

EAST AMWELL BOARD OF HEALTH MINUTES
7:30 p.m. <http://Zoom.us/j/7106754155> and [646-558-8656](tel:646-558-8656) ID 710 675 4155
Regular Meeting October 27, 2020

Statement of Compliance

The regular meeting of the East Amwell Board of Health was opened on October 27, 2020 at 7:30 PM. The following notice was read, “In compliance with the Open Public Meetings Act, this meeting was advertised in the December 12, 2019 issue of the Hunterdon County Democrat and a revised notice with the location change to a virtual Zoom meeting in accordance with the open public meetings act was advertised on October 22, 2020. Notice of this meeting was posted on the Township website and bulletin board, and sent to the Hunterdon County Democrat.”

Present: Tracy Carluccio
Larry Tatsch
Pauline Serafin
Leonardo DeCandia, Alt. 1
Chris Sobieski
Tara Ramsey
Janis Grover

Absent: Jennifer O’Sullivan - Hunterdon County Division of Public Health

Agenda Review – 5.C. Dept. of Environmental Protection letter dated October 22, 2020: Notice of Open Public Comment Period for Clean Water and Drinking Water State Revolving Funds Intended Use Plans

Presentation of Minutes –

September 22, 2020 - **A motion by Mr. Tatsch seconded by Ms. Serafin, to approve minutes with minor edit was carried with no objections or abstentions.**

Open to the Public –

A motion by Mr. Tatsch, seconded by Mr. Sobieski, to open to the public was unanimously carried with no objections or abstentions.

Mr. Chris Kellogg introduced himself as the applicant for the Septic Application for 49 Dutch Lane and Ms. Carluccio welcomed Mr. Kellogg and advised that this item was on the agenda and he may address the Board at that time.

Unfinished and New Business

Hunterdon County Division of Public Health Inspector’s Report

Ms. O’Sullivan provided a written report that was summarized by Ms. Georgett and is below:

On Tue, Oct 27, 2020 at 3:19 PM Jennifer OSullivan <josullivan@co.hunterdon.nj.us> wrote:

Good afternoon Rosemary, I will not be able to attend tonight but I do have a few updates for you. Regarding agenda item 3-

A.1) Speedway Monitoring Corp. Service Station #3476, 1091 Route 22 North, Ringoes, NJ

On October 5th, Speedway Corporation had Uni-Tech Drilling of Bridgewater, NJ on site to decommission the remaining monitoring wells. We are waiting for the final decommissioning reports from the State of New Jersey. Once we have those reports, we will be able to close out this violation as having been completed.

A.2) NOV 6 Zion Rd. – Mr. Britton has disposed of various scrap metal and bicycles from his property by taking them to M&A Recycling. He continues to work on removal of a few other items remaining on the property.

A.3) 27 Wertsville Rd. – No update at this time.

Please let me know if the board has any questions regarding these agenda items or anything else discussed tonight.

Thank you,

Jenny O'Sullivan
Hunterdon County Health Department
908-788-1351

**Preview Committee-
Santisi, 52 John Ringo Road, Block 12 Lot 19 Septic Application**

Mr. Doug Fine, P.E. introduced himself as the engineer for this application, and Ms. Carluccio said this is an existing 3-bedroom home with no expansion and a failing system. She continued that a Hoot H500A Aerobic advanced treatment unit is being recommended, which has a standard set of conditions, and there are four additional waivers for consideration. Mr. Fine said that is correct and the primary issue is they are physically out of room on the property with trees, a swing set and driveway making the back of the property unavailable. He continued that the system was fully conforming to New Jersey State requirements and that the HOOT system would provide extra protection, and all standard conditions would be met. Mr. Fine said the system can't be moved further from the well due to the previously mentioned restrictions on the property, and again with an ATU the effluent would be clean coming out. Ms. Carluccio commented that this is a smaller property and space is limited.

Mr. Fine said the disposal field will be 49 feet to the neighboring disposal field on Lot 18 to the north. Ms. Carluccio asked if it was possible to move it making the distance 50 feet to Lot 18's disposal field even if that means it is closer to the Lot 20 property line. She continued that there is a lesser issue with distance to a property line than to another disposal field. Mr. Fine said yes, he will make that adjustment but would result in a waiver being required for the distance to the property line of Lot 20 to the south. He said this would now be approximately 25 feet. Ms.

Carluccio asked if the Board had any questions about this and there were none. Ms. Carluccio asked if they had identified the location of all wells on adjoining properties, and Mr. Fine said yes all were visible and meet distance requirements. Mr. Fine said that regarding waiver #4, there were two good soil logs within 15 feet of the bed but they did not complete additional tests because it would have required removing trees in a wooded area. He continued that removing the trees would be undesirable and would not benefit the system. Ms. Carluccio asked if Mr. Fine felt that additional soil tests would have had results similar to the tests that were completed and he said yes. Mr. Fine continued that the soils on the property in the tested area and in the wooded area appear to be consistent.

Ms. Carluccio asked what sizing was used for the system. Was it the 2.08 sf/pgpd required by Code? Mr. Fine said no it is .956 sp/pgpd because it is an ATU. Ms. Carluccio said that would require a 5th waiver to be added, and Mr. Fine agreed. Ms. Carluccio said because this is a malfunctioning system with no expansion of use the Board can consider waivers and asked the Board if there were any additional questions. With no further questions asked, Ms. Carluccio asked if there was a motion.

A motion by Mr. Tatsch, seconded by Ms. Grover to approve the Septic System with an ATU including all standard conditions plus five waivers was carried with no objections or abstentions.

Kellogg, 49 Dutch Lane, Block 16.01 Lot 21.01 Septic Application

Mr. Alex Mikos of Goldenbaum Baill Engineering introduced himself as the engineer for this application, and said that Mr. Chris Kellogg, the property owner, was also present. Mr. Mikos said this application is related to an addition being made to the house, and Mr. Kellogg introduced himself saying that he is a long time resident of East Amwell, has served as a volunteer and appreciates all the Board does for the township. He continued that the additional bedroom and bathroom being designed are so his aging mother can move in with them rather than go into assisted living. Mr. Kellogg said that he is a geriatric social worker; with the aging population this is a very frequent occurrence and the trend will continue to grow in the coming years. He continued that being home and with family is a better experience for seniors and in his work, he has seen the positive affects first hand. Mr. Kellogg thanked the Board again for considering the request for waivers and stated that the current system is operating fine, this is just for the expansion.

Mr. Mikos said the proposed system would require waivers for distances from the property line and the well. He said that he had spoken with Ms. Carluccio earlier and provided a revised design that did not require any waivers, however that design would cost the property owner significantly more money, thousands of dollars, because it would have to be installed over the existing system. Mr. Mikos said the added costs include digging out the current system, and moving the material to either another location on the property or hauling it away because it is considered toxic material. He continued that their request was that the Board approve the proposed design with waivers so that Mr. Kellogg could proceed with plans for his family without the burden of added costs and that the product from the proposed design would be the same as from the design without any waivers. Ms. Carluccio said that waiver #4 was a duplicate of waiver #3 and can be removed. Mr. Mikos agreed. Ms. Carluccio asked which properties

were impacted by waiver #1 and Mr. Mikos said the eastern property line with a 10-foot distance to the toe of the slope is along the road and the easement is included in the calculation. Mr. Mikos said the southern property line is 10.8 feet from the property line, towards Lot 27 and is covered with brush. Mr. Tatsch asked if the existing system was malfunctioning, and Mr. Kellogg said no it works fine and there have been no issues. Mr. Tatsch asked if the system was tested and Mr. Mikos said no that would cost approximately \$1,500 and with no problems it wasn't needed. Mr. Tatsch said at times systems have issues below the surface with no pooling water on the ground, and Mr. Kellogg said that his children play soccer in the front yard where it's located and there is never a problem, no complaint of odor, or back up in the toilets. Mr. Kellogg continued that regarding a problem below the surface, the property was higher than the road, and so if there were water accumulating underground it would run into the road.

Ms. Carluccio said that if the system is not malfunctioning and the application is only for an expansion of use, the Board has not permitted waivers in the past for this or for new construction either. She said the matter of deciding to do a home expansion and the costs associated with it are a personal decision and not in the realm of the Board to consider. Mr. Mikos said the system is fully conforming to State requirements and it is only East Amwell requirements that require waivers, and that the requirements in East Amwell are known to be stricter than other municipalities. Ms. Carluccio said that when the Ordinance was established several decades ago, there was research on the soil, water and other aspects of the land in East Amwell. She continued that the advice of experts was used to establish the Code including distancing or separation requirements. The role of the Board is to follow Code to protect the land, water and residents of the Township today and in the future. Ms. Carluccio said that waivers are considered and provided for malfunctioning systems and this is allowed for in the Ordinance. She said that the State would not grant waivers from their requirements unless the system was malfunctioning, so it would have to be fully compliant with State code. Mr. Mikos said the added cost of a fully complying system was a financial hardship that the Board had the ability to address for this long-time resident.

Mr. Sobieski asked why the County letter says that it is a malfunctioning system and it was noted that the septic application form incorrectly states that it is a malfunctioning system. Mr. Mikos said that was an error and he will correct it. Ms. Carluccio said the application had been reviewed thinking it was a malfunctioning system, and now knowing it is a functioning system it would be setting a precedent to approve waivers. She continued that was unfair to those who did not have waivers approved for this in the past and could present problems when individuals are requesting them in the future. Ms. Grover said she felt it was not a bad precedent but a good one to consider what the Board could do to help residents avoid added costs. She continued that she had looked into expansion in the past and hesitated due to restrictions & costs but eventually did complete a costly expansion on her home for family as well. Ms. Grover said she feels the Board should have some flexibility, and in particular when the difference in distances are not large as in this case. Mr. Tatsch asked where the Board would draw the line. If an 80-foot distance was okay, would 70 feet, 60 feet, or less, also be okay? He said that such waivers would result in a slippery slope of weakened regulation.

Mr. DeCandia asked if this would truly create a precedent or if the Board evaluates each application and request based on its own merits. If so, then different decisions about granting or

not granting waivers should not be problematic in the future. Ms. Carluccio said that in Mr. DeCandia's work within the judicial system, the use of precedent was quite different and this would be more in the realm of unfair administration of the Ordinance. She continued that the Board should not be deciding whether one reason or another is more important; for example - that adding a bedroom for a family member is more important than other reasons for expanding a home or giving waivers to long term residents. Ms. Carluccio said the Board should also not be making decisions on whether to grant a waiver based on the cost to a resident. She said that both examples could lead to unfair behaviors and present a source for a complaint down the road if we don't treat everyone the same. Mr. Sobieski said that that kind of judgement may also lead to a potential suit, such as discrimination, and be a risk to the Township. Mr. Sobieski asked Mr. Kellogg if he had obtained a zoning permit for the work yet and Mr. Kellogg said it is in process. Mr. Sobieski said that if the zoning is not approved because the expansion covers too much surface on the property, this issue could be moot and Mr. Kellogg said that has been reviewed already and it is not a problem.

Ms. Grover said that she feels the waivers should be considered and made a motion, seconded by Mr. Sobieski to bring it to a vote, to approve the Septic System with three waivers in the County letter.

Ms. Ramsey said that she did not feel qualified to make a decision on this matter, as she is not an expert on septic systems and does not have the knowledge and experience of other Board members. She said that she knows Mr. Kellogg and their children play soccer together. Ms. Ramsey said that she could see herself being in a similar situation with family in the future and would want consideration from the Board. She continued saying she did not understand what impact having shorter distances would have on the land, water, and residents but that if the State was approving this why wouldn't this Board? Mr. Tatsch said that the State requirements are based on the soil, land and water in other parts of New Jersey, not East Amwell. Ms. Carluccio said that the requirements recommended by experts decades ago would probably be even stricter today. Mr. Tatsch agreed that conditions are different than other parts of the state throughout East Amwell including the Mountain District and that is why the Board has more requirements.

Mr. Sobieski asked if the Board wanted to move this item to the next meeting to allow more time for review, now that the error about whether the system is malfunctioning has been identified. He said that he did not have sufficient time in the midst of the meeting to re-assess the application with this important correction. Ms. Carluccio said there is a motion on the table, and after the Board has completed discussion it needs to be voted upon. Mr. Sobieski asked if he could make a new motion, and Mr. Tatsch said that Mr. Sobieski could withdraw his second and if there was no other second, the motion would die. **Mr. Sobieski withdrew his second and Ms. Carluccio called for another second of the motion. With no second, the motion was closed.**

Mr. Sobieski made a motion, seconded by Ms. Serafin, to delay further discussion and decision regarding this application to the next Board meeting.

Mr. Mikos said this would cause a delay in the process with winter approaching and be an added expense to the property owner. Ms. Carluccio said this time was for Board comment only and asked Mr. Mikos to hold on commenting. Ms. Ramsey asked what would be done between now

and the next Board meeting if a delay was approved. Mr. Sobieski said that he would re-evaluate the application as having a functioning system rather than a malfunctioning system and Ms. Serafin said she wanted to do the same. Ms. Carluccio said Hunterdon County would also be advised of the error and need to reassess the application as well. Ms. Grover said she was not in favor of delaying the application and that this is adding cost to an already expensive project. Ms. Carluccio asked if there were additional questions or comments from the Board, and with nothing further had Ms. Georgett conduct a role call for the vote.

Ms. Georgett said each member should vote to approve or deny the motion or abstain from voting:

- T. Carluccio – deny
- L. Tatsch – approve
- P. Serafin – approve
- L. DeCandia – approve
- J. Grover – deny
- T. Ramsey – approve
- C. Sobieski – approve

Ms. Georgett said **with 5 approvals and 2 denials, the motion was approved with no abstentions.** Mr. Tatsch asked Mr. Mikos how much the cost of installing a fully compliant system would be, and he said that he could not estimate this or even provide a ball park because they did not know how much material would need to come out of the existing system, how much was rock versus soil and whether there was room on the property to put it or it would need to be hauled away as hazardous material.

Ms. Carluccio said there were some errors on sheet #2 of the plan map that needed to be corrected as follows: note 5 – well distance should be 100 feet; note 21- the well on the property is less than 100 feet from septic tank and pump tank; and note 24 – references Bohren and Bohren Associates. Ms. Carluccio asked Mr. Mikos to send the corrected septic application and map plan to the Township as well as Hunterdon County.

Items of Discussion

Education and Health Issues: None

Quarterly Reporting to the Township Committee: Ms. Carluccio said that the report Ms. Georgett had drafted was fine and could be sent to the Township Committee. She continued by thanking Mr. Sobieski for developing the outline and being prepared to answer questions during the Township Committee meeting. Ms. Georgett offered to provide Mr. Sobieski with any background material he required.

Board Secretary's Report: Ms. Georgett said that she and Ms. Carluccio have discussed preparing Resolutions of Appreciation for prior Board members who left in 2020 – David Wang-Iverson and Les Hamilton and they will be drafted for the next meeting. Ms. Carluccio said final drafts will be sent before the next meeting for input and comments, and the Board can then vote on them.

Correspondence: No Comment.

Bills of the Evening: Ms. Georgett noted that bills on the agenda were information only and did not require a motion unless there was an objection. No objections or questions were raised.

Open to the Public:

A motion by Mr. Tatsch, seconded by Mr. Sobieski, to open to the public was unanimously carried with no objections or abstentions.

Seeing no members of the public present, **a motion by Mr. Sobieski, seconded by Ms. Serafin, to close to the public was unanimously carries with no objections or abstentions.**

Ms. Ramsey asked for clarification regarding the procedure related to Septic Application for Block 16.01/Lot 27.01 and specifically what actions would take place before the next Board meeting. Ms. Carluccio said that the engineer will submit a corrected septic application to Hunterdon County indicating it is not a malfunctioning system, the County will determine any resulting changes. This will then be reviewed as appropriate. Mr. Sobieski said that he will be reviewing the application and waivers requested again with the corrected information that it is not a malfunctioning system and he did not feel there was sufficient time to properly consider this when the Board learned of the error during the meeting. Ms. Serafin agreed that she also, as a preview committee member, would be doing so as well.

Adjournment:

There being no further business, **a motion by Mr. Sobieski and seconded by Mr. Tatsch, to adjourn the meeting at 9:15 p.m. was unanimously carried with no objections or abstentions.**

Rosemary Georgett, Board of Health Secretary