



Board of Health Agenda

Tuesday - October 08, 2019 5:30 PM

Community Room, City County Complex, 414 E Callender Street, Livingston, MT

BOH ADMIN

CALL TO ORDER/ROLL CALL

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA (5 Minutes)

Approve minutes from the August 14th BOH meeting.

[81419PARK COUNTY BOARD OF HEALTH SPECIAL MEETING.docx](#)

OLD NEWS

NEW BUSINESS

Variance Request for Zimmerman

[ZIMMERMANSite Plan.pdf](#)

[ZImmerman2019.docx](#)

REPORTS

NURSE/HEALTH DIRECTOR REPORT

SANITARIAN REPORT

Animal Code Enforcer's Report

BOH CLOSING

PUBLIC COMMENT

ADJOURN



PARK COUNTY BOARD OF HEALTH SPECIAL MEETING

Wednesday August 14th 2019

City County Complex/Community Room

414 E. Callender St.

Attendance: BOH Members- Peggy O'Neill, Mike Inman, Kris Pierson, Caleb Minnick. Bill Berg; County Commissioner, Kaleb Pearson; Lead sanitarian Health Dept. Trish Fievet; Health dept.

Public; Dave Schroeder and Nick Turner.

Call to Order: 5:30 P.M.

Approval of Minutes: Bill berg moved to approve the July 9th minutes Kris P. seconded the motion. Minutes passed.

Old Business: None

New Business:

The Holding Tank Variance for Ridge Line Roofing Company. After the board reviewed the information for this variance. It was decided that they would motion to post pone and reconvene next month on September 11th 2019 BOH meeting.

Mike Inman motioned to post pone the meeting until next month. Bill Berg seconded the motion. Motioned passed and meeting is scheduled for September.

Public Comments: None

Adjourn: 6:45

NA

Power line
power pole

Alley

water
will move under
house
Replace
with
Riser/Shot
off

Storage shed

D Box

1000
GAL.
TANK

LARGE RADIUS
SWEEP

5' from
property
line

36" c-c spacing
BED

5'
FROM
PROPERTY
line

Randy Hollano property

Chamber Building Property

DRIVE WAY

BLAKE

May 212



PARK COUNTY ENVIRONMENTAL HEALTH

414 East Callender Street, Livingston, MT 59047
406-222-4145 parkcounty.org

September 30th, 2019

To: Park County Board of Health

RE: Variance application for a cesspool replacement for Blake Zimmerman in Cooke City

Introduction:

The applicant, Blake Zimmerman, is requesting a variance from the Board of Health that, if granted, would allow the construction of a new pressurized absorption bed at his residence at 210 Main St W in Cooke City, Montana. The house is currently served by a non-permitted cesspool that is showing signs of failure. The current cesspool does not meet the 10 foot separation distance to property lines, and may actually cross the property line to the east. Mr. Zimmerman is requesting a variance from the required 10-foot separation distance from septic tanks and drainfields to property lines to install a new absorption bed no less than 5 feet from his property lines.

Background

The wastewater disposal system serving this residence was most likely installed when the house was built in 1958. Park County did not issue permits then but it is believed that the current system is a cesspool/seepage pit, which were commonly installed during that time period. Because there is no permit, it is hard to tell exactly where the cesspool actually is but it is believed to be on the east side of the property, right up next to the eastern property line possibly encroaching onto the neighbor's property to the east.

Mr. Zimmerman wishes to abandon the failing cesspool and replace this it with a 1,000-gallon septic tank, 500-gallon pump chamber, and a pressurized absorption bed approximately 35' x 10' in the back of his property with an area in the front yard designated as the future replacement site for the drainfield. Due to the small size of the property (two lots), the new drainfield and tank cannot meet the required 10 feet separation distance to the neighboring property boundaries while maintaining adequate square footage of absorption surface.

Mr. Zimmerman is requesting a variance from ARM 17.36.323 Table 1, which states that all septic tanks and drainfields must meet a minimum horizontal setback from a property boundary of 10 feet. He has proposed to install the new drainfield and tank no less than 5 feet away from his Eastern and Western property lines.

Approval of a variance by the Board of Health may only be granted if the criteria of ARM 17.36.922 are met.



PARK COUNTY ENVIRONMENTAL HEALTH

414 East Callender Street, Livingston, MT 59047
406-222-4145 parkcounty.org

Discussion of ARM 17.36.922 Criteria

The Board of Health may grant a variance from a requirement only if it finds that all the criteria of ARM 17.36.922 are met.

The Department offers comments (bold) on the following criteria:

- (a) Granting the variance will not:
 - a. contaminate any actual or potential drinking water supply;
 - i. **Department Comment: All properties in the surrounding area are served by the Cooke City Public Water Supply and not individual wells. The closest private well in the GWIC database is approximately 900 feet away from the proposed new drainfield. The Cooke City Public Water Supply wells are about a mile away from the proposed new drainfield.**
 - b. cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
 - i. **Department Comment: The septic tank will be constructed of concrete and has sealed lids which do not allow access to insects, rodents, or other possible carriers of disease to humans. The absorption bed will be buried underground and landscaped so there will be no attractants to pests.**
 - c. cause a public health hazard by being accessible to persons or animals;
 - i. **Department Comment: The septic tank will be sealed with lids that are used for pumping access and will not cause a public health hazard by being accessible to persons or animals. All components of the absorption bed will be buried or properly sealed and will only be accessed when maintenance or repair is needed.**
 - d. violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in this subchapter except for the rule that the variance is requested from;
 - i. **Department Comment: The proposed system will be designed and constructed in accordance to all applicable regulations except for the rule that the variance is being requested.**
 - e. pollute or contaminate state waters, in violation of 75-5-605, MCA;
 - i. **Department Comment: The proposed absorption bed is located approximately 430 ft away from the nearest state water, the Soda Butte Creek. This is farther than the required minimum setback of 100 ft. At this distance, this proposed system will not contaminate state waters.**
 - f. degrade state waters unless authorized pursuant to 75-5-303, MCA; or
 - i. **Department Comment: Non-degradation rules do not apply to this parcel as the residential structure has been in existence prior to April 29, 1993 when these rules came into effect, and it not a new or increased source as defined by ARM 17.30.702.**
 - g. cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration;



PARK COUNTY ENVIRONMENTAL HEALTH

414 East Callender Street, Livingston, MT 59047
406-222-4145 parkcounty.org

- i. Department Comment: Septic tanks are sealed, buried below the surface and do not cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration. The absorption bed will be backfilled with loamy materials, seeded with local grass, and will not cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration if not abused and proper maintenance is performed.**
- (b) compliance with the requirement from which the variance request would result in undue hardship to the applicant;
 - i. Department Comment: Because of the size of the lot there is no option to replace the current cesspool that would not require a variance. Installing a holding tank would also require a variance, and pumping the tank when needed would result in an undue hardship. This is not a seasonal residence, the location is remote, and because of the heavy snowfall in the winter it is sometimes inaccessible by pump trucks, which would result in them unable respond to a pumping call in a timely manner.**
- (c) the variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented and;
 - i. Department Comment: Since the current system has been in use since 1958, there is nothing the applicant could have reasonably done to prevent failure. Septic systems are known to have a finite life, and the 61 years the system has been in use is typical, if not above average, for this type of system. Cooke City does not have a centralized wastewater treatment system, so there is no other option than installing a new onsite wastewater treatment system to replace the failing cesspool.**
- (d) no alternatives that comply with the requirement are reasonably feasible.
 - i. Department Comment: Due to the physical constraints of the lot size, there are no alternatives that can comply with the requirements that are reasonably feasible. There are no areas on the lot that would allow for a new onsite wastewater treatment that would not require a variance. Installing a holding tank would also require a variance, and that type of system is not ideal for a full-time residence. The location is remote, and because of the heavy snowfall in the winter it is sometimes inaccessible by pump trucks, which would result in them unable respond to a pumping call in a timely manner.**

In addition, according to the Park County Onsite Wastewater Treatment System Regulations, a variance may be Approved only in the event that all of the following circumstances are found to exist:

- 1. The strict application of the regulations would result in extreme difficulty or undue hardship for the Applicant:
 - a. Department comment: There is no area on the lot that would allow for a new septic tank and drainfield that would not require a variance. The only other option would be to install a holding tank, however that would also require a variance and would**



PARK COUNTY ENVIRONMENTAL HEALTH

414 East Callender Street, Livingston, MT 59047
406-222-4145 parkcounty.org

result in extreme difficulty or undue hardship for the Applicant for the reasons noted elsewhere in this document.

2. The Applicant provides sufficient evidence demonstrating that the proposal for a variance would not be detrimental to the purposes of these regulations:
 - a. **Department comment: The new tank and pressurized absorption bed will serve to protect human health and environmental quality, in line with the purpose of the Park County Regulations. The tank and absorption bed will meet all applicable rules and construction standards outlined in Montana Circular DEQ 4 except for the required setback distance to the property lines. The abandonment of the old cesspool and replacement with a new system would be an improvement to the environment and groundwater in the area. Granting the variance will not violate the Montana Water Quality Act, and the new proposed system will not give rise to odors or unsightly appearances.**
3. The variance proposed is the minimum variation which would alleviate the specified practical difficulty as found by the Park County Board of Health:
 - a. **Department Comment: There is no replacement option that would not require a variance from the Board of Health to replace the failing cesspool currently being used. The proposed new system is the minimum variation from the regulations and is also the most practical type of situation for the Applicant's proposed use.**

Department Position

It is the Department's position that the applicant has met all of the requirements outlined in ARM 17.36.922 and Park County Regulations to approve the variance request. The risk to public health, safety, and the environment at this location are such that a septic tank and pressurized absorption bed is the most protective and practical to replace the 61-year old failing system. I would approve the system with these following conditions: (1) Water use is limited to design volume (300 gallons per day) and will provide metered use data when requested by the Department, (2) The owner waives his right to protest the creation of a sewer improvement district and centralized sewer services in Cooke City, and (3) The owner will switch to centralized wastewater treatment services when they become available.

Sincerely,

Kaleb Pearson, MS, REHS/RS
Lead Sanitarian, Park County Environmental Health