

Description	Gallatin County Courthouse Community Room, 311 W. Main, Bozeman, MT		
Date	06/27/2013	Location	Board of Health
Time	Speaker	Note	
6:48:44 AM		<p><i>Board Members Present:</i> Steve Custer, Becky Franks, Berk Knighton, Joe Skinner, Gretchen Rupp, Buck Taylor, Carson Taylor <i>Excused Members:</i> Robin Cory, Laura Larsson <i>Staff:</i> Matt Kelley, Toni Lucker, Tom Moore, Tim Roark, Jill Steeley <i>Public:</i> Bill Dreyer, Mark Fasting, Paul Gaffney, Josh Smith, Charles N. Steele</p> <p>These log notes provide only a part of the official record. The remainder of the official record is in the audio recording of the meeting. Section 2-3-212, MCA. The audio recording is available upon request.</p>	
7:02:20 AM		Meeting called to order	
7:02:35 AM		Disclaimer for Audio Broadcasting	
7:02:58 AM		Public Comment on a non-agenda item - none	
7:03:18 AM		Consent Agenda	
7:03:44 AM	Motion	Carson made a motion to approve the consent agenda as written.	
7:03:52 AM	Second	Buck seconded the motion	
7:03:57 AM	Vote	<p>Roll Call: Becky - yes Berk - yes Gretchen - yes Carson - yes Steve - yes Joe - yes Buck - yes</p> <p>The motion passed.</p>	
7:04:09 AM		Regular Agenda	
7:04:15 AM		Variance Request #2013 - 004, Glenn and Roxa Crowe	
7:04:45 AM		Staff Report	
7:04:52 AM		Tim presented the staff report.	
7:05:19 AM		The variance was noticed in June 16 & 26 editions of the Chronicle	
7:05:30 AM		The applicant seeks permission to reduce the required 100-foot setback between a new drainfield and a potable water well. The new drainfield and interlaced replacement area is proposed to be no closer than 50 feet from the property Owner's well.	
7:05:54 AM		A local permit was issued in 1980 for the original 2-bedroom house. Later, more bedrooms were added making it a 4-bedroom house. The new owner decided to sell the property and discovered he had a 2-bedroom septic permit but a 4-bedroom house. Around 2010, the well went dry so a replacement well was drilled but it also failed. The third attempt at drilling a well was successful. The septic permit must be updated and that requires a new drainfield, which is within 50 feet	

		of the well - the only suitable place to install it. The owner has a MDEQ approved waiver to allow the well to be less than 100 feet to the proposed drainfield.
7:09:51 AM		Questions by the Board Tim responded to Board questions about the purpose of the 100-foot rule;
7:11:19 AM		Are there specific things about this site that make the potential for mixing septic wastewater with drinking well water different;
7:12:25 AM		Carson pointed out that according to the report, the groundwater flow follows the topography and moves in the direction away from the well. Also, the well has a pellet chlorination device attached to it, and the report discusses the underlying lithology.
7:12:57 AM		Steve added that the rocks in the area are relatively impermeable. He also discussed the appropriate well construction that prevents water getting into the system.
7:16:49 AM		Written Comments - none
7:17:31 AM		Comments by Petitioner
7:17:37 AM	Mark Fasting, PE	Mark Fasting and Josh Smith, with Allied Engineering, distributed hand outs to the Board.
7:18:00 AM		Toni swore in Mark Fasting
7:18:13 AM		Mark presented a larger map to show the site, the well locations and he clarified there is a 50-foot separation between the existing well and the proposed drainfield laterals.
7:20:52 AM		Mark summarized the site history and situation.
7:21:26 AM		The drainfield footprint is 1,000 sq. ft. due to site constraints and this was the only location to site the drainfield.
7:23:42 AM		The drainfield is on the down gradient side of the well; mountainous topography slopes to the north and the well is 10 to 15 feet higher; groundwater would percolate through the soil and eventually reach the clay layer and be protected from intrusion into the well.
7:25:06 AM		A pellet chlorinator for disinfection of water supply is added as an additional barrier.
7:25:31 AM		Questions by the Board The Board was concerned about the lot down gradient of the system - would there be any issues if someone builds there in the future?
7:30:27 AM		The Board also asked about the reasoning behind the location of the drainfield.
7:35:53 AM		Public comment - none
7:36:06 AM		Staff Comments - Tim referred the Board to the staff recommendations and conditions.
7:37:08 AM		Discussion on the findings of facts before the Board.
7:37:42 AM		For the record, Matt added that the petitioner's variance criteria responses specifically address each of the criteria considered by the Board.
7:38:33 AM		Factual Record Closed
7:38:40 AM		Board Deliberation and Decision
7:39:00 AM		Steve supports the variance request application that has special conditions associated with the site.

7:40:58 AM		Joe added he finds the applicant responses to the variance criteria are consistent with oral testimony, staff and state testimony and supports the variance request.
7:41:43 AM		Carson also supports the variance request based on evidence in front of the Board including the extraordinary conditions, undue hardship, no alternatives are feasible and the variance request is not more than the minimum needed to address the extraordinary that exist.
7:43:25 AM	Motion	Steve made a motion to approve Variance Request #2013-004 with staff recommendations and based on the findings of facts as listed. The application meets all variance criteria.
7:47:06 AM		<p>Steve supports the motion because the following criteria are satisfied:</p> <ol style="list-style-type: none"> 1.) Granting the variance will not: <ol style="list-style-type: none"> i.) contaminate any actual or potential drinking water supply; ii.) Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans; iii.) Cause a public health hazard by being accessible to persons or animals; iv.) Violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in this subchapter except for the rule that the variance is requested from; v.) Pollute or contaminate state waters in violation of 75-5-605, MCA; vi.) Degrade state waters unless authorized pursuant to 75-5-303, MCA; vii.) Cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration; 2) Compliance with the requirement from which the variance is requested would result in undue hardship to the applicant; 3) The variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented; 4) No alternatives that comply with the requirement are reasonably feasible; and 5) the variance requested is not more than the minimum needed to address the extraordinary conditions.
7:49:16 AM	Second	Carson seconded the motion.
7:49:52 AM	Vote	<p>Roll Call: Berk - yes Becky - yes Gretchen - yes Carson - yes Steve - yes Joe - yes Buck - yes</p> <p>The motion passed unanimously.</p>
7:50:19 AM		Variance Request 2013 - 005, Charles Steele
7:50:33 AM		Staff Report
7:50:42 AM		Tim stated that the variance request was noticed in the Bozeman Chronicle on June 16 & 26.
7:50:58 AM		The applicant seeks permission to reduce the required 100-foot setback between the absorption system and the 100-year floodplain. The replacement bed system is proposed to be located approximately 24-feet from the current FEMA mapped 100-year floodplain.
7:51:34 AM		Tim presented the staff report and noted the applicant provided responses to the

		variance criteria.
7:52:04 AM		The permit for the current system was issued in 1974 and the system is showing signs of failure - needs replacement.
7:52:20 AM		The FEMA floodplain map was adopted in 1984, after the system was installed.
7:52:37 AM		The applicant is proposing a pressure-dosed bed system
7:54:54 AM		Written comments - none
7:55:12 AM		Questions by the Board
7:55:16 AM		Tim replied to Board questions about the 100 year floodplain and what it means?
7:55:40 AM		If there is a flood with this system installed, what is the health risk?
7:56:42 AM		The Board asked Tim to describe the nature of what the contamination might look like;
7:56:59 AM		What is the purpose of the 100-foot setback from 100-year floodplain; and
7:58:29 AM		Has there been any flooding in that area since the house was built over 100 years ago?
7:59:06 AM		Comments by Petitioner
7:59:22 AM		Toni swore-in the commenter
7:59:28 AM	Bill Dreyer	Bill Dreyer added information - the drainfield may not be failing. It is not accepting effluent and Bill believes the tank has collapsed on the outgoing end. Since the tank will be replaced they want to upgrade the drainfield. The current drainfield is located within the 100-year floodplain.
8:00:04 AM		He added that the 100-year floodplain is the Baker Ditch overflow from the Gallatin River so is set back from the Gallatin River. A big flood in 1996 or 1997 may have affected the area.
8:01:03 AM		Regarding the new drainfield location, Bill noted the good elevation difference between the bed system and the floodplain; he highlighted the limited site for standard drainfields so the bed system is the most appropriate; the system is moving out of the floodplain onto an 'island' of non-100-year floodplain area. All setbacks are being met regarding the drinking water well and the Baker Ditch to the east. Only the setback requirement for the absorption system from the 100-year floodplain is not met.
8:02:13 AM		Bill and Tim discussed the 50-foot setback requirement for sealed components to the floodplain.
8:03:12 AM		Questions by the Board
8:03:23 AM		Bill replied to Board questions about the failed tank and movement of the drainfield;
8:04:35 AM		Why is the absorption field not centered from the floodplain - located more on west side of the island
8:06:07 AM		What is the depth to water;
8:07:21 AM		The Board asked for clarification - from the photos, there seems to be an elevation difference, that is not gradual, of several feet as one moves from the 100-year floodplain towards the new drainfield location.
8:08:50 AM		Matt asked Bill, if this variance is not granted, what options would be available to the applicant? Tim interjected that there would be no other option that would not require a variance to install a replacement system on this site due to the features of the land.

8:09:51 AM		Matt pointed out that the applicant responded as such in answering the variance application in relationship to the undue hardship criteria.
8:10:11 AM		The Board asked Bill for clarification - Typically variance requests with floodplain issues use sandmound systems for the additional vertical separation distance from the groundwater; why is the applicant not proposing a sandmound?
8:11:56 AM		The Board asked about the reason the neighbor would not allow the applicant an easement?
8:12:58 AM		Public Comments - none
8:13:28 AM	Mr. Steele	Toni swore-in Mr. Steele.
8:13:36 AM		The Board asked Mr. Steele about the flooding history on the property. Mr. Steele acquired the property for only 2 years and based on stacks of historical family photos of the property, he saw nothing about flooding.
8:14:23 AM		Carson asked Mr. Steele if he had any information whatsoever regarding prior flooding on or near the property? Mr. Steele responded he never heard anything, he does not know anything at all.
8:14:43 AM		Staff Comments
8:14:52 AM		Tim brought to the Board's attention the staff recommendations.
8:15:23 AM		Matt noted the applicant's responses to the specific variance criteria that the Board is considering today.
8:15:46 AM		Closed Factual Record
8:16:00 AM		Board Deliberation and Decision
8:16:29 AM		Steve had questions about how to identify the criteria in the record.
8:17:28 AM		Berk sees this system as an improvement to an existing problem and the protection of public health.
8:18:13 AM		Steve sees this as a good move out of the floodplain, with sufficiently deep groundwater to not cause trouble, not only replacing the septic tank but makes the situation better in more than one way and he supports the variance request.
8:19:03 AM		Joe noted that based on the written and verbal testimony and staff report, it is clear that all of the variance criteria can be met; he added that the applicant is taking a situation from not good to better; it is clear that even at 24-feet from floodplain, there would be very small risk from a flood impacting the drainfield; and this is an existing resident with only one option.
8:19:52 AM		Carson added that this particular location is the highest from the floodplain; lack of high groundwater; and the applicant has no other options; so in light of the extremely low risk of health related problems and the significant improvement - he is likely to vote for a motion to approve.
8:20:52 AM		Gretchen reiterated some of the points already made: it is clear this is an improvement on the status quo; it is clear that great care has gone into siting the replacement system in the best place on the site; and the test pits did not find mottling or signs of groundwater within 8 feet of the surface. She is confident the proposed system and location will protect public health.
8:21:48 AM	Motion	Buck hereby moved to grant a variance to Charles Steele, Variance Request #2013-005. The proposal would replace a failing system. The variance is requested for reduction of the required 100-foot setback between the absorption system and a 100-year flood plain. The replacement bed system is proposed to be located approximately 24-feet outside the current FEMA mapped 100-year floodplain.

8:22:26 AM		<p>We find that based on the factual record, presented both in the Board packet and by others testifying today, as well as the information outlined on the variance criteria on Board packet pages 95 and 96 that</p> <p>1.) Granting the variance will not: i.) contaminate any actual or potential drinking water supply; ii.) Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans; iii.) Cause a public health hazard by being accessible to persons or animals; iv.) Violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in this subchapter except for the rule that the variance is requested from; v.) Pollute or contaminate state waters in violation of 75-5-605, MCA; vi.) Degrade state waters unless authorized pursuant to 75-5-303, MCA; vii.) Cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration;</p> <p>2) Compliance with the requirement from which the variance is requested would result in undue hardship to the applicant;</p> <p>3) The variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented;</p> <p>4) No alternatives that comply with the requirement are reasonably feasible; and</p> <p>5) the variance requested is not more than the minimum needed to address the extraordinary conditions.</p>
8:24:07 AM		<p>The Board asked the applicant to follow the staff recommended conditions for granting the variance.</p>
8:24:49 AM	Second	<p>Becky seconded the motion.</p>
8:24:55 AM	Vote	<p>Roll Call: Becky - yes Berk - yes Gretchen - yes Carson - yes Steve - yes Joe - yes Buck - yes</p> <p>The motion passed.</p>
8:25:40 AM		<p>Health Officer Report</p>
8:25:46 AM		<p><u>Norovirus</u> - The health department is monitoring some situations not in our jurisdiction but nearby: a significant norovirus outbreak is happening in Yellowstone National Park, Teton National Park and West Yellowstone. Keeping health care providers in West and Livingston abreast of the situation. The National Park Service provides public health staff in the Parks, is communicating to the State and the State is passing the information to surrounding counties.</p>
8:26:49 AM		<p><u>The Rainbow Family</u> is congregating SW of Gallatin County. Jill Steeley and Betty Kalakay were present for a Joint Incident Command Training at the site and Jill provided an update.</p>
8:31:26 AM		<p><u>Budget</u> - Matt reported that the Health Department's proposed budget was approved as well as the subsidy for federal grants. Matt thanked all who were part of that process: county commissioners, Ed Blackman, Liz Wildman, and Jill Steeley.</p>
8:32:02 AM		<p><u>Home Visitation Proposal</u> - Matt reported that a \$100,000 proposal for home</p>

		visitation services was submitted to the state last week. Should hear back around August 1st.
8:32:51 AM		<u>EHS</u> - EHS staff have completed the school environmental health assessments as requested by the state. Tim reported 27 out of 30 school assessments were completed - 3 had no interest.
8:33:32 AM		<u>State Improvement Plan</u> - Matt reported on the Helena meeting where the Governor met with public health professionals as the state improvement plan was rolled out. We may adjust some outcome indicators to be consistent with the state's plan.
8:34:56 AM		<u>WIC</u> - WIC operations in Livingston are moving from the Washington School to CHP Livingston!
8:36:28 AM		<u>Health Officer</u> - Matt will be out of the county for 10-11 days (to Michigan) and he will assign Jill or Tim as acting health officer for authorities as needed.
8:37:12 AM		Matt and Tim answered Board questions about the availability of inspection reports to the public on the website.
8:39:38 AM		Meeting adjourned.

Secretary

Date

Chair

Date