of the Hunterdon County Democrat. Notice of the meeting was forwarded to the Township Clerk's office, posted on the Township bulletin board and sent to the Hunterdon County Democrat, the Trenton Times, and the Star Ledger on August 14, 2013.

ANNOUNCEMENTS/AGENDA REVIEW:

There were no announcements or agenda review items.

PRESENTATION OF MINUTES – July 16, 2013:

The following amendments were made to the minutes:

Page 3, typographical correction.

Page 5, typographical corrections.

Page 7, paragraph 3, sentence three should read "He mentioned there was no room for the Puraflo system" and the remaining sentences deleted.

Page 8, typographical correction in paragraph 3 and clarification in paragraph 5.

Page 10, paragraph 3, fourth sentence should read "The water table is identified at the highest point as ten inches".

Mr. Hamilton, who was not present at the July meeting, commented that Mr. Martin's comments were correct as the aerobic systems in the neighborhood have not failed. The Board briefly discussed the aerobic systems that were installed in the past.

Mr. Wang-Iverson made a motion to approve the minutes as amended. Ms. Serafin seconded the motion. All were in favor; the motion passed with Mr. Hamilton abstaining.

OPEN TO THE PUBLIC

Lisa Grzankowski, 326 Rt. 31, introduced herself and said she was here to ask the Board for help for the last step for getting the CO. She and her husband have been building a house for five years. The well and septic for the new house are compliant. The County Board of Health is holding up its approval because when Mr. and Mrs. Grzankowski came to the East Amwell Board of Health in 2008 a note was put on the plan that they would remove the house as there was concern about a second residence. There is a note that says that the well should not be permanently sealed until decided by the Board of Health. Mr. Grzankowski saw the Zoning Officer in June; the house is now grandfathered for other farm uses. The County advised them to register the well; the well driller told them to confirm with the Township that there are no issues. She is asking the Board if they

would help move the final approvals along as their construction loan is expiring and needs to be rolled into a mortgage.

Ms. Grzankowski said the only reason the County is holding up the approval is that they are waiting for the Township to confirm that they have met all the Township requirements.

Ms. Carluccio advised that since this is not on the agenda no action can be taken tonight. Ms. Carluccio has corresponded via e-mail with the Board Secretary regarding this property. In 2008, when approval was given by the Board of Health for the new septic system, a condition was that a note was to be added to the plan stating that the existing septic system was to be abandoned. The well is not to be permanently sealed until decided by the Board of Health if it is to be used for another purpose. She explained that this was put in there as the applicant wasn't sure if they were going to use the well for agricultural use or another purpose. She said the Board needs to go back and read the minutes and see why the Board arrived at that.

Mr. Wang-Iverson asked if there is a new well and new septic. Ms. Grzankowski replied that there is for the new house.

Ms. Carluccio explained that Ms. Grzankowski requested the Board of Health review this as they want to use the house for farm use and keep the septic and the well; basically undoing the condition.

Ms. Carluccio directed the Board Secretary to contact the County. She noted that East Amwell Township does not require a CCO (continuing certificate of occupancy). A second house on a farm is legal as long as there is a functioning septic and well; however in the Mountain District zoning does not allow two residences. She commented that this is not the Board's purview and the Board can't decide this. The County advised that this should go to the Board of Adjustment or Planning Board to determine if it fits the Township's zoning before the County will sign off on it. Once the County signs off it would go to the Board of Health.

Ms. Carluccio read an e-mail to Ms. Grzankowski from Deborah Vaccarella, Hunterdon County Division of Health and Safety:

"It is this department's understanding that you are requesting a temporary CO in order to move into the new home on this property.

The septic and the well for the new home are fully compliant. The department's policy is to require all approvals before releasing certificate of compliances. Because of this policy we would need the septic and the well removed from the old home.

We take no exception to the temporary CO being issued.

If you have any questions, please contact me."

Ms. Carluccio said that if the decision is going to be changed the Zoning Officer will have to be involved. She referred to the Zoning Officer review dated June 25th which says that the house is a grandfathered farm use and Ms. Grzankowski wants to convert the existing house to a farm use building. There would be no change in the footprint.

Ms. Carluccio said that there needs to be a discussion with the Board of Adjustment or the Zoning Officer; it is not the Board of Health's purview. Whether two residences can be there or not needs to be decided.

Mr. Wang-Iverson commented that it sounds like the Zoning Officer was allowing it. Ms. Carluccio said it was a grandfathered farm use.

Mr. Hamilton asked if there were two houses there now. Ms. Carluccio explained that the new house has been built but they would like to keep the old house. The original house was originally going to be demolished.

Mr. Hamilton inquired if a permit was needed for the second house to be built. Ms. Grzankowski said that they agreed not to use the original house for residential purposes; this is on the permit.

Mr. Hamilton commented that the applicant would convert it to a farm building. Ms. Carluccio agreed but said the Board of Adjustment usually has a finding and commented that it is not the Board of Health's purview. Mr. Wang-Iverson said he believes this would only go to the Board of Adjustment if the Zoning Officer denied the application.

Mr. Hamilton commented that this should be solved quickly as to not hold things up. Mr. Wang-Iverson said it sounded like the Zoning Officer approved it. Mr. Hamilton commented that if the Zoning Officer approved it then "that's it".

Ms. Carluccio inquired if the Zoning Officer is the gateway to the Board of Adjustment. Mr. Hamilton said that anyone could go to the Board of Adjustment on their own but if the Zoning Officer approved it then it wouldn't go to the Board of Adjustment. Mr. Wang-Iverson said it would only go to the Board of Adjustment if the application was denied and required a variance or exception. He believes Ms. Grzankowski does not have to go to the Board of Adjustment if the Zoning Officer approves the application.

Ms. Carluccio believes in this type of situation, where the second house is not used as a dwelling, the Board of Adjustment may have the property owner remove the kitchen and disconnect the septic system. That has not been done here; the Board of Health would be doing the opposite by allowing it to be usable. She noted that the applicant said it would not be a dwelling.

Mr. Hamilton said this will be on our next meeting agenda; Ms. Carluccio agreed. Ms. Carluccio asked if there is anything the Zoning Officer or Board of Adjustment does in this situation. Mr. Hamilton asked if that would hold the Board of Health up from doing anything. Ms. Carluccio said if the Zoning Officer and Board of Adjustment don't need to do anything then the Board of Health can hear it. The Board Secretary already spoke to the Zoning Officer who said this was okay. Ms. Carluccio said the Zoning Officer does not address the question of the septic and well; the Board of Health placed a condition on their approval and would be the only entity that could reconsider that condition. Ms. Carluccio said the Board of Health has to go back and look at the minutes to see why the condition was put there. Mr. Wang-Iverson speculated that it was because the house was to be removed; that has changed.

Ms. Carluccio inquired about the well. Ms. Grzankowski explained that she contacted Mr. Stover as the County wants the well to be registered. She further explained they would determine the depth of the well and notify the State of same.

Mr. Wang-Iverson inquired if the old well would be used. Ms. Grzankowski said it is located at the end of the farm where the livestock is and is connected to hot water which is used in the winter for thawing. Ms. Carluccio inquired if it is being used now for livestock. Ms. Grzankowski replied that it is.

Ms. Carluccio thanked Ms. Grzankowski for coming in.

UNFINISHED AND NEW BUSINESS

A. Hunterdon County Division of Health and Safety – Inspector’s Report

Mr. Wyckoff was not in attendance; he submitted the following report which Ms. Carluccio read into the record:

“ITEM 1. Owens (aka Woody’s) B 16, L 11

There has been no new development at this site.

The remediation efforts are ongoing without interruption.

ITEM 2. NOV B 20, l 17.11

The property owner has had all the manure removed from the property line. The terms of this NOV have been satisfied and the complaint has been closed.

We would like to thank Christine for her efforts in providing us with the vendor information for this year’s 4-H fair. Full Inspections will be conducted on Wednesday, August 21, 2013 and spot check inspections will be conducted on Thursday and Friday.”

B. Preview Committee

There were no items for Preview Committee.

C. New Business

1. 6/6/13 Improvements Statement for Proposed Hess Gasoline Fueling Station with Convenience Store B 15.01 L 2

Ms. Carluccio explained that a letter was sent to Hess as there are limitations on the site and this will need Board of Health approval. The approval for the site and the design of the septic system is under 2000gpd sewage flow; the improvements would have to remain under that. Currently donuts are not being produced onsite and are brought in from another location in Flemington as there is not enough capacity to bake them there. The well on site also has limits. If the applicant desires a larger project a State permit is needed and the wastewater management plan for the Township would need to be changed.

2. Review of Chapter 163 Nuisances

Ms. Carluccio explained that this item was brought up at the Township Committee meeting; specifically if the Nuisance ordinance could be changed to include the word "farmland" in section 163-2. Ms. Carluccio read from the ordinance as follows:

"Nuisances declared and prohibited.

- A. *The following matter, things, conditions or acts and each of them are hereby declared to be a nuisance and injurious to the health of the inhabitants of this municipality:*
- (1) *Pollution, or existence of a condition or conditions which cause or threaten to cause pollution, of any waters in this municipality in such manner to cause or threaten to cause injury to any of the inhabitants of this municipality either in their health, comfort or property.*
 - (2) *The existence or presence of any accumulation of garbage, refuse, offal or animal or vegetable matter which may attract flies and to which flies may have access, or in which fly larvae or pupae breed or exist, except in the normal and careful operation of a farm.*
- B. *It shall be unlawful for any person or persons to commit, maintain or allow any nuisance, as declared and described in this section."*

Ms. Carluccio informed the Board that this ordinance was adopted in 1985 and has been used to address issues in the past. A model from the County was used originally. Ms. Carluccio provided anecdotal background of when the ordinance has been used when there was run off into a stream. Another time it was used where there were flies present. With the exception of the time it was used for the flies it has always been used for an issue regarding water. The power the Board of Health has comes from a statute which regulates water; the Board of Health is responsible for protecting the water of the Township. The purpose of the septic regulations is to protect drinking water.

Ms. Carluccio explained that adding the word "farmland" under part 1 so it would read "waters or farmland" would protect farmland in addition to water. She said no action could be made on this item tonight; it is only for discussion. The Township Attorney will determine if this change would be legal. Ms. Carluccio offered to call the County to determine if other Townships use this ordinance and if it can be changed in this way.

Ms. Carluccio explained the problem of weed seeds that are blowing onto farmland next to it. The Township wants an ordinance to address out of control weed situations that impact neighboring farms. Other Townships have ordinances that address weeds which are a separate ordinance than their nuisance ordinance. Ms. Carluccio believes this would fall under Planning Board rather than Board of Health.

Ms. Carluccio asked the Board for their opinions and ideas. Mr. Hamilton commented that he was not sure if seeds blowing on a neighboring farm are illegal. He said an issue is homes that are falling down; this is a safety issue. He believes this needs to be addressed with the Township Attorney. Comments were made about whether this falls under Board of Health; Ms. Carluccio said the Township could have an ordinance for this but she wasn't sure if it was for the Board of Health. Mr. Hamilton referred to the Township Committee meeting where the Attorney advised that if an ordinance is in place it must apply to all properties; not just properties in foreclosure. Ms. Carluccio noted that other Townships have an ordinance for weeds in place. Mr. Slecza commented that he does not believe weeds have to do with health issues and noted that weeds can travel long distances from another location.

Mr. Hamilton agreed that weeds are not a Board of Health issue and commented on the Township having police powers to enforce an ordinance. Ms. Carluccio inquired about enforcing the ordinance and said she will call the County Division of Health to find out more information.

Mr. Wang-Iverson spoke about how when properties are preserved through the County there is a stipulation in place that the land must be mowed once a year. Ms. Carluccio explained that if land is purchased with public funds there is a deed of easement on the property.

Enforcement was mentioned; Mr. Hamilton said the Township could mow the property and then bill the property owner for the work. If the property owner does not pay a lien would be put on the property.

D. Unfinished Business

There was no unfinished business.

ITEMS OF DISCUSSION

A. Education and Health Issues

1. National Association of Local Board of Health – Membership application and conference information

Ms. Carluccio commented that although the Board has not joined this organization the newsletters are received.

B. Board Secretary's Report

1. 4-H Fair

There were thirty-eight temporary food licenses issued for the 4H Fair this year; eight more than last year.

2. Website

Ms. Rosikiewicz referenced an e-mail from the Clerk asking the Boards to review their websites. Ms. Rosikiewicz said there is information about food licenses, portable bathrooms and outdoor wood burning boilers. She has also been putting relevant LINCS from the County on the website; most of these are now dated. She inquired to the Board what they would like on the website and noted there have been fewer LINCS sent recently than in the past. Ms. Carluccio said there are PDF brochures regarding ground water and septic systems available; those can go on the website. She also referenced to small flows handouts that were very good; she will send them to the secretary to forward to the Board to review before posting them. Ms. Carluccio referenced articles the Board had composed in the past including one on well water.

A link to the County website was suggested as there is information regarding wells, septic and food handling available.

Mr. Wang-Iverson inquired about information on arsenic. Ms. Carluccio believes there is a handout on arsenic available; the Secretary will follow up on this.

Ms. Carluccio asked the Board to think about this item and forward anything of interest for the website to the Board Secretary.

3. Soil Log Testing Fees

Ms. Rosikiewicz explained the process for soil log testing. Residents pay in advance; the fee is \$500 per day and usually two days are needed. After testing is complete the engineer provides her with a report and the amount (if any) of funds to be refunded. The Board had previously directed her to provide the refund by voucher once the as-builts are submitted. She noted that there was recently an application approved where she never received as-builts but learned the County had them. Another concern is that sometimes systems are never built. These refunds can build up due to the Board's standard of waiting for the as-builts to come in. Ms. Carluccio stressed the need for the as built to be on file to know what is on a property; funds possibly sitting are an unintended consequence. If the Township changes the standard it would do away with this problem. She went over the process; funds are collected and testing is complete but it could take many months for the system to be built. If the system is not built or the as-builts are not received by the Township then the Township has funds that may need to be returned in the next fiscal year. These funds wouldn't be budgeted for as any extra funds at the end of the year are distributed for other needs in the Township.

Ms. Serafin inquired if the money could be kept in a separate account. Ms. Carluccio said that is not allowed by law as the Board of Health can't have an escrow account. Mr. Hamilton said that there is an arbitrary end of the year deadline which the construction [of a system] doesn't follow. Board members agreed carrying over any balances into the budget for the next year would be a solution. Mr. Hamilton suggested asking the CFO and inquiring about what other Townships do. The number of septic systems in the Township was mentioned.

CORRESPONDENCE

1. 7/11/13 Letter from Ms. Diane E. Zalaskus, New Jersey Department of Environmental Protection re: permit for B 38 L 30

Ms. Carluccio said that this system was fixed but does not need to come to the Board.

There were no comments on any other correspondence.

BILLS OF THE EVENING

There were no bills of the evening.

OPEN TO THE PUBLIC

Frances Gavigan, 123 Wertsville Rd., said her property is farm assessed. She has heard there is a perception or expectation that farmers should declare themselves as such. She asked the Board if they are aware of this and referenced the litigation between Stonybrook Meadows and Feinberg. Mr. Hamilton indicated that he was not aware of this. Ms. Gavigan said this might be something at the Township or Planning Board level to address or clarify that there is not a date at which point you start farming.

Ms. Gavigan said she is glad the Board will not be adding farms to the nuisance ordinance because, as an unintended consequence, that language could be used against people who have a farm. She said there is a national Noxious Weed Act where when properties aren't maintained or roads aren't mowed in a timely fashion then those weeds are subject to a twenty-five cent per stalk fine for not mowing. From a Board of Health prospective a concern for her is when there isn't good control of the weeds and people use Round Up which has unintended consequences. Ms. Gavigan said not addressing this in the Township code, or by the actions or oversights of the Township, can actually increase the agricultural chemical pollution.

Mr. Hamilton inquired about the Noxious Weed Act. Ms. Gavigan offered to send him the information. She explained that many of the western states have Boards to control Noxious Weed Acts as there is such an impact on agriculture. There are very well defined ordinances. Mr. Hamilton inquired if the farmer has to complain for the government to act. Ms. Gavigan explained that a complaint can be made to the Department of Agriculture about Canadian thistle getting into crops (specifically hay). The responsible party can be fined twenty-five cents a stalk. Ms. Gavigan said the basis of the Township mowing on Cidermill Rd. was because the weeds seeds were affecting hay fields; this was brought up by a resident. It is also potentially a situation with the preserved land on Cidermill Rd. and whether the land is being mowed and the timing of the mowing. The property cannot be mowed when birds are nesting but if it is not mowed, or not mowed in a timely fashion, it becomes a source of weed seeds. Ms. Gavigan was unsure of the ownership of this property but said there is potential liability to the property owner; if a farmer "goes on point" there could be extensive fines. She believes this is part of the reason this language is being considered; this started at the Planning Board when the Stahl application was being considered. Putting in restrictive covenants that address the maintenance and timing of mowing that keeps the weeds from becoming nuisances is worth doing and considering.

Ms. Gavigan said abandoned and poorly maintained properties become a source of weed seeds but also a place where there are deer and deer ticks live. Ms. Gavigan spoke of neighbors mowing abandoned properties in the Township.

Ms. Gavigan inquired if a resident has a "gravity mound" or tree fall on their septic mound is there any confirmation that the mound or septic or system is functioning optimally. She spoke anecdotally about a tree that was removed.

Ms. Carluccio said there is no regulation that requires anyone to check if a tree has fallen on something after a storm. She said that there can't be a malfunctioning system; particularly when properties are changing hands. The Township does not require a continuing certificate of occupancy although the mortgage companies almost always require testing the septic system. Ms. Carluccio spoke about the benefit of fixing something that is very old and can break rather than ignoring it but there are no requirements of testing after a storm to see if a system has been damaged.

Ms. Gavigan said she suspects peat systems are fragile and vulnerable if they are not properly maintained. Ms. Carluccio said a person would know if they are not functioning because these types of systems would quickly back up. Ms. Gavigan did not know how durable they are; Ms. Carluccio said they are pretty durable. Ms. Gavigan mentioned the reason for the mound; Ms. Carluccio said it is to keep the treatment a certain number of inches above the hydrologic table. Ms. Gavigan referenced the large size of a mound of a property on Orchard Rd. and commented about the long amount of time it was on the market.

Being no public present Mr. Hamilton made a motion to close the meeting to the public; seconded by Mr. Wang-Iverson. All were in favor; the motion carried.

ADJOURNMENT

Mr. Wang-Iverson motioned, seconded by Ms. Serafin, to adjourn the meeting at 8:50 p.m. The motion carried unanimously.

Respectfully submitted,

Christine A. Rosikiewicz