

**HARDING TOWNSHIP
BOARD OF HEALTH
THURSDAY, APRIL 11, 2024**

Meeting Minutes

Dr. Cervone called the April 11, 2024 meeting of the Harding Township Board of Health to order at 7:30 p.m., and announced the meeting was called in accordance with the laws of the State of New Jersey.

ROLL CALL:

Secretary Sharp called the following Board of Health members in attendance.

BOH Attendance: Mrs. Chambers, Mrs. Chipperson, Mr. DeNave, Dr. Lacz, Mrs. McKittrick, Mrs. Somers, Dr. Cervone

BOH Attorney: Joseph Sordillo, Esq.

Health Department Attendance: Mrs. Lisa Sharp and Mr. George Byrnes

County of Morris Attendance: Miss Shelby Meyers, REHS

Public: 8 Members of the Public

BOARD OF HEALTH WAIVER – GAIL WHITING/JOHN SCHULER, 28 LAKE TRAIL WEST

Mr. Sordillo, Board of Health Attorney, conducted the swearing in of Mr. Steve Parker of Parker Engineering for the applicant Ms. Whiting. Mr. Parker explained that this property is a small lot, about .3 acres. The applicant is renovating to update and modernize their home. There is a split septic system, some parts are in the front and some are located in the back. The septic is working fine, the soil is good, and there is no increase in the number of bedrooms. The applicant is looking to move the staircase from the back of the house to the front of the house. The waivers being requested are as follows:

1. The State Health Code (NJAC 7:9A) and the Harding Township Health Code require a minimum setback distance from an occupied dwelling to a disposal field to be 25 feet. This application proposes a distance of 15 feet in front of the dwelling.
2. Harding Township Code and the New Jersey State Health Code (NJAC 7:9A) requires the minimum setback distance from a dwelling to a septic tank to be 10 feet where the applicant is proposing a distance of 7 feet.

Mr. Parker explained the back part of the house is at the basement grade level. The addition to the house is the first floor and part of the addition will be supported by piers. A discussion ensued pertaining to the setback distance from the dwelling to the septic tank in the back. Mr. Parker provided the Board members with a look at the architectural plans as they were not submitted with the waiver application. Mr. Sordillo, BOH Attorney asked Mr. Parker to submit a copy of the architectural renderings so a copy is on file. A question was asked regarding the distance requirement for the pier. Mr. Sordillo mentioned that the pier itself needs to be a minimum of 10 feet away. Mr. Byrnes explained that the footing for a deck can be reduced to five feet by the Administrative Authority. Dr. Cervone asked if the Township Ordinance allows this. Mr. Byrnes responded with no. Mr. Byrnes asked if the slab in the front is going to go down below grade. Mr. Parker said it will go down to the basement level.

A question was asked with regard to the front waiver is the State code the same as the Harding Township Code. Mr. Byrnes commented that the State code is 25 feet which is the same as the Township's code. A discussion ensued pertaining to the front of the house. Mr. Parker asked if the addition was changed to the front of the house, would the applicant be required to come back before the Board. Mr. Sordillo explained that the Board could grant approval now with a condition if it does not exceed the existing, it would not have to come back before the Board. Mr. Sordillo explained to the Board that the Board could conditionally grant the distance to the septic field in the front subject to not exceeding the existing conditions.

Dr. Cervone asked Mr. Sordillo to recap the waivers being requested. Mr. Sordillo reported that a motion to approve would be granting:

1) The requested relief from the minimum setback distance from the dwelling to the septic tank which requires 10 feet but the applicant is requesting approximately 6 to 7 feet which is the distance from the rear of the building where it was testified that it was being elevated and the issue is the column holding up the elevated building.

2) With regard to the front of the building where the request is to allow to exceed the distance requirement from 25 feet from a proposed dwelling. There is an existing condition where the distance is approximately 20 feet. The applicant is asking the Board to extend it by approximately 3 feet. This would further decrease the distance from the disposal field to a property, the Board will act favorably upon this request subject to the applicant able to reduce the addition to only extend to where the existing condition is from the existing dwelling to the existing disposal field in the front yard. If the applicant cannot accomplish this, the applicant would be required to come back before the Board to discuss what could be alleviated based on what the applicant is able to do in the front yard.

Upon a motion made by Mr. DeNave, seconded by Dr. Lacz, and with a roll call vote of all ayes, none opposed, the Board of Health granted the waivers based on the above stated condition as reported by Mr. Sordillo, BOH Attorney.

Let the record show that Ms. Whiting and Mr. Parker left the meeting at 7:55 pm.

BOARD OF HEALTH WAIVER – 15 VILLAGE ROAD LLC, 15 VILLAGE ROAD, NEW VERNON

Mr. Sordillo, Board of Health Attorney, conducted the swearing in of Mr. Ryan Smith of Yannaccone Villa and Aldrich and Ms. Nicole Magdziak of Day Pitney. Mr. Smith explained that there is an existing building, a parking lot, garage, well, and the septic system is located behind the garage. The property is 1.255 acres and is located in the R-3 residential and B-1 historic village business zone and the New Vernon Redevelopment area. The property currently contains a two-story farmhouse style building which contains commercial offices.

The applicant is looking to create a total of four (4) residential buildings contained within three (3) new residential buildings located at 15 Village Road. Each building will have their own septic tank. The three tanks from the first three (3) units will be directed to an Aqua Clear 1,500 Advanced Wastewater Treatment system. The unit in the back will have its own Aqua Clear 1,000 system. The applicant is also proposing to construct driveways, walkways, and patios and to install landscaping and other related site improvements, including a new septic system. Mr. Smith explained the applicant is seeking a waiver from the Board of Health for a required septic reserve area. Mr. Smith reported this system as designed

complies with both the Harding and State code except for the reserve area. A reserve area is an area set aside, that a replacement septic field could be built in the event if the first septic bed malfunctions. As part of the use for the Aqua Units there is a maintenance agreement for the life of the system and has to be kept in place in compliance with the State code. The property has to be deed restricted to ensure the maintenance agreement never expires. The system will be inspected every six (6) months.

Mr. DeNave explained this is one of those situations that are so important. The Board of Health takes granting waivers very seriously even when they are stricter than the State code. Since Mr. DeNave has been on the Board, it has always been when there is a hardship. In this application, you are being asked by your client to put new buildings on this site and you are creating the situation here yourselves. There is no room for a reserve area because you are placing buildings where a reserve area could go. Mr. DeNave explained he is troubled by this fact, because the Board has never been in a position as this. New applications have an opportunity to comply and should comply. The reason why the Board is stricter than the State code is because we want to be and this one is avoidable. This creates an issue for future applications where people will think that it could automatically be wiped out just because they would like more density on the property.

Mrs. McKittrick asked a question with regard to the deed restriction; all of the units would be rentals. Mr. Smith said that is correct. Mrs. McKittrick asked if there is a plan for these units to be for sale for individual purchase. Mr. Smith responded with no.

Mrs. Somers commented that she agrees with Mr. DeNave, this is self-inflicted. Mrs. Somers commented that this is a densely populated area with wells and septic. The applicant could get rid of one building for a septic reserve. A lengthy discussion ensued amongst the Board members and Mr. Smith pertaining to ground water and grading, surface water concerns, trees, landscaping, deed restriction, and code requirements pertaining to new construction.

Dr. Cervone opened the meeting to members of the public.

Mr. Phil Rosenbach, lawyer for Mr. and Mrs. Kovacs commented the NJ State code has a section applicable for this development and the Harding Township code has a section applicable for this development. The NJ Administrative Code specifically permits towns to be more demanding than the standards of NJ Administrative Code. Mr. Smith answered correct to all comments. Mr. Rosenbach commented that your notice states the applicant meets State requirements but does not meet Harding Township code requirements. Mr. Smith responded that is correct. Mr. Rosenbach mentioned that you have heard this evening from the Board members that Harding Township has a stricter code for reasons and the only basis given for disregarding Harding's requirements is in your professional opinion as the requirement. Mr. Smith commented that is not what he stated, what he said was there is exceptional soils in this area plus the applicant is introducing advanced wastewater. The requirement for the reserve area was written in a time period before effluent filters, before advanced wastewater treatment, and before pressure dosing. There are technologies now that make the effluent much cleaner before it goes into the septic bed. Mrs. McKittrick commented as a reminder that the Board has made very deliberate changes to their septic code, in consideration of advanced wastewater, about ten years ago as the Board wanted a more science-based foundation for the Boards ordinances.

Mr. Wilder, resident – commented on impervious coverage. Concerned with extra water.

Mr. Sordillo, BOH Attorney reminded the Board of Health members that we want to focus on what the Board's obligations are. There is talk about impervious coverage, tree removal, landscaping and while some of this does enter into a request for a waiver for the reserve area for a disposal field which can affect water runoff, the Board must remain focused as you are being asked if our code requires a reserve

septic field, it's a requirement, not an option and they are asking for a waiver of that. In order to grant a waiver, the Board needs to have justification to deviate from what the requirements of the ordinance are. The Board needs to deliberate if there is a requirement for the reserve field in our code and whether or not the applicant has provided sufficient information to justify a waiver from that requirement.

Mr. Smith commented that what he hears from comments from the Board and from the public, the Board is not willing to grant the waiver for the reserve area. Mr. Smith explained he has an alternative if the Board would like to hear it. Mr. Smith provide the Board members with Exhibit A-1 for review.

Mrs. McKittrick commented that it is inappropriate to ask the Board members to speak on this new exhibit where the public has not seen a copy nor the members of the Board of Health. Mr. Sordillo, commented that notice of this new exhibit, which we will entered as Exhibit A-1, was not noticed to the public and given the sensitivity of the site, it is not appropriate to ask the Board of Health members to provide you're their opinions. A further discussion ensued.

Dr. Cervone asked if there is a motion. Mrs. McKittrick made a motion for this application to be tabled, seconded by Dr. Lacz, and with a roll call vote of all ayes, none opposed, the Board of Health tabled this waiver application.

MINUTES FROM MARCH 14, 2024 BOARD OF HEALTH MEETING:

Dr. Cervone asked if there were any questions with regard to the March 14, 2024 minutes. Upon a motion made by Mr. DeNave, seconded by Mrs. Somers, and with a vote of all ayes, none opposed, the minutes for the March 14, 2024, meeting were accepted.

MONTHLY HEALTH DEPARTMENT REPORT FOR MARCH 2024:

Dr. Cervone asked if there were any questions regarding the monthly Health Department report for March 2024.

Mrs. Sharp informed the Board that the Health Department received a change in court date notice for a virtual hearing on April 11, 2024 for a previous dog bite complaint. Miss Meyers reported that Stephanie Gorman and Jessica Freer attended the virtual hearing, but the resident did not show. Miss Meyers mentioned that the Judge was looking into issuing a bench warrant. Mrs. Sharp mentioned that Miss Freer contacted me to see if the dogs were licensed. No dogs have been licensed to date. A brief discussion ensued.

Dr. Cervone asked for a motion to accept the March 2024 monthly Health Department report and financial. Upon a motion made by Mr. DeNave, seconded by Mrs. Somers, and with a vote of all ayes, none opposed, the monthly Health Department report for March 2024 was accepted.

COUNTY OF MORRIS MONTHLY REPORT OF ACTIVITIES FOR THE TOWNSHIP OF HARDING – MARCH 2024

Dr. Cervone asked if there were any comments or questions with regard to the Morris County Monthly Report.

Miss Myers reported that Septic inspections have increased. Miss Meyers explained that the Morris County Health is conducting a 15-minute survey regarding concerns of health matters in the community. Mrs. Sharp was sent a flyer. A discussion on where to send the flyer ensued. It was recommended sending the flyer to the Kemmerer Library, the Seniors, Thumbnail, and placing it on the Harding Township website. Mrs. Somers mentioned that this type of flyer would be good to send to the Highlands Counsel and ANJEC.

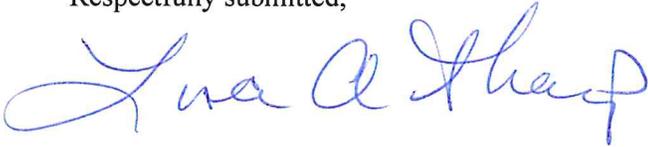
With no further comments, a motion was made to accept the March 2024 Monthly County of Morris report by Dr. Lacz, seconded by Mr. DeNave, and with a vote of all ayes, none opposed the monthly Morris County report for March 2024 was accepted.

OTHER MATTERS AND HEARING PERSONS PRESENT:

There were no other matters, and no hearing persons present.

With no further business, a motion to adjourn was duly made by Dr. Lacz, seconded by Mr. DeNave, and with a vote of all ayes, the meeting adjourned at 9:00 p.m.

Respectfully submitted,



Lisa A. Sharp
Secretary, Board of Health