

Zoning Commission Meeting

May 16, 2024

Present: Thomas Angell, Stephen Gotovich, Chris Flynn, Wendy Burton, Barbara Warren, Steven Horowitz

Absent: Don Smith

Meeting begins at 7:00 PM

Presentation from Dutchess County Department of Behavioral and Community Health: Tanya Clark & Jim Upright

Ms. Clark explained that the Commission had asked a representative to come and present on the appropriate lot size for not overwhelming septic systems and contaminating groundwater, but there is no easy answer. Ms. Clark gave a presentation on septic system design.

Ms. Clark said there are two purposes for the design and that is to make sure it is large enough and treats the waste water appropriately so it is not contaminating the site and no short circuiting of untreated sewage to wells, waterways, or drainage structures. The system needs to be large enough to allow time for the system to do its biological treatment.

The requirement for Dutchess County is 5 feet from the bottom of the trench to rock, and 4 feet from the bottom of the trench to water for treatment to occur (anaerobic bacteria). Mr. Angell asked where the standards came from and Ms. Clark explained that it is based on the experience of Dutchess County engineers beforehand, that a lot of the subdivisions in the 1960's had 2 feet to rock requirements that were based on state regulations and there were a lot of failures in the 1980's. Ms. Clark said that they spend a lot of time deciding if the regulations need to be changed now that they do DPTs more frequently, but there are failures not only from subdivisions. Ms. Clark said the systems are overloaded, or groundwater or other drainage can effect the failures. Mr. Horowitz asked how they consider the different conditions on each lot. Ms. Clark said there are two main components to design the system. She said the first is the depth to rock and water, and if it does not meet the requirements they will use a fill pad to raise the system up. Ms. Clark said the second component is doing "perc" tests on the soil to see how long it allows the water to percolate through it. Ms. Warren asked if the requirements are more restrictive on a subdivision, and Ms. Clark said in Dutchess County every lot they approve is tested the same. Mr. Angell asked how do the Dutchess County standards compare to surrounding areas. Ms. Clark said Ulster, Orange, and Columbia use the State standards, but Putnam may be stricter than

Dutchess.

Ms. Clark explained the process for meeting the rock and water requirement if the fill pad requirements are not met. Ms. Clark said sand and gravel need to be extended 10 feet farther than the laterals and then it can be unspecific fill that tapers down on a 1:3 ratio, in turn making the area of the septic system need much larger. Ms. Clark then explained that commercial facilities require 15 gallons per day per employee for standard office business, but for other businesses like laundromat or hair salon have higher design standard criteria. Ms. Clark said if the system is part of central water then they have to design for peak based on the size and number of bedrooms for homes. Ms. Clark said in terms of slopes and topography they will allow up to 15% grade, but 10% is more acceptable.

Ms. Clark discussed potential minimum lot size, and how they have to consider future use when designing the septic system. She said that zoning decisions that allow ADUs and extending bedrooms will change the need of the system and will need to meet standards.

Ms. Clark provided an example of a residential 5 bedroom home with the worst soil condition allowable with 2 feet to rock to water with fill, plus the approval for a primary area and expansion area. Based on the calculation for the County's standards, just for septic 0.94 acres would be required, and a previous study produced 1.2 acres for the best re-fill charge. Mr. Gotovich asked about a 3 bedroom home. Ms. Clark said it would require a 1000 gallon septic tank, primary and expansion, and should be about 20% less than the 5 bedroom home scenario.

Mr. Gotovich asked why they require the need for expansion, and Ms. Clark said the State requires design for expansion, and the only thing they differ on is the distance to rock and water. Ms. Clark said the expansion area is for a replacement system for when the primary system fails. The system will need to go in a new spot and most systems have a lifetime of 30-40 years. Mr. Horowitz asked if the system can be replaced in the same location, but Ms. Clark explained that it is more expensive, but there are lots that have exceptions based on the conditions especially when considering the well location. Ms. Clark said there are many lots in the County that cannot be approved for this reason. Ms. Clark said the State requires 60 minutes to drop an inch on percolation. Ms. Warren asked if the expansion would allow for ADUs and Ms. Clark said they would need new approval for a new number of bedrooms, but there are considerations to make it work without making a whole new system based on the well location or wetlands. Dutchess County requires 100% expansion.

Mr. Gotovich asked if homes built in 1980s are constantly failing now, and if they allow repairs. Ms. Clark said yes they allow repairs. Mr. Gotovich asked why the expansion is

not based on the soil type because the soil type can effect the lifetime of the septic system, Ms. Clark said he would have to ask the State Health Department. Ms. Clark explained that if the system is designed based on the soil type, a sandy soil would be a smaller system with a higher perc rates, where clay is much slower and would need to be much bigger. Ms. Clark explained that a site that did not have 24 inches of soil that percs an inch an hour, a Type 2 fill pad can be used. It takes into consideration zero clearance which would make it a 7 foot fill pad, and it requires 25 feet from the laterals instead of the standard 10 feet, and then you still need to consider expansion. This super fill pad needs to either sit over a winter period or be compacted in 6 inch lifts and be certified by an engineer, and then the applicant can come back to apply for a system.

Ms. Clark provided a list of gravel-less and alternate aggregate products to reduce trench length design by up to 25%. Ms. Clark said she has not done the math to see if purchasing the higher cost product saves more money in the reduced amount of trenching, but it may help if the site requires a smaller system.

The Eljen systems are a trickling filter and have a lot of surface area that allow for more anaerobic process, and shorten the trench by a 1/3 at most. These systems either provide more surface area or storage to gain the credit on trench length design. Ms. Clark said there are advanced treatment systems that are mechanical, but you need a contract with a responsible entity that maintains it and you cannot double dip on the credits, the maximum reduction can be 30%. Ms. Clark said if the property owner has the space, they encourage using a lateral system because it is less expensive.

Ms. Clark said they did not approve composting toilets for a septic system because it does not handle any gray water from showers, dishwater, etc. Ms. Clark said the municipalities have taken responsibility for the composting toilets along the walkway as an example.

Mr. Angell asked what are the suggestions for creating affordable housing and Ms. Clark said to find good soil if there is no central septic system to keep costs down. Ms. Clark said cluster subdivision that have community septic systems would have the municipality sign on to be a responsible party for maintenance. This would be a 10-house subdivision septic system with a pump station that needs to be properly operated by the Town. Mr. Horowitz said he heard that Columbia County may be allowing 6 units per 3 acres, about 0.5 acre per unit, and Ms. Clark said she would be curious to know if that had any Department of Health input in that decision because it would not be able to get down to 0.5 acres with their calculations.

Municipalities with central water just need the space for septic, it does not have to be 200 feet away for a well, which gives them the ability to have smaller lots. Ms. Clark

said Dutchess County has almost 700 central water systems and that includes anything on a well that serves more than 25 people a day. Mr. Gotovich asked about using central water systems with individual septic tanks, and if that changes the criteria, Ms. Clark said it makes it easier. Ms. Clark explained that for public water supply there needs to be enough wells so if one goes down they have another option. Mr. Upright said public water supplies are treated and serve more than 25 people per day. Mr. Upright said some developers will put all the wells in one location to create a green space for the subdivision and then the septic can be on the other side, but it has to have the same separation from water supply as an individual home owner's criteria.

Mr. Angell asked the public if they had any questions for Ms. Clark or Mr. Upright. A member of the public asked what the reasoning was behind requiring gray water to go through the septic system. Ms. Clark said it is a State requirement for gray water. The same person asked if a house built in the 1800s does not have enough space, what can be done. Ms. Clark said there is a repair program for single family houses called Sans 36 that allows for replacements or repairs in kind, if it is pre-existing they allow them to stay, but advise them to move the septic further away for future use.

A member of the public asked how the standards work for multiple units when deciding how large of a septic is needed. Ms. Clark said they operate on the number of bedrooms and it is 2 people per bedroom. Mr. Upright explained why failures may happen. Mr. Upright said the bio-mat that is formed spreads across the laterals and becomes basically impermeable. Ms. Clark said if a site has a challenge and needs to dig in between the existing laterals, they can do so, but need to show that the same failure will not occur again.

A member of the public asked about crossing property lines and Ms. Clark said they look at lot line changes to make sure the owners are not cutting anyone's existing systems access off and would not approve permission to file. Ms. Clark said if someone was trying to put systems across property lines they would require some form of easement. Ms. Clark explained about putting septic on a separate parcel from somewhere else is part of Title 10 of state law would require a district be formed for a Transportation Corporation and would need a responsible entity like a municipality. Mr. Upright said you go over 1000 gallons a day you need to get a SPDES (State Pollutant Discharge Elimination System) permit from NYSDEC. Ms. Clark said any increase would need an approval. Ms. Clark said the Sans 15 is an "as built" document to get a building permit to start witnessing the construction and this includes building additions. Ms. Clark said the process allows the building permit to be granted once they know the septic system can be approved.

Mr. Angell asked how often should the septic be pumped, Ms. Clark said the State says every 5 years to pump. Ms. Clark said if you are at the max capacity with the number of bedrooms your system allows you may want to get it pumped more often than just a couple living in a house with multiple bedrooms.

A member of the public asked if there is any assistance for people that run into issues with their septic to help with affordable housing. Ms. Clark said there is a grant available for areas for Sylvan Lake and Hillside Lake for existing homes within 250 feet from the water or if a failure would effect the water quality, they have to an engineer on staff doing the work and everything must go through the Health Department, it can be up to 20% of the job and maxes out at \$10,000. A member of the public asked about funding for areas looking to establish new public systems. Ms. Clark there are grants for existing and interconnection water systems to incorporate more areas and it done with grants and low interest loans, but not much funding for private well and septic. Ms. Clark said there are new regulations for lead and copper so the funding is being made more available to help with that. The State would like to fund improvements to the public water systems to reduce exposure to chemicals in the water. Ms. Burton said the Governor's new budget has grant money for water and sewer for community systems.

Mr. Angell asked how often is a home condemned because of failed systems and Ms. Clark said she has not had that happen yet. Ms. Clark said they handle the location of wells and permit them and regulate public water supply. Definitions of public water supply. There is Community where people live there, non-community which includes passerby's and it serves 25 people a day year-round or has 5 or more connections. Mr. Upright said the city of Poughkeepsie has a plant that is tested constantly. Mr. Angell asked about private water tests. Ms. Clark said some years ago when there were spills found and so municipalities asked the Health Department to try to identify more contaminations. The Director did an initiative to test 290 random private wells and did not find any red flags, the biggest thing they found was iron and the lab took the samples from the bottom of the tank, this was around 2008-2009 and is on the website. Ms. Clark said there are 3 townships that decided to add legislation to any real estate sale within those townships to have water supply tested. Ms. Clark said between Sept 11, 2001 and the COVID pandemic there has been an increase in houses being tested for bacteria through lending and checking the Certificate of Occupancy to match the number of bedrooms to the listing.

CAC Studies

Mr. Angell said the CAC has studies in their files on Town drinking water quality. Mr. Angell said there were some locations, including the near the gas station, that had issues. Mr. Angell said he will distribute the information to the Board for the next meeting. Ms. Burton said the Comprehensive Plan has a section for a recommendation for volunteer water testing. The Board discussed what labs and where the test can be tested. Mr. Flynn said the test costs range from \$25 - upwards of thousands depending on what you are testing for. Mr. Angell suggested the Board discuss and consider how much density do we want in our Town, and how much traffic do we want on the roads, and what is our vision for the number of people in our community to maintain the character. The topic for next meeting can begin on minimum lot size. Mr. Angell said the Board will need a consultant in order to redraw maps when they get to that point, but have the ability to discuss the concept at this point. Mr. Horowitz said that type of consultation could be eligible for the Berkshire Taconic grant program.

Future Topics

Mr. Gotovich would like to discuss mobile home laws and trailer parks. Mr. Gotovich said this Town is zoned very strictly to make having a trailer park difficult. Ms. Burton confirmed that there is \$10 fee for a mobile home within the Town code. Mr. Gotovich would like to specify what constitutes a mobile home. Ms. Burton said she would like the Zoning Commission to focus on the bullet points within the Comprehensive Plan first.

The Commission discussed that after the given information from the Board of Health that even a 3 bedroom home under the worst conditions would require at least .70 acres and after septic, setbacks, well, and house site they would be unlikely to fit everything even on a 1.5 acre lot. They would like to discuss it further next meeting.

164-59 Definitions - Home Occupations

Mr. Angell had removed churches, religious type functions as prohibited uses because there is a Federal law regarding religious freedom and property use. He explained that it would require a special use permit.

Mr. Horowitz said a church or religious use would fall under conduct of business of number 1 in purpose and intent.

Mr. Angell explained that paragraph 5, De Minimus Use, is a section for home occupations that do not require a special use permit. Mr. Angell was considered that the language proposed may make it appear that any home occupation could be conducted as long as those three requirements listed were met.

A) Notwithstanding section (2)(c), the use is conducted on the site solely by persons

utilizing the home as their residence.

B) Notwithstanding section (2)(e), there is no sign or other exterior advertisement of the existence of the home occupation use.

C) Notwithstanding section (2)(n), no more than one home occupation is conducted on the premises.

Mr. Horowitz explained that he would like to see in Section 5 an explanation that in order to not need a special use permit you would also need to satisfy the requirements of Section 2 a-n. Mr. Gotovich said he would like to make sure the Planning Board stays involved to uphold Section (1)(b) Maintain and preserve the rural character of residential neighborhoods and areas. Mr. Horowitz said if the Home Occupation needs to meet Section (1)(b) then it should be listed as a Standard in Section (2) because the first section is intent and not an actual standard. Mr. Gotovich suggested including Section (1) into Section (2). Mr. Angell said the more specific the purpose and intent is, the easier it is for the Planning Board to make an informed decision. Mr. Horowitz suggested adding in at the end of Section (2) as a standard that the home occupation does not interfere with the purpose and intent. Mr. Angell would like the Planning Board to apply the rules, not make the rules. Ms. Warren suggested adding (1)(b) into (2)(a). Ms. Warren would like to add to the standards for home occupations for (2)(o) in accordance with Town, County, and State regulations.

Tow truck services were removed from the amended definitions and would have to come to the Planning Board for a home occupation special use permit.

The revised Home Occupation document will look to integrating (1)(b) and (1)(d) into Section 2, adding Section (2)(o) to say in accordance with Town, County, and State regulations, and remove Section (5).

Other

Mr. Gotovich motioned to approve the April 25 meeting minutes with the amendments to add Thomas Angell to present, and on page 4 change "said" to "stated his opinion" for Mr. Horowitz's comment on burnt down buildings. Ms. Burton seconded. All in favor, Mr. Angell, Mr. Gotovich, Mr. Flynn, Ms. Burton, Ms. Warren, Mr. Horowitz. Motion carried.

Meeting adjourned 9:02 PM

June 20, 2024 next meeting, topics to include home occupations and minimum lot size.