

Description	Gallatin County Community Room, 311 W. Main, Bozeman MT		
Date	10/23/2014	Location	Board of Health
Time	Speaker	Note	
6:46:29 AM		Board Members Present: Steve Custer, Berk Knighton, Tracy Knoedler, Becky Franks, Gretchen Rupp, Joe Skinner, Buck Taylor, Carson Taylor, Staff: Matt Kelley, Toni Lucker, Tom Moore, Tim Roark, Dustin Schreiner, Keith Wilson Public: Quinn Altimus, Chris Budeski, Mariah Gersalk, Lacey Heavner, Cody Kountz, Jane Mahlow, Candace McMann, Steve Moore, Jody Pryor <i>These log notes provide only a part of the official record. The remainder of the official record is in the audio recording of this meeting. Section 2-3-212, MCA. The audio recording is available upon request.</i>	
7:00:59 AM		Meeting called to order	
7:01:10 AM		Disclaimer for Audio Broadcasting	
7:01:42 AM		Public Comment on a Non-agenda Item - none	
7:02:13 AM		Consent Agenda	
7:02:21 AM	Motion	Becky made a motion to adopt the minutes	
7:02:28 AM	Second	Tracy seconded the motion	
7:02:33 AM	Vote	Motion passed unanimously.	
7:02:39 AM		Variance Request #2014-007 and -008, Monte Kemper	
7:03:06 AM		<i>Staff Report</i>	
7:03:09 AM	Tim Roark	Variance Requests are for: 1) installation of a septic disposal system in an area with groundwater within 48-inches of the natural ground surface; and 2) to not complete groundwater monitoring for this water year.	
7:05:39 AM		The proposal is for a 2-foot elevated sand mound preceded by a Level II (Eliminite) treatment system. The non-degradation review passes requirements	
7:06:59 AM		<i>Questions by the Board</i>	
7:06:59 AM		Clarification about the shortened mixing zone that stays almost completely on the property.	
7:07:56 AM		How elaborate is the system	
7:09:34 AM		Is this system more complicated to install?	
7:10:11 AM		Does the health department inspects the installation of the system prior to going into service? Tim explained that an appointment is scheduled for the health department to inspect the installation.	
7:10:40 AM		How often the health department takes the opportunity?	
7:10:51 AM		How onerous is it to inspect this particular system?	
7:11:07 AM		Steve asked if it is difficult to identify what the 4-feet of separation is if we do not know where the maximum water level	
7:12:01 AM		Does the Eliminite system deals with the fecal coliform material that might be present?	
7:12:34 AM		Are there other package-plan systems operating in the county?	
7:14:25 AM		Who maintains these systems?	
7:16:50 AM		Are there other situations in the county where level 2 systems are installed in addition to an elevated sand mound?	
7:17:46 AM		Has the health department been monitoring data for groundwater in this area?	

7:18:12 AM		In staff's professional opinion, given that monitoring did not encompass the seasonal high water, what is the probable seasonal high water table on this site?
7:19:27 AM		Has Tim seen the monitoring data?
7:20:23 AM		Are there any test pits within the proximity where groundwater monitoring has occurred in the past 1-2 years
7:21:09 AM	Tim Roark	<i>Proof of Notice</i> Tim noted the variance was publicly noticed in the Bozeman Chronicle on October 12 and 22, 2014 editions
7:21:30 AM		Tim reported there was public interest on this variance request. He received four (4) phone calls: one in favor of granting the variance, one neutral, and two disapproving; one walk-in commented that the property may be influenced by West Gallatin Canal; and one written comment was received.
7:21:41 AM		(Robin arrived)
7:23:01 AM	Tim Roark	Tim read the written comment into record
7:24:37 AM		Comments by Petitioner and Swearing in
7:25:07 AM	Steve Moore	Steve is the buyer under contract with the current owner to purchase the property.
7:25:46 AM		Steve noted that Eliminite would be installing the system, distributed a copy of the maintenance and inspection agreement to the Board and discussed the timeline.
7:27:18 AM	Robert Clark, Madison Engineering	Robert, an Engineer at Madison Engineering, added that he would certify the installation of the Eliminite system.
7:28:27 AM	Steve Moore	Steve provided presentation and distributed the groundwater data to the Board.
7:42:39 AM		Steve addressed a question by the Board about the gaps in data?
7:44:47 AM		Steve continued his presentation and distributed the extrapolated groundwater monitoring data to the Board.
7:47:51 AM	Robert Clark	Robert noted that the data does not go above 4-feet and that a standard pressure dosed system would meet DEQ requirements; however, Steve is willing to go over and beyond with this level-two system to ensure groundwater is protected.
7:48:32 AM	Steve Moore	Steve pointed to an approved variance by the Board on November 28, 2011 that sets precedence for granting this variance. He noted hardship on the current proposal is the bank loan coming due. Tim passed around photos of the property to the Board.
7:52:18 AM		Steve noted his property is 10-feet higher than the neighbor's monitoring well and coupled with the data, he believes the groundwater would not go over 4-feet.
7:53:38 AM		<i>Questions by the Board</i>
7:53:44 AM		Did Ms. McKinley monitor this year?
7:54:54 AM		Does Steve Moore have permission from Ms. McKinley for his mixing zone to be on part of her property
7:55:22 AM		Is the land was flood irrigated?
7:56:33 AM		Would the hay operation continue and does it require irrigation?
7:58:11 AM		Does Steve Moore have any objection to showing the data generated from the inspection and maintenance at the 5-year renewal timeframe?
7:58:56 AM		Describe how Steve Moore decided where to locate the disposal site.
8:00:15 AM		Describe the irrigation swell.

8:02:10 AM		<i>Public Comment and Questions by the Board</i>
8:02:43 AM	Tom Finley	Mr. Finley lives at 7800 Chapman Road asked what guarantee does he have that Steve Moore maintains the system for 5 - 10 years and on into the future so that it does not contaminate his well?
8:04:26 AM	Cody Kuntz	Mr. Kuntz was present on behalf of Monte Kemper and was sworn in. He addressed the loan Mr. Kemper has against the property.
8:05:53 AM		The Board asked Mr. Kuntz what would happen to Mr. Kemper if the Board declined the variance?
8:06:48 AM		<i>Staff Comments</i>
8:07:00 AM	Tim Roark	Tim discussed the photos taken yesterday afternoon.
8:08:33 AM	Carson Taylor	Carson stated the photo evidence is on a cell phone: Five photos taken at 4pm yesterday and would be printed and made part of the record.
8:09:37 AM		<i>Petitioner's rebuttal comments</i>
8:09:45 AM	Robert Clark	In response to the neighbor's concern about contaminated groundwater, Robert stated the system is no different than other systems and meets DEQ requirements.
8:10:23 AM		<i>Questions from the Board to any person providing comments</i>
8:10:36 AM		<i>Factual record closed</i>
8:10:44 AM		<i>Board deliberation</i>
8:10:54 AM	Steve Custer	Steve discussed his support of the variance request.
8:11:50 AM	Joe Skinner	Joe discussed his support of the variance.
8:12:06 AM	Carson Taylor	Carson discussed his support of the variance.
8:12:26 AM		Carson suggested an additional condition to the variance: at the end of five years, Steve Moore produce the records to be reviewed by staff.
8:13:19 AM	Gretchen Rupp	Discussion of voting procedures on the two variances and the new condition.
8:16:13 AM		Gretchen discussed her support of the variance.
8:17:00 AM	Motion	Carson Taylor moved to grant the variance to Monte Kemper or Steve Moore from ARM 17.36.914(5)(c) with no conditions
8:17:19 AM	Second	Buck Taylor seconded the motion
8:17:25 AM	Carson Taylor	Carson Taylor finds the conditions required for granting the variance are all met, including the hardship and extraordinary conditions. He cited the testimony to the Board: between the conditions of the land, complications involved with haying; rights the parties had; coupled with the fact that a thorough comparison of well levels and extrapolations that meet the requirements.
8:18:29 AM		All conditions for granting the variance are met: 1) Granting the variance will not: a) Contaminate any actual or potential drinking water supply; b) Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans; c) Cause a public health hazard by being accessible to persons or animals; d) 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; e) Pollute or contaminate state waters, in violation of 75-5-605, MCA; f) Degrade state waters unless authorized pursuant to 75-5-303, MCA;

		<p>g) 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 - in light of the testimony previously cited;</p> <p>3) The variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented - as previously cited;</p> <p>4) No alternatives that comply with the requirement are reasonably feasible - under the circumstances;</p> <p>5) The variance requested is not more than the minimum needed to address the extraordinary conditions.</p>
8:20:18 AM	Joe Skinner	Joe added to the findings of undue hardship based on monetary situation, when the land was purchased and the distance to groundwater.
8:21:27 AM	Vote	<p>Vote on the motion to approve a waiver of the monitoring requirement.</p> <p>Roll Call: Becky - yes Joe - yes Gretchen - yes Buck - yes Carson - yes Steve - yes Berk - yes Tracy - yes Robin - yes</p> <p>Motion passed unanimously.</p>
8:22:03 AM	Gretchen Rupp	Variance application for an area that has 4-foot separation distance with a condition as laid out in the staff recommendations and another condition where the applicant submit monitoring data at the five year point.
8:22:36 AM	Motion	<p>Carson Taylor moved to grant a variance to Monte Kemper or Steve Moore from ARM 17.36.914(3) with the following conditions:</p> <p>Conditions 1-3, 5 and 6 contained in the staff report on page 8 and 9 of the packet and condition 4 to read as amended as follows:</p> <p>The septic permit shall expire in five years from the date of approval so the Department can determine if connection to a public system is available. At said time, the variance receiver will provide maintenance and inspection records to the Department to be reviewed prior to the issuance of an additional five year period. If a connection is not available, and the maintenance and inspection records meet the approval of the Department, a septic permit shall be reissued for another 5 years at no additional cost to the property owner.</p>
8:23:53 AM	Second	Steve Custer seconded.
8:24:05 AM	Joe Skinner	Joe stated to incorporate findings from the previous variance including Joe Skinner's condition, which apply directly to this situation and do obviate the issue of economics being the sole issue.
8:25:19 AM	Vote	<p>Roll Call: Becky - yes Joe - yes Gretchen - yes Buck - yes Carson - yes Steve - yes Berk - yes Tracy - yes Robin - yes</p> <p>Motion passed unanimously.</p>

8:25:52 AM		<i>Subcommittee Reports</i>
8:25:58 AM	Gretchen Rupp	Gretchen reported on the Document Review Committee's work behind the scenes: Buck, Becky and Gretchen.
8:27:49 AM	Matt Kelley	Matt reported on the status of the County Attorney's review of Chapter 3.
8:28:45 AM		<i>Health Officer Report</i>
8:28:52 AM	Matt Kelley	Matt reported on the flu season, broken vaccine refrigerators
8:29:28 AM		Matt reported on Ebola: bringing perspective to discussions and media communication; CDC guidance; and the communities' preparation in case it happens.
8:35:10 AM		Matt reported on Project LAUNCH work
8:35:44 AM	Gretchen Rupp	Gretchen discussed need to consider dates for next Board of Health meetings because of the holidays.

Secretary

Date

Chair

Date