

**READINGTON TOWNSHIP BOARD OF HEALTH MEETING**

April 16, 2008 7:00 pm

Chair William C. Nugent called the meeting to order at 7:11 pm and announced that all laws governing the Open Public Meetings Act have been met and that this meeting has been duly advertised.

**Attendance Roll Call:**

Christina Albrecht present Raymond Facinelli absent Tanya Rohrbach present  
Daniel Allen absent Beatrice Muir present Wendy Sheay present @ 7:16  
Jane Butula present William C. Nugent present

**Also Present:** Board of Health Engineer, Ferriero Engr. representative: Joe Kosinski  
Board of Health Attorney, Marisa Taormina  
Hunterdon County Health Dept.: Debra Vaccarella

**A. APPROVAL OF THE MINUTES**

**1. Minutes** of March 19, 2008. (-Facinelli vote).

A **MOTION** was made by Ms. Muir, seconded by Ms. Albrecht to approve the minutes of 3/19/08.

On roll call vote, the following was recorded:

Ms. Albrecht Aye Ms. Muir Aye Chair Nugent Aye  
Ms. Butula Aye Ms. Rohrbach Aye

**EXECUTIVE SESSION: April 16, 2008**

A **MOTION** was made by Ms. Butula that the Readington Township Board of Health proceed into executive session at 7:15 p.m. This motion was seconded by Ms. Muir.

On roll call vote, the following was recorded:

Ms. Albrecht Aye Ms. Muir Aye Chair Nugent Aye  
Ms. Butula Aye Ms. Rohrbach Aye

**WHEREAS**, N.J.S.A. 10:4-6 et seq., the Open Public Meetings Act, permits the exclusion of the public from a meeting in certain circumstances; and

**WHEREAS**, the Board of Health is of the opinion that such circumstances presently exist and desires to authorize the exclusion of the public from the portion of the meeting in accordance with the act;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Health of the Township of Readington, County of Hunterdon, State of New Jersey as follows:

1. The public shall be excluded from discussion of and action upon the specified subject matter as set forth in the following Exhibit "A".

<u>Subject Matter</u>	<u>Basis of Public Exclusion</u>	<u>Date Anticipated When Discussion Will Be Disclosed to Public</u>
Waiver request – 8 weeks of in-season groundwater monitoring	Litigation and Legal Ramifications	Certain information at the discretion of the Board of Health tonight.. Other information will remain confidential

**EXECUTIVE SESSION APRIL 16, 2008**

Ms. Taormina discussed the standard of review contained in Readington Township Board of Health Ordinance BH:99-02, Section 4.

A **MOTION** was made by Ms. Butula to close executive session at 7:50 p.m. and resume the regular meeting. This motion was seconded by Ms. Muir.

On roll call vote, the following was recorded:

Ms. Albrecht Aye Ms. Muir Aye Chair Nugent Aye  
Ms. Butula Aye Ms. Rohrbach Aye

## **B. CORRESPONDENCE**

### **1. NALBOH Newsbrief – 1<sup>st</sup> Quarter 2008.**

Ms. Butula pointed out the new format, and complimented NALBOH on their good publication. Copies of the NJ Statutes are available from Ms. Butula. Page 6 notes the NJALBOH is one of the few in the nation involved in governance.

### **2. NALBOH membership letter.**

### **3. NJLBHA Newsletter.**

Ms. Butula stated the NJLBHA provides a resolution on the back. This board may wish to do a resolution at the next meeting. Chair Nugent asked that this item be included on the May agenda. In the interim the boardmembers may want to consider that resolution.

### **4. HCHD LINCS - dated 4/4/08. Advisory-Measles Outbreaks in US.**

**5. Suspected Hazardous Discharge Notification** letter dated 3/1/08 regarding heating oil at 106 Kosciusko Rd.

**6. Suspected Hazardous Discharge Notification** letter dated 2/29/08 regarding heating oil at 15 Clark Lane.

Ms. Butula asked Ms. Vaccarella what the ramifications of this spill were. Did this cause any long term problems. Ms. Vaccarella stated they investigate to determine what kind of floor is in the home, it depends on the extent and how much is actually released. Ms. Taormina stated it would be problematic on their disclosure statement when they go to sell the house.

### **7. Block 65/Lot 7 – UST – No further action.**

### **8. Block 67/Lot 25.03 – Notice of Deficiency.**

Chair Nugent noted the amount of soil removed. Ms. Vaccarella said the state had more of a problem because of the nature of the fractured bedrock and the location of all that to the potable well. Chair Nugent asked if there were currently anything that stipulates distances between a well and an underground storage tank when they're being drilled? Ms. Vaccarella stated if it were done today, yes, if the house is of a certain age, no. It is actually under the well regulations.

### **9. Block 50/Lot 5 – UST – No further action.**

### **10. Block 39/Lot 53.10 – LOI application.**

**11. Block 42/Lot 8.02 – letter dated 3/13/08 from R. Sobeck regarding Anderson House.**

**12. Block 42/Lot 8.02 – letter dated 3/27/08 from R. Sobeck regarding Anderson House.**

**13. Block 42/Lot 8.02 – email dated 3/20/08 from P. Enea regarding Anderson House.**

There was some question of the 3/13/08 letter not being referenced in the 3/27/08 letter.

Ms. Vaccarella stated the meeting between the engineer and the HCHD occurred on 3/20/08, she did not know the outcome of the meeting. Chair Nugent stated the problem was identified, but doesn't seem to have been followed up, and asked if Ms. Vaccarella would do so.

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

**1. Septic System Repair Approval from HCHD, B 70/L 27.03. *Final Field 3/10/08***

**2. Septic System Repair Approval from HCHD, B 54/L 2.14. *Final Field 4/2/08 carried from the 3/19/08 meeting:***

**3. Septic System Repair Approval from HCHD, B 51/L 2.19. *Final Field 4/4/08***

**4. Septic System Repair Approval from HCHD, B 96/L 1. *Final Field 1/21/08***

## **D. OLD BUSINESS**

**1. Oath of office signatures and Financial Disclosure statements are due.**

## **E. NEW BUSINESS**

**1. Hunterdon County Health Dept. – Partnership for Health 1<sup>st</sup> Annual mixer for local boards of health – May 14, 2008 – Echo Hill Lodge. Mr. Beckley will give a brief overview of the Hunterdon County Health Dept., and will also present a survey, a communication email system and orientation for new board members.**

**F. APPROVALS**

**1. Block 14/Lot 4 – Parker Engineering, Cusimano, Lamington Road.**

Escrow fees paid 2/27/08, Cks# 1036, \$500., 106, \$250.

Mr. Stephen Parker, Parker Engineering, licensed engineer in the state of NJ appeared before the board. This application is for a septic system alteration to a malfunctioning disposal field. There is no expansion proposed. This is a 6 bedroom home. Soil logs and basin floods were performed. The basin floods were very fast, no groundwater or mottling was observed. The property is bounded on the northerly side by the rockaway creek. A wetland consultant confirmed the absence of wetlands or transition areas within the proposed area of disturbance. This is a gravity flow system, the slight mound on one side is due to the slope of the property. The HCHD 3/11/08 review letter commented that the soil logs and basin flood tests need to be approved by this board. Chair Nugent confirmed that a GP25 is not needed pursuant to the Environmental Technology Inc. letter.

Mr. Parker stated that is correct.

Ms. Butula asked what identified the malfunction.

Mr. Parker stated there was surfacing effluent in the backyard where the field is. The system is about 40 years old, and probably wasn't put in that deep.

There was some discussion regarding the dates of wetlands referral guidance documents.

A **MOTION** was made by Ms. Butula for approval for Block 14/Lot 4 from a map named Septic System design tax map Lot 4/Block 14, Readington Twp., Hunterdon County, NJ, dated 9/13/07, revision 2/11/08, 36 Lamington Road. Prepared by Stephen Parker, licensed professional engineer in the state of NJ. Surveyor was Daniel E. Parker, NJ licensed land surveyor, done on 9/13/07. Hunterdon County reports are dated 2/5/08, 3/11/08. This is an alteration with no expansion, it is an existing 6 bedroom dwelling. This will be a gravity mounded soil replacement system. The primary was done 8/29/07, soil log 1, 132", no mottling, groundwater or hydraulically restrictive horizons. Soil log 2, 121", no mottling, groundwater or hydraulically restrictive horizons. Permeability was basin flood 1 @ 84" on 8/29/07, passing. There is no reserve. A letter from David Kruger, wetlands investigator for Environmental Technology Inc., dated 3/5/08 investigating wetlands transition area resulted in no wetlands on or within 150' of the limits of the proposed disturbance.

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

Ms. Albrecht	Aye	Ms. Muir	Aye	Ms. Sheay	Aye
Ms. Butula	Aye	Ms. Rohrbach	Aye	Chair Nugent	Aye

Mr. Parker thanked the board.

**2. Block 63/Lot 42 – VanCleaf Engineering, Queili, Woodschurch Road.**

Escrow fees paid 3/18/08, Ck# 2201, \$750.

Mr. Gregg Barkley, VanCleaf Engineering, licensed engineer in the state of NJ appeared before the board representing Mr. Queili. This property is at the corner of Stanton and Woodschurch Rd. includes a 4 bedroom home, a small barn – which does not have a bathroom. The property is about 2 acres in size. There is no expansion or change of use proposed, they are looking to replace the existing malfunctioning septic system, which has been documented by the County through several observations of breakout to the ground surface. Testing was performed in January, 2008. Soil logs and basin flooding tests to establish a zone of disposal were performed in the southeastern corner of the property. The soil logs indicated shale encountered at about 55", extending down to 100 – 120" where they hit refusal on argillitic material. Static water levels during the time of 1/10 – 11/2008 was 84" and 62" on the 2 logs in the disposal area. Mottling was noted at 10" and extended into the shale material. Soil logs performed elsewhere on the property confirmed the same conditions where there was little seepage near the bottom of the

excavations, but shallow mottling. The 100' radius of the well takes up a substantial portion of the property, the existing disposal bed, installed approximately 1989 - 1990, also takes up a fair portion of the property. The proposed system will be a pump system.

Ms. Butula asked if Mr. Barkley was aware that testing was done on this property in 2007.

Mr. Barkley stated he was aware that numerous soil logs were performed, but does not have the data from it. The survey map shows test pit locations. Comments included that there was no water and they were unable to run a basin flood to success, and they wanted to wait until a wetter time of year to do a pitbail test.

Ms. Butula stated the previous soil logs must be located on the map. There was mottling noted on the witness report in every one at 8".

Ms. Petzinger provided copies of the 2007 testing to Mr. Barkley.

Chair Nugent stated it appears that soil logs 4 and 5 are in or within 15' of the bed.

Mr. Barkley stated the logs were not done in the old soil log excavations.

Mr. Barkley confirmed that the board did not grant conditional approvals.

Chair Nugent stated in this case, given the fact that the map has to represent by code and by our code, all soil logs on the property, and since it is also going to affect the design, the material has to be resubmitted and presented.

Ms. Butula stated the existing 750 pump to be converted to septic tank should be brought to the attention of the homeowners. When they do their maintenance, both sides of the tank have to be emptied.

Mr. Barkley stated the covers at grade would bring that to their attention.

Ms. Taormina asked what the height of the mound would be, and how and if it would affect the adjoining property, Lot 41.

Mr. Barkley stated right now at the center of the beds it is about 104.3, they are proposing 110.4, so it is 6'. There is an occupied dwelling on Lot 41, at the rear of the property.

Ms. Butula asked about the location of Lots 44 and 41 of wells and adjoining septic tanks.

Mr. Barkley stated the well on Lot 44 is indicated on the map, the septic is not within the 100' radius. Lot 41, there is nothing within 100'.

Chair Nugent stated that considering the height of the mound, noticing to adjoining property owners would be required, the specific issue is that they are looking at 10" of the water table.

Ms. Butula asked that Mr. Barkley testify to the wetlands.

Mr. Barkley stated the person that did the soil testing, John Luber, soil technician, took a cursory review of the area and didn't notice anything conducive to a wetland.

Chair Nugent asked about the size of the pump tank at 1500.

Mr. Barkley stated 1500 was necessary because of the length of run to the disposal bed and the fact that it is a 3" pipe draining back. Pressure dosing a 3" delivery line it is about 1/3 of a gallon per foot of length.

Chair Nugent asked if Mr. Barkley had any questions for the board.

Mr. Barkley confirmed that there would be a meeting in May, and thanked the board.

Chair Nugent stated as a reminder to everyone, they would not hear anymore applications after 10:00 p.m.

### **3. Block 63/Lot 51 – RBZ Enterprises, Mitchell, Stanton Road.**

Escrow fees paid 3/24/08, Ck# 1346, \$750.

Ms. Taormina confirmed with Ms. Petzinger that this applicant had fulfilled the noticing requirements to the surrounding properties.

Mr. Robert Zederbaum, RBZ Enterprises, licensed engineer in the state of NJ, and Mr. John Haley, soils technician appeared before the board representing Mr. and Mrs. Mitchell. This property is a small approximately ½ acre piece of property, 50' wide. A home inspection revealed a failing system.

Mr. Haley stated a total of three soil logs were dug, soil log 1 to 180", mottling was encountered from 12 to 57", a pitbail was run producing 3.01"/hr, the 24 hour reading was 156 1/2". Soil log 2 was dug to 216", mottling from 19 to 87" in this soil log, the regional water is 19", seepage at 144". Soil log 3 which is also pitbail 2 was dug to 146", mottling 19 to 73", seepage at 120", 24 hour static water of 117", regional at 19" due to mottling. Pitbail produced a rate of 2.58"/hr.

Mr. Zederbaum stated due to the configuration of the property, there are numerous waivers needed from this board. The testing was all done in the rear of the property due to the well and driveway located in the front. One of the problems that came up during testing was that a portion of the neighbors septic, one lateral, is on this property, this is noted in the HCHD review letter. Ms. Butula asked Ms. Vaccarella if the board needs to be concerned about this, as far as HCHD regulations are concerned.

Ms. Vaccarella stated no.

There was some discussion of the lateral which extended from Lot 50 onto Lot 51.

Chair Nugent noted for the record that the note that is on the Lot 50 property that says existing seepage pit ± see note 2 has an arrow pointing upward which identifies both the seepage pit below the shed as well as the seepage pit below the letters CH where it says SCHEDULE 40 PVC.

Mr. Zederbaum stated they are relocating the septic tank to keep it 100' from the well.

Ms. Muir asked if there were any easements onto this property, and the age of the home.

Mr. Zederbaum stated no, and the home is 60 years old.

There was some discussion of the gore between Lot 51 and the neighboring township property.

It was determined that the proposed design would remain as submitted.

Ms. Butula asked, referring to Mr. Tareila's 3/10/08 letter, Mr. Zederbaum to confirm where the buffer area was, and why the SGP #25 was recommended.

Mr. Zederbaum stated Mr. Tareila apparently had more detailed information to make that determination than was stated in the letter and that information could be provided to the board.

Chair Nugent stated for the record they are looking at something that was attached to the material submitted entitled ESRI ArcExplorer 2.0.

Mr. Zederbaum stated ArcExplorer is a program that takes shaped files and puts them onto maps.

This is mapping from DEP sites, the shaded areas are the wetlands that DEP shows on their mapping.

Ms. Butula asked that Mr. Zederbaum give testimony that there are no wells or other septic fields within the prescribed distances up towards 49.01.

Mr. Zederbaum stated yes, everything else in the area is considerably farther away, that is no problem.

Ms. Butula recapped, they will have a surveyor come in for placement, an engineer will inspect the final gradient, they are asking that between Lot 50 and 51 the beds are less than 50', the toe of the mound is 6' from the property line, the shape of the mound is 2:1 vs 3:1, pump, and the consideration of 19", and they need an approval to go on for the SGP #25.

Chair Nugent asked what the potential impact was of the distance to the property line being 6' instead of 10'.

Mr. Zederbaum stated a minor swale will be installed on each side of the mound to direct surface water runoff, currently, the water sheetflows across the rear of the property towards the township flagstem. It should not effect the drainage patterns, and certainly will not effect adjoining property owners. The height of the mound is 4 3/4' on the high end and 6' on the low end. The slope of the mound, noted on sheet 4 of 4, indicates that matting will be placed on the slopes to stabilize it.

Ms. Butula stated the necessity for good maintenance and deed restriction information should be emphasized to the new owners.

Mr. Mitchell stated that they would pass on this information.

Chair Nugent asked if there were anyone in the audience that would like to speak to the board regarding this application.

Ms. Cathy Walker Lucas appeared before the board on behalf of her mother, the landowner of 63/50, Gloria Walker. They have no problems with the variances that the applicant is seeking. They were notified of the line that was cut, and they haven't had any problems yet. They do believe they will be putting in a new system, and the concern of the Walkers is that they be granted the same considerations as the current and new owners of Block 63/Lot 51.

Ms. Butula stated the board cannot guarantee that the new neighbors will not contest a variance request, however, the board listens to each case with clarity about following the state codes, and local ordinances. Chair Nugent thanked Ms. Lucas for attending the meeting, and thanks to Ms. Walker also. This is a good indication that the noticing process is working as intended.

Chair Nugent recapped, there are a number of waivers and variances that are being requested. An outstanding issue of the wetlands delineation buffer zones exists.

Ms. Taormina confirmed that Mr. Zederbaum is a licensed engineer in the state of NJ, has proposed the design for this system, this alteration is necessary to correct a malfunction, the proposed system is more in conformity with the state code than the current system, absent of use, the proposed system will provide long term satisfactory use, and all the provisions of the state code are being adhered to, aside from what was discussed here this evening.

Mr. Zederbaum stated yes to all of the above.

A **MOTION** was made by Ms. Butula to approve Block 63/Lot 51 from a map named Septic System for Catherine Mitchell, Block 63/Lot 51, 2/15/08, Readington Twp., Hunterdon County, NJ. The 4 page plan revision date 3/7/08, by Robert B. Zederbaum, licensed professional engineer in the state of NJ. The surveyor was Nicholas Lebo, licensed land surveyor in NJ, dated 2/11/08 @ 160 Stanton Rd. County reports are dated 3/3/08, 3/11/08. This is an alteration with no expansion, pressure dosed fill enclosed mound system. The primary is soil log 2 @ 216", 1/28/08, mottling 19 – 87", seepage @ 144", no hydraulically restricted horizon. Soil log 3 @ 146", mottling 19 – 73", seepage @ 120", no hydraulically restricted horizon. Permeability was pitbail 1 @ 108", done 1/28/08, results @ 3.01"/hour, pitbail 2 @ 146", 1/28/08, results 2.58"/hour, the regional zone established by the 19" of mottling demonstrated in both soil logs. Pitbail 2 will be used for design. Wetland report from Jeff Tareila dated 3/10/08 signifies there will be an application for an SGP #25, needed for replacement of an existing failed septic system with a new field/system within the transition area or buffer of an existing freshwater wetlands. The engineer will provide a more detailed report within 5 business days. There is a necessity for a pump system, it will be filed in the Hunterdon County Clerk's office, it is a permanent attachment to the deed, a copy has to be submitted back to the Board of Health office within 90 days. There are maintenance requirements, including the mound. A variance is granted for the distance of the septic system on Lot 50, will continue to be less than the required 50' of set requirements. The engineer is required to cut permanently and plug the lateral from the adjoining septic system on Lot 50, specifically involving the new proposed system being put in on Lot 51, and the existing system on Lot 50. The toe of the mound will be 6' from the property line. The adjoining property owner was present and made a statement. The slope of the mound will be 2:1 vs 3:1. The engineer will do a final inspection. A variance is also granted for the highest regional water table at 19" in both soil logs, 24" is allowed by code. The system will still have a minimum of 48" of separation from the regional water table and proposed level infiltration. This is a vast improvement over the existing system and will further enhance the public health in that area.

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

Ms. Albrecht	Aye	Ms. Muir	Aye	Ms. Sheay	Aye
Ms. Butula	Aye	Ms. Rohrbach	Aye	Chair Nugent	Aye

Chair Nugent stated considering the time of 9:50 p.m., with apologies, they would not get to the last applicant this evening.

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

Escrow fees paid 11/2/07. Ck. 7199 \$750.00

Previously heard/approved 12/20/06;

Previously heard w/revisions 3/19/08.

Mr. Matthew Fox, licensed engineer and land surveyor in the state of NJ, appeared on behalf of Mr. and Mrs. Patrick. The property is indicated on the plans before the board as Block 55/Lot 7.07. This is a

continuation of the hearing from last month, which left a couple of open issues. A 3/28/08 letter was provided to Ms. Petzinger, the board secretary, itemizing those three items, there was some clarification with regard to the location of certain wells, soil logs, and basin flood tests that were performed previously on the lot currently shown on the plan. Those revisions were made and indicated on the plan, there is a 6<sup>th</sup> revision date, 3/20/08, revised per Board of Health comments on 3/19/08. The second item was with regard to soil log 8A611-3, the applicant has decided to accept the record findings for the zone of saturation within the reserve area as part of the application. They no longer are seeking to reduce the groundwater elevation at that location. The third item was the request for the variance from the 8 weeks of in season groundwater testing that is required by the boards ordinance. We feel that there is a substantial record for the extensive amount of testing that has been done on this site and it is indicative of the existing conditions, and a true and accurate record of the seasonally high groundwater in that vicinity. They also feel the benefits of granting the variance outweigh the detriment of not granting the variance based on the fact that the pump system that would have been required is no longer required, which is a variance in itself. Also, the pump system will no longer be required on the primary system, however that condition remains on the reserve area. The septic system has been designed and reviewed by Hunterdon County as well as Ferriero Engineering. A response letter from Ferriero Engineering was dated 4/8/08 gives a good summary of the application since filing. The system has been designed in accordance with all current NJDEP standards.

Chair Nugent stated regarding the Ferriero letter, pg. 2 under the Reserve Disposal Area, item #2., and more specifically, the standpipes. The tests and standpipes were performed in 1998.

Mr. Fox stated that is correct, both soil logs, SL8A415-1 as well as SL8A611-3 are indicated.

Chair Nugent asked if Mr. Fox could provide the 4 readings taken for the hydraulic head test performed in the vicinity.

Mr. Fox stated he could not, those test readings are court records and the design is based on the record.

Chair Nugent asked the hydraulic head test was where? And is the hydraulic head test performed in the vicinity of the log was noted on the map as piezometer in the northeast corner of the reserve area?

Mr. Fox stated it is indicated between 9" and 20", and yes that is correct. It was indicated in his letter that the basin flood appeared to be taken within the soil log and the piezometer was identified individually.

Chair Nugent asked if the hydraulic head test is usually two piezometers ?

Mr. Fox stated it depends, different towns have different ordinances and procedures.

Ms. Vaccarella stated all the piezometers that were done were paired.

Chair Nugent asked if the piezometer indicated were actually two, or was one missing from the map?

Mr. Fox stated these were located from the approved plan by Stephen Parker dated 12/2006. The location from that approved plan was superimposed on this lot, so he could not answer the question as to whether or not another piezometer is located as a pair with regard to that one.

Ms. Vaccarella stated some of the piezometers were only 8 – 10" deep so it is possible by the time Parker was out in the field that the shallower of the piezometers was no longer evident.

Mr. Fox stated he spoke with United Water, and one of the piezometers was 8", it was to try and test for groundwater at the high end of the system. There were no comments other than that, unless Mr. Patrick has something to add.

Ms. Butula stated they had received a letter from Ms. Tubman acknowledging a new regional zone, but was a new Form 2b done?

Mr. Fox stated no.

Ms. Butula stated to clarify a previous statement, going back to the minutes, "*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.....*” on and on, and then an explanation was made of it. Ms. Butula stated she still did not understand the issue of when the subdivision was granted, what was the primary, what was the reserve, who changed them and what part of it.

Mr. Fox stated he could answer that question. On preliminary subdivision plan the house is located immediately adjacent to the cul-de-sac on Groendyke Road. It has a rectangular box for a house, but had not progressed to the point where there were architectural plans being developed for the lot. The primary septic system was located in the same location, for all intent and purposes, the same location as we are indicating on our plan, however, the reserve bed, which is also shown on the plan was located not where we show it on the plan, but slid closer up towards the dwelling.

Ms. Butula stated that is what you said last time, but we seem to have different statements that have been introduced, so this should be the final one here. The primary that you are submitting on the plan today updated with all of its revisions is exactly where it was all along.

Mr. Fox stated essentially yes, they had to twist it, it overlaps the approved system.

Ms. Butula stated you are saying the same tests, and it is essentially the same *inaudible*, so there was never a switching of the primary for the reserve, and the reserve for the primary.

Mr. Fox stated that is correct, the reserve bed had to be moved due to the development of the architectural plans and that is the issue.

Ms. Butula stated somewhere along the line the concept was thrown out that the primary and reserve had totally been switched.

Mr. Fox stated that is not correct. The reserve bed has been moved 30 or 40’ back to the southeast. The reason is when the architectural plans were developed, Mr. and Mrs. Patrick walked the site and chose the location for the house and that was in conflict with the reserve area. They would like to have left it up near soil log 8B416-2, however, they did not get positive feedback from the County because they had an irregularly shaped bed, so they decided to move the bed back, as shown on the plan.

Ms. Butula stated so matter what has been discussed, you are testifying that the primary for all intents and purposes with some slight movement is the original primary.

Chair Nugent asked Mr. Kosinski to interpret General Comment #3. for the board.

Mr. Kosinski stated that the location that is now proposed as the primary area was used as the reserve area on the subdivision plans. That should have no bearing on the application, soil suitability testing should be *inaudible*.

Ms. Butula asked that Mr. Kosinski restate that for Mr. Fox.

Mr. Kosinski stated the primary reserve area that you are proposing was actually proposed as the reserve area on the subdivision plans. Your primary area has remained the primary area all along, on the subdivision approval, your primary area was actually the reserve area that was....

Mr. Fox stated on the preliminary.

Mr. Kosinski stated on the subdivision.

Mr. Fox stated on the preliminary major subdivision plans, but he was referring to Stephen Parker’s approved septic design from 2007.

Ms. Butula stated there is a possibility in ’98 that they were different than they are now.

Mr. Kosinski stated Stephen Parker actually reversed the beds as well, he utilized the approved primary area as the reserve, and the approved reserve area as the primary.

Chair Nugent confirmed that that was the one that was the pump system.

Mr. Kosinski stated that is correct.

Ms. Butula stated that was not discussed in the previous minutes.

Mr. Kosinski stated both areas were approved in accordance with the code that was in effect at that time, and either would be suitable, as they have to be, for a reserve or a primary area.

Ms. Taormina addressed Mr. Fox, your client purchased this property last summer, and when did they retain your services?

Mr. Fox stated the property was purchased and his services were retained last July.

Ms. Taormina asked if Mr. Fox had advised them about Readington ordinance requirement of 8 weeks of groundwater testing in July of last year.

Mr. Fox stated no, they spoke with Jim Chalupa, and he had indicated that in order to take the soil logs, the town did require 8 weeks of in-ground testing, and it was at that point that they decided to utilize the existing soil logs of record, and base their design accordingly, those logs that had been previously accepted.

Ms. Taormina stated but you had advised your client, and you understood what the timeframe was for the 8 weeks of in-season groundwater testing during the wet season.

Mr. Fox stated yes.

Ms. Butula asked if she were not correct, in that Mr. Fox has moved on to one test that has not previously been accepted.

Mr. Fox stated a question did arise about one of the soil logs not being read into the record during the court proceedings, for the reserve bed, one of the logs, SL 8A611-3 in the reserve bed. Their position at that time was that they were going to try and establish the water table at 90" or 88". Currently it is around 20" and the applicant has acquiesced to the board's position where the reserve bed regional water table will be of record at 22" or whatever and Ms. Tubman has also sent us a copy of the deed restriction that was previously placed on the property for the approved pump system that was done in 2007.

Ms. Butula stated is it not that you are coming in front of us for approval for soil log 8A-611-3 ?

Mr. Fox stated that is correct.

Ms. Butula stated she would like to refer to the board attorney's question, in July, had you known that when you were coming here to submit for a review and approval, 8A-611-3, did you or your client consider that you would need 8 weeks of in-season ground water monitoring at that point ?

Mr. Fox stated yes, when we spoke to Mr. Chalupa, he is the one who indicated that that was the requirement before the board. Mr. Fox spoke with Mr. Patrick, and the decision, they filed the application in December – it was a question of timing, they had hoped that they would be able to move forward with their application in a timely manner without the 8 weeks of testing.

Ms. Butula stated so you made the decision in December not to pursue the in season groundwater monitoring that would have been available in January through April on the basis that you would come in here and take the position that you are taking now.

Mr. Fox stated not entirely, not all of those facts were available at that time, but as the application has progressed, they do understand the ordinance and the requirement for in-ground testing, and that is why they are asking for the waiver.

Ms. Butula stated as is stated in the Board of Health ordinance, when considering granting variances and permissions, under Section 4., why does this application fall under, or is entitled to a variance, based on, and this can be answered now or adapted to in the future, why do you think using the science and Section 4., why do you feel that you and your client fall under the provision of asking for it?

Mr. Fox referred to his letter dated 3/28/08.

Ms. Butula stated that letter is not detailed enough according to Section 4.

Mr. Fox stated the soil logs are a true and accurate representation of what they feel is in the field, therefore, that is why they are asking for a waiver from the 8 weeks of testing, they already have a solid record of what is below the soil.

Ms. Butula stated so that would be your extraordinary and exceptional situation?

Mr. Fox stated yes, and the benefits of granting the variance certainly outweigh the detriment of not granting it because of the fact that the tests are representative and we are eliminating one of the variances under the towns code. That is a positive thing.

Ms. Taormina stated you are requesting one for the other, you are changing off one for one.

Mr. Fox stated there were two, and now we need one.

Ms. Butula stated she sees it as somewhat of a negative that they had from July through December to assess this situation and had time available to do the 8 weeks of in-season groundwater monitoring *inaudible* you said you didn't have everything.

Mr. Fox stated he would disagree.

Ms. Butula stated as a professional, that is 5 months, and then to come here and ask us for it, she has a little problem with that.

Mr. Fox stated to respond, in December, they filed their application.

Ms. Butula stated what about the ground work before December, preparing the case, looking at the property, knowing your soils, the history of the property, that this is severe soils, and is going to need 8 weeks of groundwater monitoring.

Mr. Fox stated in December they filed their application, some information has become more apparent since the beginning of the application. He did not feel that it was appropriate to Mr. Patrick once he has filed the application to then change the application and say that we are no longer going to pursue it, we are going to do in-ground testing. He did not think that was fair, or that Mr. Patrick had anticipated that they would have run into that problem, if he did he may have decided at that time to hold off and do the groundwater monitoring. He did indicate in his letter that in the event that he does decide to change the reserve area from a pump to a gravity system, he would be required to do some additional groundwater monitoring.

Ms. Albrecht excused herself at 10:18 p.m.

Ms. Muir stated that considering the time, they should consider carrying this application to the next meeting. Chair Nugent stated Mr. Fox, acknowledging the April 8, 2008 letter from Ferriero Engineering, does he concur with the fact that 8A-415-1 as well as 8A-611-3 now need to be included in the analysis and approvals of the reserve area ?

Mr. Fox stated no, 8A-415-1 is located more than 15' outside the proposed bed area. The two soil logs were soil log 8B610-2, which is of record, and 8A611-3, which was not, and which is why they are requesting the variance from the in-ground testing.

Chair Nugent stated so your opinion is that 415-1 is not to be considered in the reserve area?

Mr. Kosinski stated it certainly is relevant because it is within 15' of the bed, because it scales that way. He would suggest in the next revision that they put a dimension on there to demonstrate that it is not within 15' of the bed.

Ms. Muir asked is it, or not?

Mr. Fox stated it is further than 15', they show a 15' dimension from the bed to the edge of the property line, and it would be 15' if it were exactly opposite, he would testify as a professional surveyor that from the soil log to the corner of the bed is greater than 15'. It is probably closer to 20'.

Mr. Kosinski stated he would just ask that it is indicated on the plan.

Mr. Fox stated they were not requesting that as part of their design criteria, there are numerous soil logs on this lot, they chose the ones that were coordinated with the location of the bed. SL8A415-1 is located outside the scope of their investigation and outside the 15' so they did not include it in their application. The ones that they are including as part of their analysis, they did show the dimensional data, SL8B610-2, which was included, the dimensional data from the soil log to the edge of the bed is shown as 6'. If they were going to use SL8A415-1 they would have provided the dimensional data.

Ms. Muir asked Mr. Kosinski to explain why in #3. under Reserve Disposal Area the statement is there that SL8A-415-1 is located within 15' of the end of the proposed reserve disposal area.

Mr. Kosinski stated the edge of the soil log and the edge of the fill enclosure based on the 30' graphic scale appears to be within 15' of the reserve area.

Mr. Fox pointed out, as a point of inspection the 15' from the property line to the edge of the bed, which is clearly indicated on the plan, from the edge of the bed to the property line is 15'. If the soil log were slid up 10' in a north westerly direction and it was exactly opposite the end of the bed, then he would agree it is within 15', however, since the soil log is located southwesterly from the edge of the bed, it has to be more than 15', maybe 17.5' – 18'.

Mr. Kosinski stated they would ask that the dimension be put on there to verify.

Chair Nugent stated he concurred. The other question of clarity is that the board engineer has advised that the code requirement is that the soil logs be within 15' of the end or the outer edges of the proposed bed. You are proposing to use 8A-611-3, which is in excess of 15' from the end.

Mr. Fox stated it is within the bed.

Chair Nugent stated that the code translation by our engineer suggests that it should be within 15' of the end, so how would you respond to that?

Mr. Fox stated he did look into the code, and it doesn't talk about the end of the bed, it talks about 15' from the limits of the bed. He tried to comply with Ferriero's request to be within 15', they did that, to be within the ends of the bed. Certainly the soil log located within the bed area should qualify. Mr. Fox stated he did research it within the code itself and read that it has to be within 15' of the limits of the bed, not necessarily the ends.

Ms. Taormina asked Mr. Fox to explain what in his mind is the difference between the limits of the bed and the end of the bed.

Mr. Fox stated it could be the sides, not necessarily the end, it could be the width, not necessarily the length. Chair Nugent asked what the approximate dimensions of the reserve area length and width were.

Mr. Fox stated 28' x 60'.

Chair Nugent stated so if they were at opposite sides instead of ends, then they would still be able to achieve the 15' separation, correct? Which is also required by the code.

Mr. Fox stated that is correct, normally anytime the soil log is taken within the bed area or 15' from within the limits of that bed then that log qualifies as a design criteria for the bed. Even though Ferriero had indicated that they wanted the design within 15' of the ends, they tried to comply even though the code was slightly different.

Mr. Kosinski stated the issue at hand by discussion with Paul Ferriero is the necessity for 8 weeks of additional groundwater monitoring. You do 2 profile pits per disposal area to do a subsurface evaluation of the conditions that are present on the site, and the fact is that the court approved log 8B610-2 has a fractured rock substratum of 22", and 8B415-1 which may be within 15' of the bed also has a fractured rock substratum within 3' of the ground surface which necessitates the 8 weeks of groundwater monitoring. The question at hand really is soil lot 8A611-3 indicative of the subsurface condition when they have a fractured rock substratum at one end of the bed at 22" and at the other end of the bed within 3'. This is really the purpose of the subsurface investigation to identify the conditions.

Chair Nugent stated so the contention is that 4158A-415-1 albeit possibly 16 or 17' away is..

Mr. Kosinski stated if it is 15' away it is relevant the question is since you have fractured rock or non-soil at 22" and *inaudible* (companion ?) log and you need two soil logs to prove suitability, would you also need to do groundwater monitoring *inaudible*.(on that condition ?)

Chair Nugent stated 8 weeks.

Mr. Kosinski stated the relevance as to whether or not you want to use 611-3 or 415-1 may not be as important as the overall picture that you are trying to provide suitability for a reserve disposal area, you have to base it on 2 lots. Again, their office does not dispute the previous investigation, and findings, it is a matter of compliance with the current ordinance.

Chair Nugent stated to paraphrase the situation status, we have the applicant proposing to use soil log 8A-611-3 along with pre-court approved soil log 8B-610-2 for the reserve area and the percolation tests permeability tests as done in the piezometer that is indicated on the map that apparently had 4 readings taken on it, is that correct Mr. Fox ?

Mr. Fox stated yes, he believed so. He believed the depth to groundwater was substantial, down around 8' .

Chair Nugent stated by contrast, we have our engineer putting forth the thought that 8A-611-3 being in the middle of the log and not necessarily being as consistent with the other log as 8A-415-1 suggests that 8A-611-3 is perhaps not indicative of the soils in that proposed area.

Mr. Fox stated the log is located within the bed area, so how would it not be indicative of the characteristics within the bed?

Mr. Kosinski stated they are just suggesting that they have to take all the information into consideration when trying to demonstrate suitability. The issue at hand here is whether 8 weeks of monitoring are required, or whether a waiver is justified based on the previous investigation. That is the issue at hand.

Chair Nugent addressed the boardmembers stating that there are a couple of options, the application could be approved based on the information that has been submitted and accept the 4 readings and the piezometer without inclusion of the log that is a foot or two beyond the 15' distance, and at that point it would be compliant with the ordinance if they did not include 415-1. If by contrast they feel that 415-1 is part and parcel of the soils in this area, then the 8 weeks of in-season groundwater monitoring would be

required and the applicant is suggesting that the 4 readings taken over three days would possibly be sufficient to supplant the 8 weeks of in-season groundwater monitoring. Is that a correct paraphrase? Mr. Fox stated the thought that applied to soil log 8A611-3, not 8A415-1. Chair Nugent stated yes, it does, you are right.

Mr. Fox stated that it was their hope that the soil logs were representative of the water table, on that basis they are asking for the waiver, and those others as discussed previously and noted in his letter.

Mr. Kosinski stated their office would not dispute the groundwater observations and findings of the previous investigation. The issue really is whether 8 weeks of monitoring are now required because the grandfathering period has elapsed.

Ms. Taormina stated to comment so that Mr. Fox can understand where the board is coming from, there have been many other applications where, and based on their decision tonight there may be many future applications where an engineer is going to decide to do a handful of piezometers and hydraulic head tests and usurp 8 weeks of groundwater monitoring. Respectfully, under the requirements to seek a variance, and the undo hardship, etc., based on Mr. Fox's testimony that your client retained you in July 2007, nothing was done until December 2007, she does not see the undo hardship for any decision to be made by this board. There was 5 months where the ordinance could have been researched. With the wet season coming to do the testing, and in all likelihood, could have been on the April 2008 agenda with 8 weeks of groundwater monitoring under your belt.

Mr. Fox stated their plan was to get on the agenda in December 2007, and hopefully get an approval in January 2008, so that they could begin building in the spring. To go back to the point about engineers doing tests here and there, they are strictly dealing with the record and what has been done on the site. He hasn't taken any soil logs or piezometers on the lot at all, he is strictly relying on the record.

Ms. Taormina stated there have been engineers where prior testing has been done on a property, this board has to decide in those instances, what were they going to do. Under Section 4. of 99-02 which sets the standard for seeking a variance, it is certainly beyond the analysis referenced in Mr. Fox's letter as far as extraordinary circumstances, undo hardship.

Mr. Fox stated he has just spoken to Mr. Patrick and would like to request that the board carry the application to the next month, Ms. Tubman would be available to address that issue, he will also show the board the distance and confirm that it is greater than 15', if that is the board's preference. Mr. Fox stated he understands the feeling of the board and is not trying to set a bad precedent for the town. Ms. Tubman would articulate for the board the request for the waiver of 8 weeks of in-season groundwater testing.

Chair Nugent stated that is an advisable direction to take. In either case, the wet season monitoring period is over, which is unfortunate. If the board chooses to grant the variance then you could move forward sometime this year, if the board chooses not to grant the variance, then unfortunately you will be held up until January, at which point you would be able to perform the 8 weeks of in-season groundwater monitoring.

Mr. Fox stated he wanted to take exception to the statement that they weren't doing anything for a couple of months. They were actively pursuing this application every opportunity that they had. The Hunterdon County Health Dept. has an extensive file on this property.

Ms. Butula stated it wasn't meant to imply that nothing was being done, there was just the question of while they were doing the application process, if it had occurred to them to identify the soils as severe, and plan for the 8 weeks.

Mr. Kosinski stated through the course of this application, it really didn't come to light until about January that groundwater monitoring may be required because the soil logs that were approved were no longer utilized because they had to shift the bed.

Mr. Fox stated that is correct.

Mr. Kosinski stated initially when you first came forward in November, it wasn't an issue. This isn't the first property that has come before the board that was approved under the old ordinance and that required additional testing because the ordinance had changed. This is an extraordinary case because they had a court ruling on some logs and those proceedings to consider, but this isn't the first property this board has seen that has been required to comply with the ordinance.

Ms. Butula stated they are also interested in seeing how this evolved, that is taken into account.

Mr. Fox stated they have worked vigorously to satisfy the board.

There was some discussion of witness time and availability.

Mr. Kosinski stated if the board found itself in a position to consider granting a waiver, additional information would be helpful.

Mr. Fox stated they would be willing to do whatever the board required.

Ms. Muir stated that the ordinance gives a set amount of time for the wet season in the beginning of the year. People who come before this board read that ordinance and act accordingly. The necessity to waive the ordinance for additional time does not seem apparent.

Mr. Fox stated hopefully Ms. Tubman would provide the testimony required to understand the applicant and variance request.

Chair Nugent suggested closing the meeting for this evening, apologized for the lateness of the hour, and thanked the applicant for their patience. Their suggestion of having counsel next month is a good one. The final issue at hand is the waiver of the 8 weeks of in-season groundwater monitoring, if they could adjust the map with that distance.

There was some discussion of the original soil logs representing the 29", and the fact that they did not need a revised Form 2b.

Mr. Patrick asked if it would be a problem that he and Mrs. Patrick would not be able to attend the next meeting ?

Chair Nugent stated it would not be a problem at all, although they do appreciate their attendance.

Mr. Fox asked if there were any other items that had to be addressed ?

Chair Nugent stated he did not think that there was.

Chair Nugent stated his apologies, and that they had intended to get through the application this evening.

Mr. Fox stated he had hoped they would, and thanked the board

### **Category B. – Subdivisions**

*The following application was not heard:*

**1. Block 39/Lot 8.01 – Mantz Engr., Adner Ebib Realty Corp., Ridge Rd.**

Escrow fees paid 9/21/06 Chk. #8080, \$1,000.00.; 9/12/07 Chk. # 9021 \$1,000.00

Previously heard 2/20/08

### **G. ADJOURNMENT**

A **MOTION** was made by Ms. Muir to adjourn at 10:50 pm, seconded by Ms. Sheay with a vote of Ayes all, Nays, none recorded.

Respectfully submitted:

Lorraine Petzinger  
Board of Health Secretary