

## READINGTON TOWNSHIP BOARD OF HEALTH MEETING

March 19, 2008 7:00 pm

Chair William C. Nugent called the meeting to order at 7:10 pm and announced that all laws governing the Open Public Meetings Act have been met and that this meeting has been duly advertised.

|                    |               |                   |         |                |                |
|--------------------|---------------|-------------------|---------|----------------|----------------|
| Christina Albrecht | present @7:25 | Raymond Facinelli | absent  | Tanya Rohrbach | present @ 7:12 |
| Daniel Allen       | present       | Beatrice Muir     | present | Wendy Sheay    | present @ 7:12 |
| Jane Butula        | present       | William C. Nugent | present |                |                |

**Also Present:** Board of Health Engineer, Ferriero Engr. representative: John Hansen @ 8:30 pm  
Hunterdon County Health Dept.: Debra Vaccarella

### A. APPROVAL OF THE MINUTES

**1. Minutes** of December 19, 2007. *(-Albrecht, Allen vote).*

A **MOTION** was made by Ms. Butula, seconded by Ms. Sheay to approve the minutes of 12/19/07.

|            |     |              |         |              |     |
|------------|-----|--------------|---------|--------------|-----|
| Ms. Butula | Aye | Ms. Rohrbach | Abstain | Chair Nugent | Aye |
| Ms. Muir   | Aye | Ms. Sheay    | Aye     |              |     |

**2. Minutes** of January 16, 2008. *(-Facinelli, Muir vote).*

A **MOTION** was made by Ms. Butula, seconded by Ms. Sheay to approve the minutes of 1/16/08.

|            |     |              |         |              |     |
|------------|-----|--------------|---------|--------------|-----|
| Dr. Allen  | Aye | Ms. Rohrbach | Abstain | Chair Nugent | Aye |
| Ms. Butula | Aye | Ms. Sheay    | Aye     |              |     |

**3. Minutes** of February 20, 2008. *(-Albrecht, Allen, Facinelli vote).*

A **MOTION** was made by Ms. Muir, seconded by Ms. Sheay to approve the minutes of 2/20/08.

|            |     |              |         |              |     |
|------------|-----|--------------|---------|--------------|-----|
| Ms. Butula | Aye | Ms. Rohrbach | Abstain | Chair Nugent | Aye |
| Ms. Muir   | Aye | Ms. Sheay    | Aye     |              |     |

*Ms. Butula complimented Ms. Petzinger on a great job with the difficult minutes for 2/20/08.*

### B. CORRESPONDENCE

**1. Suspected Hazardous Discharge Notification** letter dated 2/2/08  
substance - heating oil at 2 Columbine.

**2. Suspected Hazardous Discharge Notification** letter dated 2/11/08  
substance – oil transformer UNK PCB in front of 613 Old York Rd.

**3. Block 43/Lot 12** - Freshwater Wetlands Protection Act.

**4. Block 2.01/Lot 10** - UST.

**5. Block 98/Lot 2.47** - UST.

**6. Block 21.13/Lot 6** – Notice of Violation.

**7. Block 13/Lot 69** – Freshwater Wetlands GPNNo. 25.

**8. Block 13/Lot 69** – 2/26/08 memo from H. Clay McEldowney re:Freshwater Wetlands GPNNo. 25.

**9. Block 42/Lot 3.02** – 2/19/08 memo from HCHD re: Individual Sewage Disposal System.

*Chair Nugent asked Ms. Vaccarella if there were an update on this.*

*Ms. Vaccarella stated she did not have an update, but would look into it, and get back to the board.*

**10. Block 42/Lot 8.02** – 2/27/08 memo from HCHD re: Individ. Sew. Disp. System – Anderson House.

*Ms. Butula asked Ms. Vaccarella if there were a limit to the number of times a particular failure could be reported/repared. There was some discussion of this mounded system being relatively new. Ms. Vaccarella stated she had recently observed that there was a malfunction.*

**11. HCHD LINCS** - dated 2/15/08 Public Health Advisory – Inappropriate Vaccination Practices.

**12. HCHD LINCS** - dated 2/20/08 Public Health Adv.– Potential Health Effects with Satellite Reentry.

*Chair Nugent asked Ms. Vaccarella if there were any reentries in the area.*

*Ms. Vaccarella stated everything was destroyed properly, and there were no problems.*

**13. HCHD LINCS** - dated 3/6/08 Public Health Update – Rabid Dog in Salem County.

*Ms. Butula asked that Ms. Petzinger look into the recommended age for inoculation.*

### C. Septic Repairs (HCHD status in italics).

**1. Septic System Repair Approval** from HCHD, B 14/L 14. *Final field 2/20/08*

**2. Septic System Repair Approval** from HCHD, B 39/L 53.04. *Final field 3/11/08*

***Ms. Butula confirmed that Ms. Vaccarella had ascertained certification. Ms. Vaccarella stated the board should have received a copy of the plan. Ms. Petzinger confirmed that there was no drawing attached.***

**3.** Septic System Repair Approval from HCHD, B 51/L 2.19. *No work done as of 3/17/08.*

**4.** Septic System Repair Approval from HCHD, B 53/L 8.03. *Final field 2/28/08*

**5.** Septic System Repair Approval from HCHD, B 67/L 25.03. *Final field 2/27/08*

***carried from the 2/20/08 meeting:***

**6.** Septic System Repair Approval from HCHD, B 96/L 1. *No work done as of 3/17/08.*

**7.** Septic System Repair Approval from HCHD, B 68/L 5.02. *Final field 2/21/08*

***Ms. Vaccarella updated #6., upon contact with the engineer, it was confirmed that activity did occur on 1/18/08, a signed certification will be forwarded to HCHD. Ms. Vaccarella visited the site 3/18/08 to verify there was no malfunction at this point.***

#### **D. OLD BUSINESS**

#### **E. NEW BUSINESS**

**1. BOH Secretary's duties** – change in procedure. Soil logs/witness data will be sent directly to HCHD upon receipt from witness, and prior to HCHD review.

***Ms. Petzinger stated that after discussion with HCHD, it was determined that copies of the soil witness reports would be sent directly to the County upon receipt at the Board of Health office. This is a change in the current procedure of accumulating all of the data for a particular block and lot, and sending it all at once. Prompt receipt of the soil logs will enable the County representative to utilize the soils data for reference in their report letter.***

***Chair Nugent stated that it had been discussed that the soil witnesses would be asked to turn in the soil logs within approximately one week of the completion of testing.***

**2. Partnership for Health Pamphlet** “We can't deny the truth, Hunterdon....”

***Ms. Butula stated a pamphlet had been provided to the board members, and provided extra copies for anyone in the audience. Also of note is a town meeting on 4/2/08 at Copper Hill to address alcohol abuse and underage drinking in Hunterdon County. Ms. Butula stated she would be attending as a representative of Strategy 4. Information will be handed out regarding how the County Partnership is involved as one of their primary goals.***

#### **F. APPROVALS**

Ms. Butula recused herself from hearing the following application.

##### **1. Block 64/Lot 24.08 – Kurt Hoffman Engr., Geddis, Harvest Row**

Escrow fees paid 1/3/08. Check #1920 \$750.00.

Data mailed with 1/16/08 approval packet.

Chair Nugent stated this application was on last months agenda, but was not heard due to a quorum issue.

Mr. Kurt Hoffman, NJ licensed engineer appeared before the board. This application, Block 64/Lot 24.08 is situated on Harvest Row and is for an alteration septic system to an existing four bedroom dwelling.

Soil logs 1,2,3,4, and 5 were performed on the property, with soil testing – permeability - done in soil log 3, pit bail 1. This is a gravity system, the following three items on HCHD letter dated 11/28/07 will need to be addressed by the board:

- 1) Soil logs and pit bail tests need to be reviewed and acted upon by the board.
- 2) The existing well will be sealed and a new one drilled in the rear of the property.
- 3) The proposed septic bed will be 59' from the existing catch basin and 39' from the existing drainage piping along Harvest Row, which requires a request for variance.

Chair Nugent confirmed that noticing had been done, and presented to the board secretary.

Mr. Hoffman stated that it had. One other item is that wetlands have been denoted on the property in the left hand corner by Jeff Tariela, wetlands consultant. A 150' wetlands buffer requires the owner to obtain

a GP25 prior to construction, which is noted in the upper right hand corner of the plan. This dictated the location of the proposed well to be outside of any buffer or transition area from the wetlands, as noted in Mr. Tariela's 10/12/07 letter.

Chair Nugent asked why the location choice was the front as opposed to the backyard where soil logs 1 and 2 were done.

Mr. Hoffman stated soil logs 1 and 2 were done 3/7/07, it was the best location on the property, an acceptable pit bail test could not be performed on the property. The 24 hour water elevation rose 11" in soil log 1, not allowing the pit bail test. In soil log 2 the bottom of the hole was 110", with 24 hour rising to 94", technically is enough water to perform a test, but that water is below soil log 1 so the elevations do not correspond with permeability, so the test was not performed at that location. On returning to the site, soil logs 3, 4 and 5 in the front of the property were performed on 4/9/07. Consideration was given to digging a log closer to the existing disposal area which was to be abandoned. The reason it was not done was the extent of existing disturbance in that area. There is a lot of prior background work done on this site, including repair work. It was not the best idea to test in an area where there was a lot of disturbance previously. If the potential permeability of soil logs 1 and 2, compared to 3, 4 and 5, the front is much better than the rear ever could have been.

There was some discussion of the comparison of the test results between the front and back of the property. There was some discussion of the type of equipment/machinery used.

Chair Nugent asked if the bed is saturated and if the current system were failing, and in what manner.

Mr. Hoffman stated it is failing, which is indicated by back up into the house.

Ms. Muir confirmed that all wells and existing components on adjoining properties were indicated on the drawing and were in compliance with the distance requirements.

Ms. Sheay asked about the 10ml liner which Mr. Vaccarella referred to in the HCHD letter.

Mr. Hoffman stated per the County request this has been done in a few situations where there is a reduced distance from a septic flow to a drainage water structure, to line the bed with a plastic liner.

Chair Nugent asked Mr. Hoffman to recap all the issues with this system that were not in conformance with the state code, and the Board of Health code.

Mr. Hoffman stated per Readington Twp. code, the distance to the drainage piping and inlet along Harvest Row. If the system were put in the back, a pump would be required. Per state code, the distance to the wetlands and wetlands transition area. All other aspects meet the state code.

Chair Nugent asked what the approximate mound elevation was.

Mr. Hoffman stated existing low side is 5.25'.

Chair Nugent polled the audience for anyone wishing to address the board.

Ms. Jane Butula addressed the board as a citizen and neighboring homeowner. How long does it take to get a GP25.

Mr. Hoffman stated 30 days from date of application.

Ms. Butula requested of the board that they consider having the designing engineer go back and certify the installation of all the special requests, and the standard operations were done appropriately.

Ms. Vaccarella stated he would issue a certificate as well as the Health Dept., that's not unusual.

Chair Nugent asked that Mr. Hoffman testify that he is a licensed engineer in the state of New Jersey, that he designed the system that is before the board this evening, that absent of abuse, the proposed system will function adequately for a substantial amount of time, and that it is compliant with the state and township code, except for the described issues, and otherwise it is in full compliance.

Mr. Hoffman stated yes to all of the above, the issues not in compliance being the distance to the drainage piping and inlet along Harvest Row, and the distance to the wetlands and wetlands transition area.

Chair Nugent noted that there is a sprinkler system in the front yard on this property, and that Mr. Hoffman should be aware, and take that into consideration.

Mr. Hoffman stated he would make a note of that.

A **MOTION** was made by Ms. Sheay to **approve** this application for Block 64/Lot 24.08, 4 Harvest Row for an alteration with no expansion to repair a malfunctioning system. The applicant is Robert Geddis, the engineer is Kurt Hoffman. The design will be a gravity, mounded soil replacement disposal bed with plastic liner and installation of a 1,000 gal. septic tank. The map is entitled Septic Design for Robert

Geddis, dated 9/23/07, revision 11/21/07 per HCHD. Correspondence from the HCHD is dated 11/8/07, 11/28/07. The surveyor is Nicholas Lebo, dated 8/23/07. A wetlands letter, 10/12/07, from Jeff Tariela, Environmental Consultants stating there are wetlands on the map, and the disposal bed will be in or near the buffer. The applicant will be applying for a GP25 permit from NJDEP. The board is issuing a variance to reduce the setback distance of 100' for watercourses, this will be 59' for the catch basin, and 39' for the drainage pipe, from the disposal bed. The board requests that the applicant add casing around the new well to the depth of 94'. The board requires certification from the engineer that it was done properly. Two soil logs were done on 4/9/07, soil log 3 @ 80", seepage at 36", mottling @ 30", zone of saturation is 30" for this soil log. Soil log 4, done 4/9/07, @ 90", seepage at 50", mottling @ 34", zone of saturation is 30" for this system because of the mottling in soil log 3. Permeability test, pit bail PB1 in soil log 3, 4/9/07, @ 80", resulting in 6.57"/hour.

This motion was seconded by Ms. Albrecht. On roll call vote the following was recorded:

|              |     |              |         |              |     |
|--------------|-----|--------------|---------|--------------|-----|
| Ms. Albrecht | Aye | Ms. Muir     | Aye     | Ms. Sheay    | Aye |
| Dr. Allen    | Aye | Ms. Rohrbach | Abstain | Chair Nugent | Aye |

**2. Block 51.03/Lot 7.01 – Bayer-Risse Engr., Major, Route 523.**

Escrow fees paid 3/4/08 Ck.1010 \$750.00

Mr. Bill Jupinka, Bayer-Risse Engr., NJ licensed engineer, appeared before the board. This application is an alteration for an existing 3 bedroom home. The system and home are 40+ years.

The reason for the malfunction is maintenance, packed with sludge. The tank will be pumped and crushed in place. The *inaudible* tank will then flow to a gravity distribution disposal field. Two soil logs in the area revealed loose fractured shale, no mottling, seepage, and rapid drainage. There are no wells within 100' of the system, and no wetlands or transition areas in the projected area of disturbance. Chair Nugent asked how the current system is malfunctioning.

Mr. Jupinka stated it is slow because of the sludge. The home is vacant, so it does not pose a health hazard. Chair Nugent noted the well location in the middle of the driveway.

Mr. Jupinka stated they had installed the U shaped driveway after the well installation. This is a real estate transaction.

A **MOTION** was made by Ms. Butula for approval for Block 51.03/Lot 7.01, 793 Route 523. This is from a map named Septic System Alteration Design for Tom Major, Block 51.03/Lot 7.01, Readington Twp, Hunterdon County, NJ. Page 3 of the 9 pages before the board considers the existing and proposed conditions. This map was prepared by Stephen Risse, licensed engineer in NJ, dated 2/20/08, surveyor was Charles Saladin, licensed land surveyor in NJ, dated 2/20/08, HCHD review dated 3/6/08 for an alteration with no expansion. This is a gravity soil replacement fill enclosed system. The primary soil log is 214-1 done 2/14/08 at 108", no mottling, no seepage, or groundwater. Soil log 214-2 done 2/14/08 at 108", no mottling, no seepage, or groundwater. Permeability test was 214-1 @ 84" on 2/20/08, passing. The regional water is determined by the log at 108". Mr. Jupinka has testified that there are no wetlands present within the 150' within the area of disturbance and that there are no wells or septic systems within 150' of the property. According to the engineer notes, the existing tank will be replaced with a new 1000 gal. tank.

This motion was seconded by Ms. Albrecht. On roll call vote the following was recorded:

|              |     |              |         |              |     |
|--------------|-----|--------------|---------|--------------|-----|
| Ms. Albrecht | Aye | Ms. Muir     | Aye     | Chair Nugent | Aye |
| Dr. Allen    | Aye | Ms. Rohrbach | Abstain |              |     |
| Ms. Butula   | Aye | Ms. Sheay    | Aye     |              |     |

**3. Block 1.01/Lot 1.03 – Bayer-Risse Engr., Withers, Grist Mill Rd.**

Escrow fees paid 2/26/08 Ck. 3759 \$750.00

Mr. Bill Jupinka, Bayer-Risse Engr., NJ licensed engineer, appeared before the board. This application is an alteration for an existing 4 bedroom home. This is a 10 year old malfunctioning system indicated by periodic saturation, due to a water table presently on the property. Rapid

seepage was observed just below 5' in a loose gravelly material. The water stabilized at 24 hours at the same place it was at after 2 hours, where it came in. This will require a pump system, the existing 1,000 gallon tank will be reused. It is 86' from the existing well, the pump tank will be located 100' outside the existing well. There are no wetlands or transition areas within the location of the proposed disposal field, there is nothing within 150'. There is a detention basin, maintenance and access easement, but no water bodies within that area. The proposed system will be uphill of the existing system. A pit bail was performed, with a rapid rate of 20.4"/hour as a final. The 24 stabilized at 65", the accompanying soil log was 61", which is used as the regional water table.

There was some discussion of this area of Gristmill Estates, and the fact that the homes went up rather quickly, generally, the soils type is gravelly.

Ms. Butula confirmed that the new homeowners are aware of the filing and maintenance requirements of the pump system.

Mr. Jupinka stated that they were.

A **MOTION** was made by Ms. Butula for approval for Block 1.01/Lot 1.03, 8 Grist Mill Road, from a map named Septic System Alteration Design for Donald Withers Block 1.01/Lot 1.03 Readington Twp., Hunterdon Cty., NJ dated 3/3/08. The map was prepared by Theodore H. Bayer, NJ licensed engineer. The surveyor was Charles Saladin Jr., survey dated 3/3/08, by John Cilo Jr. and Assoc. dated 10/7/05. HCHC report is dated 3/7/08. This is an alteration with no expansion for a pressure dosed distribution soil replacement bottom lined system. The primary was done 2/27/08, soil log 227-1, @ 120", no mottling, no hydraulically restrictive horizon, rapid seepage at 65". Soil log 227-2, @ 120", no mottling, no hydraulically restrictive horizon, rapid seepage at 61". Permeability test was pit bail 227-1 done 2/27/08, results 20.4"/hour. Regional water was determined at 61" by soil log 227-2. Testimony has been given that there is no wetlands, or wetlands transition within the location of the proposed disposal system, no disposal systems within 50' and no wells within 100' of the proposed disposal system. The existence of the 1000 gal. tank 86' from the well is grandfathered in. This will be a pump system, the owners of the property are aware of the maintenance requirements and deed restriction to be filed with the Hunterdon County Clerk.

This motion was seconded by Ms. Sheay. On roll call vote the following was recorded:

|              |     |              |         |              |     |
|--------------|-----|--------------|---------|--------------|-----|
| Ms. Albrecht | Aye | Ms. Muir     | Aye     | Chair Nugent | Aye |
| Dr. Allen    | Aye | Ms. Rohrbach | Abstain |              |     |
| Ms. Butula   | Aye | Ms. Sheay    | Aye     |              |     |

**4. Block 57/Lot 8 – Chmielak, Engr. & Land Planning, Falcon/Reed, Forty Oaks Rd.**

Escrow fees paid 3/27/07 Ck #4696 \$500.00; 7/26/07 Ck 4780 \$250.00; 10/3/07 Ck 4818 \$250.00; 3/19/08, Ck.# 4914, \$500.00. Previously heard 7/18/07.

Mr. Eric Raes, NJ licensed engineer, appeared before the board. This application was before the board in July, at that time the board was looking for a well test to confirm the condition, some clarification on the abandoned basin flood, and also testimony and survey marking in the field. This is an expansion/redesign to a 5 bedroom home, the proposed system will meet the requirements for that home. The 150' wetlands buffer line, an additional 36' from the proposed disposal line is depicted on the map. The well test was performed 1/3/08, no coliform was detected.

Chair Nugent stated referring to the July minutes, regarding the discontinued basin flood for test pit 4, was that done.

Mr. Raes stated it was not retested, it was basically only open for an hour or two, then backfilled, test pit 5 was then used, and produced 2 passing basin flood tests.

There was some discussion of the credentials for Mr. Chmielak regarding the wetlands qualifications. Mr. Raes testified to the qualifications, and stated that he would provide them to the Board of Health office.

Ms. Butula asked that Mr. Raes testify to the well and septic distances.

Mr. Raes stated that both the onsite well and neighboring well are indicated outside the 100' radius and the disposal beds for both are beyond the 100' radius also.

A **MOTION** was made by Ms. Butula for approval for Block 57/Lot 8, from a map named Reed Falcon Residence Individual Sewage Disposal System Readington Township, Hunterdon County, New Jersey, dated 3/6/07, revision 4/27/07, 7/26/07. Sheet 4 dated 3/6/07 and 7/26/07 was presented to the board this evening. This was prepared by Eric J. Raes. The survey by Charles Saladin and Robert Ent, Jr. dated 2/26/07, Ferriero Engr. reports dated 4/26/07, 5/24/07, 6/10/07, 1/28/08, 2/14/08. Letters from Wayne Ingram dated 5/3/07, 5/18/07 are included. This is new construction on an existing structure with expansion to 5 bedrooms. For the primary, 1/24/07, soil log TP1 @ 120", no mottling, no seepage, no groundwater, hydraulically restricted horizon 11 – 44". Soil log TP2 @ 120", no mottling, no seepage, no groundwater, hydraulically restricted horizon 11 – 42". Permeability test is basin flood 1, 84" done 1/25/07, passing. In season groundwater monitoring from 1/26/07 – 3/16/07, results were dry, the regional water for this primary is determined by the logs dug to 120". Basin flood 1 is in TP2. For the reserve area, performed on 1/24/07, soil log TP4, @ 108", mottling 80 – 120", hydraulically restricted horizon 13 – 44". TP5, @ 120", no mottling, no groundwater, hydraulically restricted horizon 13 – 37". Permeability test on the reserve area, TP5, is basin flood 3 to 86", date 1/25/07, passing results. In season groundwater monitoring was done 1/27/07 – 3/16/07. Regional groundwater for this reserve was determined by the logs @ 80", mottling. A letter was submitted regarding wetlands, from James Chmielak Jr.. A well test dated 1/3/08 indicated a negative test for coliform. In addition to qualifications for the wetlands expert, the reserve area 3 is not used, and corrections should be indicated and submitted on the map.

This motion was seconded by Ms. Muir. On roll call vote the following was recorded:

|              |     |              |         |              |     |
|--------------|-----|--------------|---------|--------------|-----|
| Ms. Albrecht | Aye | Ms. Muir     | Aye     | Chair Nugent | Aye |
| Dr. Allen    | Aye | Ms. Rohrbach | Abstain |              |     |
| Ms. Butula   | Aye | Ms. Sheay    | Aye     |              |     |

##### **5. Block 55/Lot 7.07 – Canger Engineering Assoc., Patrick, Groendyke Road**

Escrow fees paid 11/2/07. Ck. 7199 \$750.00, 3/11/08 Ck. 7261 \$750.00

Previously heard/approved 12/20/06.

Ms. Lloyd Tubman, Archer & Greiner, represented Dennis and Lois Patrick, owners of Block 55/Lot 7.07, before the board. The soil logs and septic testing have been previously approved in connection with a subdivision application. Ms. Tubman stated that following the subdivision, she came to this board to ask for a variance for a pump system for one of two lots requiring a pump system. That deed restriction has been recorded. Subsequent to their purchase, Mr. and Mrs. Patrick had their engineer, Mr. Matthew Fox, Canger Engineering Assoc., site a house on the property, and propose enlargement of the septic system, the septic beds to accommodate 5 rather than 4 bedrooms, utilizing the previously approved soil logs with the exception of 1 log, which is on the plans that were before the board in 1999. That relocation of the bed eliminates the need for the pump system, and requires the applicant to come back before the board for approval of the 1 log that was not utilized previously. Noticing was provided to the 4 surrounding property owners for the variance from the 8 weeks of testing, which is a current requirement of the Board of Health and was not in place at the time the testing was done. The 4 owners were also noticed and all 4 waived that the 10 noticing requirement was short by one day. The well on 7.08 was erroneously installed less than 100' from the Patrick proposed installation. The resolution to this is that that new well will be capped, and a different location has been selected for a well on 7.08 that is at least 110' from all components on 7.07.

Ms. Tubman read into the record a letter from Mr. Villani - Lot 7.08, to the Patrick's - Lot 7.07 stating that due to a miscalculation by the well driller, the well placement was not located at the well location that is indicated on the Lot 7.07 drawing which was given to their lawyer in order to get their septic approval. As per Mr. Villani's engineer, the new well will be placed in the

approximate area shown on the Lot 7.07 site plan. This relocation will separate the proposed septic design and the 7.08 well by 110', causing Mr. Villani no further concern.

Ms. Tubman presented the board with a copy of the permit from Code Enforcement which was issued 3/19/08 to place the new well in the appropriate location.

Chair Nugent asked if the erroneously dug well had remained, could the bed on this application be moved, and how problematic would that have been.

Mr. Matthew Fox, Canger Engineering Assoc., licensed engineer and land surveyor in the state of NJ and engineer for Mr. and Mrs. Patrick, stated that these plans and application were prepared under his direct supervision and that it would have been problematic to move the septic bed. One of the important features of this plan is that they are maintaining the location of the approved bed that was previously approved in December of 2006. To leave that well where it was would have caused them to move away from that location and they felt that that is what they wanted to maintain.

Ms. Tubman stated that it may not have reached the NJDEP hardship criteria of 50' separation, they did not want to bring that variance to this board.

Chair Nugent stated as this problem had unfolded, it occurred to him that perhaps that would have been an option.

Chair Nugent stated there are several issues before the board, one is a soils testing that has to be approved by this board, there is a variance request both for the absence of the 8 weeks of in season groundwater monitoring that would be required as a result of this soil log now coming before the board, and also a waiver of the 10 days noticing, being short by 1 day. Also some items on the map may need to be addressed. A correction may need to be made to the BOH engineer's letter.

Chair Nugent asked Mr. Hansen, referring to Ferriero Engr. letter dated 2/5/08, under the reserve disposal area, it mentions a soil log that was not utilized to establish soil suitability. Unless there is some misunderstanding, the soil log mentioned is not the soil log being proposed for the reserve area, that in fact was not part of the original.

Mr. Hansen asked if the number were wrong.

Chair Nugent stated it appeared to be, and would Mr. Hansen review the material and confirm that..

Ms. Tubman asked if they could provide the number believed to be correct.

Chair Nugent stated in a moment.

Mr. Hansen stated the correct one should be 416-2.

Chair Nugent asked what the date was of the map Mr. Hansen was referring to.

Mr. Hansen stated the map was revised 1/15/08. From his notes, the court approved logs that established the reserve area on the previous plan was 8B-416-2 and 8B-610-2.

Chair Nugent stated that was consistent with his notes.

Mr. Hansen stated now they are not using the latter, 8B-416-2, they are using 8A-611-3, that is the correct ion to #2. on page *inaudible*.

Chair Nugent stated so that soil log reference should actually be 8A-611-3. Is the rest of the information in that paragraph correct ?

Mr. Hansen stated he believed it was.

Chair Nugent asked Mr. Fox to confirm which two soil logs are being proposed for the reserve area.

Mr. Fox stated soil log SL 8B-610-2, soil log 8A-611-3.

Chair Nugent asked soil log 8A-611-3 was recorded on what date ?

Mr. Fox stated 6/11/98.

Chair Nugent asked Mr. Hansen to check that discrepancy.

Chair Nugent asked Mr. Fox, referring to the map dated 9/2007, revisions 1/15/08, sheet #1, for the reserve area, where are the basin floods ?

Mr. Fox stated the basin flood was not indicated on the plan, however, the approved plan by Daniel Parker dated 5/4/06 shows the basin flood test 8A-611-3 approximately 20' to the southeast of the soil log 8A-611-3. It would still be within the reserve area.

Chair Nugent stated that reference is to the application that was presented to this board in 10/2006.

Mr. Fox stated yes. Their intent was to show all the basin flood and soil logs, that was an omission on their part.

Ms. Butula asked that Mr. Fox restate the previous information.

Mr. Fox stated the basin flood location was not indicated on the site plot plan that was submitted, however he has the approved plan by Daniel Parker dated 5/4/06, last revised 12/7/06, showing the location of the basin flood test approximately 20' southeasterly of the soil log indicated as 8A-611-3 and the testimony is that the basin flood test pit location will still be in the reserve area, within the confines of the reserve area.

Ms. Butula asked why they put the referenced soil log as 8B-610-2 for it ?

Mr. Fox stated 8B-610-2 is correct, they showed both of the soil logs that are being used as part of the design for the reserve area. It was an omission on their part.

Ms. Butula stated they just used a different soil log to reference its location on the approved plan, and she was wondering why since the referenced soil log is the closest soil log to the basin flood.

Mr. Fox stated that is so, it is closest to 8A-611-3.

Ms. Butula stated that is not what is on the Form 3g.

Chair Nugent asked if Ms. Petzinger had on file the map by Stephen Parker dated 5/4/06, last revision 12/7/06.

Ms. Tubman stated that was the plan submitted with the pump system application.

Ms. Petzinger provided a copy to the board.

Chair Nugent stated he is looking at a map from Board of Health files from Parker Engineering & Surveying for Lot 7.07/Block 55, dated 5/4/06, revised 10/5/06 and 12/7/06. Chair stated he is looking for the existence of soil log 8A-611-3 on the map and basin flood 8A-611-3 also on the map. Chair asked Mr. Fox to clarify his understanding of the basin flood and its proximity to a soil log.

Mr. Fox stated that is correct, the basin flood is 8A-611-3 which is located 20' southeasterly of soil log 8A-611-3, and it is located within the proposed reserve area indicated on the site plot plan for Block 55/Lot 7.07 dated 9/24/07, last revised 1/15/08.

Chair Nugent referring to the Parker Engr. & Surveying map dated 5/4/06, there is a double entry for sl 8B-610-2, does that imply that one was mislabeled and they were actually a basin flood and a soil log ?

Mr. Fox stated he has Form 3g, basin flood, flooding test data dated 10/5/98, identified as test 8B-610-2, they have indicated that the soil log is located 6' away from the edge of the bed.

Chair Nugent stated effectively there are two permeability tests for the soil log, and asked Mr. Fox to read into the record the results of that test.

Mr. Fox stated test # 8B-610-2, depth of pit was 6.17', area was 50 sq. ft., type of rock shale, name of formation Brunswick, type of fractures open, filled with fines, wide width of opening 3 – 5 millimeters, orientation of fractures was horizontal, hardness of rock was not rippable with hand tools, rippable by machine, the time of the first basin flood was 4:22 p.m. on 6/10/98, 374 gallons provided. The basin drained within the first 24 hours at 8:24 a.m. on 6/11/98 which was 12 hours after, the second flooding on 6/11/98 was, 374 gallons, basin drained within 24 hours at 2:45 p.m. on 6/11/98.

Chair Nugent asked what the basin flood 8A-611-2 dates and water used?

Mr. Fox stated the time of the first basin flooding was 3:57 p.m. on 6/11/98, 374 gallons added. It drained within 24 hours at 8:35 a.m., the second was filled again at 8:52 a.m. on 6/12/98, 374 gallons were added, drained within 24 hours, measured at 9:32 a.m. on 6/12/98.

Chair Nugent confirmed with Ms. Vaccarella that in a 9/27/07 letter from Mr. Fox to Ms.

Faltings, there was a concern about the volume of water. Ms. Faltings letter dated 12/19/07, item 23., a minimum of 375 gallons should be used, the 374 gallons used would require a waiver.

Mr. Fox stated he did observe that 1 gallon discrepancy, but that concern was not included in subsequent letters, so was not addressed.

Ms. Butula stated to get into the more general questions, the primary has already been court approved.

Ms. Tubman stated that is correct.

Ms. Butula stated getting into the reserve where they are making the changes, they are submitting soil log 8B-610-2, which is court approved ?

Ms. Tubman stated that is correct.

Ms. Butula asked then the change between Ferriero Engineering letter, and now for the second soil log, 8A-611-3 is being submitted ?

Mr. Fox stated yes.

Ms. Butula asked for the permeability, they are submitting basin flood 8A-611-3 ?

Mr. Fox stated yes.

Ms. Butula asked if that were court approved already?

Ms. Tubman stated no.

Ms. Butula asked if they were also submitting 8B-610-2, done 6/10 – 6/11/98? and is this court approved.

Mr. Fox stated yes to both.

Ms. Tubman stated yes it is court approved.

Ms. Butula stated so what they are looking at that was not incorporated before was soil log 8A-611-3, and basin flood 8A-611-3, that is the boards consideration.

Ms. Tubman stated correct.

Ms. Butula asked neither of the basin floods are on the current drawing in front of the board?

Mr. Fox stated yes.

Ms. Butula stated in the original premise, the goal is to switch the original primary to be the reserve now, the original reserve is to be the primary.

Mr. Fox stated no.

Ms. Tubman stated they are not precisely in the same area, that is why it is no.

Chair Nugent stated during prior applications for this lot the soil logs that were presented in association with the reserve area are now instead being presented in association with the primary area, is that correct ?

Mr. Fox stated no, if you look at the approved septic plan by Mr. Parker, that indicates the location of the primary and reserve beds , and they have indicated the primary bed in the same location. These septic were reversed when they did the preliminary subdivision, they have soil logs shown on the Rolling Meadows plan, again it shows the same orientation with the primary field in the center of the lot and the reserve field to the rear of the lot.

Chair Nugent stated the transposition of the primary and the reserve designation as associate to given soil logs occurred between the original subdivision and the application that came before the board for a pump system. From the point of the pump system approval to now, the primary area and the reserve area are in approximately the same place. The primary area soil logs are still the same soil logs as referred to during the pump approval, the change is in relationship to the reserve area and its proximity to the soil logs that were previously approved for the reserve area.

Mr. Fox stated that is accurate.

Ms. Butula confirmed that when this application was before the board for the pump system, was there enough information, and was it court approved ?

Ms. Tubman stated that it was all court approved at that time.

Ms. Butula asked what changed the reserve area?

Mr. Fox stated the reserve area had to be switched slightly.

Ms. Butula stated so there is not a switch of the primary and reserve.

Ms. Tubman stated that is correct.

Mr. Hansen stated to clarify, they are before the board because it is a different house in a different area.

Ms. Butula confirmed that the primary is the one they have always had, and the reserve area has been shifted.

Ms. Butula asked if Mr. Fox would testify to the wetlands statement for this piece of property, and what are his qualifications to make that statement.

Mr. Fox stated the wetlands were delineated as part of the preliminary subdivision and are a matter of record. His qualifications are a professional engineer and licensed land surveyor.

Ms. Tubman confirmed that he was using as his reference material the approved subdivision plans that show the wetlands and transition area as verified by the LOI with the DEP reference number on it.

Mr. Fox stated yes.

Chair Nugent asked if any of those wetlands areas or delineations encroach on this property.

Mr. Fox stated no, as indicated on the major subdivision plan, they do identify the closest wetland as wetland #6., but it is beyond the 150' as indicated on the site plot plan, and the wetland is beyond that. Chair Nugent asked as about the monitoring wells which are scattered around the property?

Mr. Fox stated the wells are still existing, they are not active, they are not monitoring the groundwater at this time.

Ms. Butula asked about a safety issue.

Ms. Vaccarella stated they would need to be abandoned by a well driller that is certified in well abandonments. Are they piezometers?

Ms. Tubman stated that the court records indicated that piezometer readings were required by this board.

Chair Nugent stated if these are drilled wells, they would require the permitted abandonment process.

There are at least 3 indicated on the map.

Chair Nugent stated for the record, there was a review by the township engineer Hatch, Mott, McDonald. There was a 12/29/07 letter, responded to on 1/22/08, and to the Board of Health on 3/6/08 identifying that those issues had been addressed.

Chair Nugent questioned the number of proposed bedrooms.

Mr. Dennis Patrick, owner of Block 55/Lot 7.07 addressed the board. Mr. Patrick stated the original design of the house accommodated 3 bedrooms. They planned on additional square footage in the upper section for anticipated future resale, for the prospect of building 2 more bedrooms. The construction as planned is for 3 bedrooms, however the proposed bed is sized for 5 bedrooms.

Ms. Butula referred to statement 4. of Ferriero's 2/5/08 letter that the Form 2b's for the soil logs recorded on the property had been revised per the County of Hunterdon. Sealed copies of the revised logs were not received by this office. Were those copies ever received ?

Ms. Tubman stated that she had one set of sealed logs in her file, which were provided to the County. Two forms were missing, which had to be tracked down the engineer from 1989. The County design approval is based upon the only set of sealed logs. It would be very difficult to go back to 1989 and locate another set. Ms. Faltings could perhaps document the fact that she has a copy of the sealed forms.

Chair Nugent noted the material submitted by Stothoff confirming the information about the well being misdrilled and repositioned and capped. There was an attached copy of the location of the new well. Is this map correct to the copy of the map the engineer has?

Mr. Fox stated on their site plan they had shown a proposed well by others on Lot 7.08. That location came from the approved septic plan for 7.08. There were no records available at that time because there was no well. This diagram places the well in approximately, within 10', the same location. The letter this evening stated it would be 110'. Their well permit is conditional on the distance being 104' from the system.

Chair Nugent stated it would be a good idea to get a copy of the latest documentation to the Lot 7.08 property owners.

Chair Nugent stated they would like to now discuss the soil log being presented to this board for approval, 8A-611-3.

Mr. Fox stated soil log 8A-611-3 was recorded 6/11/98. At the time it was Lot 7.01, which was the overall parcel, subsequently it has been subdivided into 7.07. The soil log indicated as sl 8A-611-3 contains from 0 – 12" 10yr 4/4 dark yellowish brown silt loam topsoil, weak subangular blocking, moist friable, many roots, wavy boundary. From 12" to 29", 5yr4/6 yellowish red heavy silt loam, moderate subangular blocking moist friable, few roots, wavy boundary. 29" – 66", 7.5yr5/6 strong brown silty clay loam, weak subangular blocking, moist friable, common medium distinct mottles of 10yr6/3 pale brown at 29" – 66". Irregular difused boundaries shale as high as 29" up to a heavy silt loam not mottled under silt loam. From 66" to 120", non soil fractured red shale, pieces of gravel *inaudible* in size with 10 – 15% silt loam fillings at > 120" stopped test, no groundwater observed.

The reason for mottling is given as regional groundwater.

Under the definition of regional groundwater it has to be a continuous column of water below that level, which the tests haven't indicated, they have indicated no groundwater down to 120" in that specific area. They felt it could not be regional because it did not contain a continuous column of water below the level of saturation, so they felt it was perched.

Chair Nugent stated the test was performed in 1998, and the soil morphology was determined in 1998, and they have altered all of that currently.

Mr. Fox stated it is part of their application to classify it as a perched condition for reasons indicated, it was not a continuous column of water below the level of saturation.

Ms. Butula stated this statement was made by the person involved with the test. Without new data or tests, how can you think you can change that?

Mr. Fox stated by observing the consistency of the other soil logs on the property. There are 8 soil logs on the property, it does show that there is perched water around 20", but that the regional groundwater is much lower 8 – 10'. That is consistent throughout the soil logs, and the reason for the change in that classification.

Ms. Butula stated to summarize, Mr. Fox, you feel that as a non participant, and a non observer of actual field conditions that you can give testimony and not have submitted any new data, that you can change what testimony is here in front of the board, who was in the field and did the test.

Mr. Fox stated based on the record documents that he was provided, and based on that review, it does not fit the definition of regional groundwater.

Ms. Tubman stated she would like to add that the appellate division decision on 10/8/03 recites on page 6 that the board resolved its questions as to the results of the testing in the course of those negotiations, and the only question remaining was whether the board was entitled to send its own wetlands expert on the property to question the delineation approved by DEP.

Ms. Butula asked if the court was saying that they discussed this particular test, and how does that statement pertain to the board.

Ms. Tubman stated the board did not discuss this particular test, there were two tests, they went through all of the tests that were associated with the then approved septic primary and reserve locations. The court approved those soil logs. Mr. Fox is testifying that they are consistent throughout the site. The appellate division found that from the proceedings before Judge Bernhard that as to the other soil logs, other than the two that were not discussed before this board, the board had resolved all questions.

Ms. Muir stated she would like to see that interpretation.

Ms. Tubman stated she has it right here.

Ms. Butula stated she would want to read it in great detail, and to speak to the board attorney about it.

Ms. Tubman stated to go back to Mr. Fox's testimony, we are talking about 1 soil log, and she believed the board could address the consistency of that with the other and your interpretation.

Mr. Fox stated on the Form 2b, there is a statement, "stopped the test, there is no ground water observed". That is the last comment made in the soil log, that was at 120".

Chair Nugent stated so you are claiming that the mottling exhibited from the 29 – 66"....

Mr. Fox stated would *inaudible* cause the zone of saturation from perched groundwater, not regional.

Chair Nugent stated lets discuss the terminology of perched, what constitutes the water being perched?

Mr. Fox stated anything other than regional, and regional has to be continuous below the level of saturation.

Chair Nugent stated his interpretation of perched is that something below the water actually holds the water up, so what holds the water up, is there a hydraulically restricted horizon ?

Mr. Fox stated that is right, he mentions the mottling between 29 – 66".

Chair Nugent stated which is throughout that whole zone, and below that zone is what ?

Mr. Fox stated below that zone from 66 – 120" says non soil fractured red shale.

Chair Nugent asked, so does that constitute a hydraulically restricted horizon ?

Mr. Fox stated no, he felt that the mottling that occurs at 29" was the reason for the zone of saturation.

Chair Nugent stated that the mottling exists from 29 – 66", correct, and does it exist within a hydraulically restricted horizon in and of itself.?

Mr. Fox stated yes, and he claims that the hydraulically restricted horizon is from 29 – 66".

Chair Nugent stated below that is non soil, not a hydraulically restricted horizon, correct ?

Mr. Fox stated yes.

Chair Nugent stated by definition within the state code, does this qualify as perched ?

Mr. Fox stated he would refer to the specific definition, but other than regional groundwater, it is considered perched, so based on the definition of regional groundwater which must be continuous, therefore, by deduction, this would only be perched groundwater. It couldn't be regional because it is not continuous below the level of saturation.

Chair Nugent asked why it was not continuous.

Mr. Fox stated based on the soil logs that indicate the water table is at 120".

Chair Nugent stated regional zone of saturation is established by various methods, one is that mottling represents the historical evidence of what has occurred over an extended period of time.

A hole dug in the ground, and water being evidenced in that hole is a snapshot in time, correct?

Therefore, whenever mottling is observed, unless disproved as being regional zone, it is deemed regional zone, as per the code. The absence of water directly below or in that hole does not discount the fact that the mottling existed, so by code definition, this is not perched. There is not a hydraulically restricted horizon sitting below the mottling that could have contributed to the mottling existing.

Mr. Fox stated the zone of saturation is not continuous below...

Chair Nugent stated there is nothing in the code that requires the zone of saturation to be continuous.

Mr. Fox stated yes, that is the definition for regional groundwater is that it is continuous column of water below the zone of saturation.

Chair Nugent asked Mr. Fox to read that from the code, if he had it with him.

Mr. Fox read from the code, NJAC7:9A-2.1, definitions, page 9, regional zone of saturation means "the regional zone of saturation is a zone of saturation which extends vertically without interruption below the depth of soil borings and profile pits." Mr. Fox stated he understood the argument being posed as perched, but their argument is based upon the regional zone of saturation.

Chair Nugent stated they would step forward to other sections of the code, specifically, 7:9A5.8d "any zone of saturation which occurs above a hydraulically restricted horizon, a hydraulically restricted substratum, or a massive rock substratum should be considered a regional zone of saturation unless a perched zone of saturation is identified based upon the criteria in subletter e below." Subletter e "a zone of saturation shall be considered to be perched whenever any of the following conditions are met. A zone of saturation is presently immediately above a hydraulically restricted horizon" Is that true or no?

Mr. Fox stated you could consider it a massive substratum, the fractured shale, but he did not know if you could consider it a hydraulically restricted horizon.

Chair Nugent stated therefore the underlain by a layer of permeable unsaturated soil is mute since it is not a hydraulically restricted horizon, so that is subletter 1.

Mr. Fox stated it is considered non soil.

Chair Nugent stated that is correct, #2. and #3. do not apply, so none of it can be perceived as a perched condition, therefore, it shall be considered regional unless a perched zone of saturation is identified.

Consequently, using the definition of the regional zone of saturation and ignoring 5.8 allows you to judge this soil log as being perched.

Mr. Fox stated he did not ignore, but investigated and evaluated it, and felt that the definition was clear that it had to be uninterrupted and that specifically was not the case with these logs. There was no water between 66" and 120", therefore, there is not a continuous column of water, any zone of saturation has to be considered regional or perched, there are no other types, and since it couldn't be considered regional groundwater, it had to be considered perched.

Chair Nugent asked if there were ever an instance where a hole was dug, and on one day there was water, and another day there wasn't.

Mr. Fox stated no, although he is not saying it doesn't occur.

Chair Nugent asked if mottling have been represented within the fractured rock ?

Mr. Fox stated he did not know.

Chair Nugent stated fractured rock practically never exhibits mottling, even if in fact, it was in the same depth as soils that were exhibiting mottling.

Ms. Tubman asked if that were because the non soil doesn't have soil that oxidizes when it is saturated. Chair Nugent stated that is right.

Mr. Fox stated there are no soil particles per say.

Chair Nugent stated as a result, trying to say there is not a column of water when the mottling is proof that there was water.

Mr. Fox stated he felt that there could be trapped surface water that seeps into the ground and gets to the mottling layer and then travels horizontally through the stratum. His position is not that the groundwater or regional ground comes up to 29" and is continuous up to 29". He does not feel that that is the case, and that is the basis for their application.

Ms. Tubman stated Mr. Fox has piezometer readings from the same time period.

Mr. Fox stated there were some piezometer readings, yes. There was a standpipe, soil log 8B-416-2 dated 4/16/98, depth 120".

Chair Nugent asked where that was on the map.

Mr. Fox stated soil log 8B-416-2.

Ms. Muir asked if during the court proceedings, was there any indication that those piezometers had been destroyed, or in anyway changed or messed with.

Ms. Tubman stated there was nothing, according to the decision at the time it went to court, the only issue was access by a wetlands consultant.

Chair Nugent stated the outstanding issue *inaudible* (before ?) the board. It is his recollection that the other outstanding issue was that they had motioned to require additional testing on this property.

Ms. Tubman stated according to the appellate division decision, that was not before Judge Bernhard.

Chair Nugent stated agreed, but anyway it is mute because you are talking about a piezometer that was located in 416-2, and the distance between that piezometer and the proposed reserve disposal area is what?

Mr. Fox stated he hadn't gotten to that he was just going through some of the results on the lot that would lead him to say that the findings are consistent with his classification of the groundwater as regional.

Chair Nugent asked if there were any piezometers in or within 15' of the proposed reserve area that they could speak to?

Mr. Fox stated not within 15' but there are standpipes that were on the site and their results were consistent that the groundwater is not at 29", it is closer to 8 or 10'.

Ms. Butula stated she would like to mention this as a complete aside, right above the tests, this whole chapter and verse being discussed, there is a thing that all test piezometers and standpipes shall be removed within 10 days upon completion of the tests and approvals of the test results unless the NJDEP has given long term permission for water quality testing, which goes back to the issue that these monitoring wells need to be addressed.

Ms. Tubman stated they will be addressed.

There was some discussion of coming to some conclusion, due to the hour being 10:45 p.m..

Chair Nugent asked that Mr. Fox explain the value to the design of this system to have altered the originally submitted witnessed determined soil log 8A-611-3 to now have it no longer be the regional zone at 29".

Mr. Fox stated it was the development of the architectural plans that necessitated the movement of the reserve area. Initially, with the submission to the board, the reserve area was up in the same location as it was approved, using the court approved soil log 416-2, however, the configuration of the septic system was not rectangular, it had a strange shape, and the issue was raised by the county to possibly relocate the reserve area. That is the time that they exercised that option and moved it closer to – away from one of the logs – but then back to one of the approved logs, and the log that we are speaking about today, soil log 8A-611-3. It was the development of the architectural plans that initially when it was approved the house was up very close to the street, approximately elevation 189, we relocated that dwelling ....

Chair Nugent stated you are basically trying to redefine 8A-611-3 so that it is more in compliance with or consistent with the other soil log which is 8B-610-2, correct? You want it to be closer to that one and by changing it from regional to perched, you now get it to be closer in your design and that reserve system can be more, even, same depth. Your goal of trying to

redefine what was previously understood as far as the regional zone on 8A-61-3 is so that it is more consistent with the other soil log for that reserve area.

Mr. Fox stated, consistent in terms of the zone of saturation being located at 8 – 10' and not at 29".

Chair Nugent confirmed that that is the whole objective.

Mr. Fox stated yes.

Chair Nugent stated if you didn't do that, what is the impact? Say you wanted to keep it at 29" for regional, what is the impact?

Ms. Tubman asked could you approve a soil log at 29" for regional?

Chair Nugent stated yes.

Mr. Fox stated it would be the type of installation that was designed.

Mr. Hansen stated it would still meet the code, you would still have the option, even if the primary failed to go back and test somewhere else on the property, away from the reserve that you currently have, and show that that could work too, right?

Mr. Fox stated yes.

Mr. Hansen stated we don't really need to discuss this, you could change the soil log back to what it was, everything still works, we've spent a lot of time on this.

Chair Nugent stated you have an uphill battle with this board, in trying to convince us that a soil log that was done and tested and witnessed back in 1998 that purely from looking at a definition in the state code, and not the rest of the code, is sufficient to change this from regional to perched.

You haven't even gone out and looked in that hole, that is very difficult to accept.

Ms. Tubman stated following up on Mr. Hansen's statement, without a recharacterization, Mr.

and Mrs. Patrick just want draw their building permit. Can you approve this soil log?

Chair Nugent stated he, personally, could not.

Ms. Muir stated we cannot set a precedent by ignoring what is in the code.

Ms. Tubman stated they are saying stay with the regional with piezometer readings across the lot at 120, that recharacterization, this board can approve the soil log, you are talking about 1 log on a reserve bed.

Mr. Hansen stated that is the question.

Chair Nugent stated there are a couple of outstanding issues, you have this soil log, except in 29" as perched.

Ms. Tubman stated that has been taken off the table for purposes of this discussion.

Chair Nugent stated accepting the 29" as regional, he would not have a problem with it. Aside of that, we have issues with the map having to reflect the basin floods or the permeability tests that are required.

Ms. Tubman stated you can have that map tomorrow.

Ms. Butula stated we have the in season monitoring is an issue that hasn't been discussed.

Ms. Tubman stated that is correct, that is why they put it on the table to start with. Her question was whether it is a variance, because it is not a requirement when this log was done. This board recognizes that if you were to say it is a variance today, that puts Mr. and Mrs. Patrick a year from now from getting their house plan.

Chair Nugent asked why there would be a year delay?

Ms. Tubman stated because they can't do 8 weeks in the wet season, it is not possible.

Ms. Butula stated they may have jumped ahead a little with that, they haven't begun any discussion and set parameters of what they have yet.

Chair Nugent stated one of the reasons why adjoining homeowners were noticed was to request a variance from the 8 weeks of in season groundwater monitoring based upon the other materials that have been or could be presented.

Ms. Tubman stated the question was raised in Mr. Hansen's review letter as to whether or not today 8 weeks of testing for a soil log performed when you required 3 days should be required in an excess of caution. Ms. Tubman thanked Chair Nugent again, stating that she had been hard pressed to find out what variance was to be noticed. Ms. Taormina, Mr. Hansen and Ms. Petzinger had been contacted, so thank you. Ms. Butula stated the board needs time, they weren't even considering the correct soil log.

Ms. Muir stated they have extended their time by an hour, they need to move this to another meeting.

Chair Nugent stated they would spend the next couple minutes determining what they would do when they come back. One of the reasons, to clarify, is recognizing that the board engineer suggested that they needed to consider the testing that was put forth previously, relative to the current ordinance requirement of 8 weeks of in-season groundwater monitoring. Chair wanted to give the applicant the opportunity to come before this board and request a variance from the 8 weeks of in-season groundwater monitoring. That was why he quickly contacted counsel and the applicant to try and suggest that they notice adjoining property owners requesting a variance of the 8 weeks of in-season groundwater monitoring so that this board could actually discuss that and if decided, grant it. Without the noticing, and without the variance request, the board could not have discussed it. Ultimately, a lot of things have been cleared up, but there are still 3 outstanding issues. 1) The absence of some items on the map, they talked about the basin floods that were missing. 2) This soil log 8A-611-3, and what is going to be. 3) The boards discussion and possible variance of the required 8 weeks of in-season groundwater monitoring that is currently required based on Board of Health ordinance.

Chair Nugent stated that he had hoped to get to the 8 weeks of in-season groundwater monitoring issues this evening, he did not anticipate that it would take this long to get through this portion of the application. Unfortunately, they would have to adjourn this application this evening, and pick it up next month.

Ms. Tubman stated she could not be here next month, could they consider hearing this 2 months from now, early on the agenda so that it may be completed?

Ms. Butula stated she would not be here in May.

Ms. Tubman stated there would still be a quorum though, otherwise they have to go to June.

Ms. Sheay stated she also would probably not be at the May meeting.

Chair Nugent suggested that perhaps they could muddle through next month without Ms. Tubman's presence, and if they have issues that can't be addressed, then it could be carried to the following month, but it would give them the opportunity to get through it next month.

Ms. Tubman stated that would be fine.

Chair Nugent stated with the time and energy already put into hearing this application, they didn't want to delay.

Ms. Butula stated after spending hours reviewing, and drafting the beginning of a motion, they could muddle through it next month. Ms. Butula asked Mr. Fox to come prepared with every piece of data they have to tell the board why they should consider his proposal, and be as prepared as possible.

Chair Nugent asked Ms. Tubman if that were acceptable.

Ms. Tubman stated that is acceptable.

Ms. Tubman stated she would get certification from the Hunterdon County Health Dept. that they have the sealed soil logs.

Chair Nugent stated the adjoining property owners were noticed, and asked if there were anyone in the audience wishing to discuss this?

There was some discussion of the variance for the 10 days noticing requirement.

Chair Nugent stated for the record, for noticing purposes, this application is being carried to next months meeting, which is April 16, 2008.

Ms. Tubman thanked the board for their patience, and for staying late.

Mr. Fox thanked the board for their consideration.

## **G. ADJOURNMENT**

A *MOTION* was made by Ms. Muir to adjourn at 11:13 pm, seconded by Ms. Butula with a vote of Ayes all, Nays, none recorded.

Respectfully submitted:

Lorraine Petzinger  
Board of Health Secretary