

1 **TOWN OF ANTRIM**

2 **Zoning Board of Adjustment**

3 Tuesday, October 3, 2023

4 **MINUTES**

5 **CTO:** Vice Chair McEwen called the meeting to order at 7:00 P.M.

6 **Persons present:** Janet McEwen (Vice Chair); David Clater (Member); Shelley Nelkens
7 (Member); Connor Fitzpatrick (Alternate Member); Patty Monterey (Land Use Administrative
8 Assistant); and Carol Ogilvie, Board Consultant.

9 **ZOOM:** Michael Ott (Member); Cynthia Staats, Applicant; and Ingo Schaefer, Busse Green
10 Technologies.

11 **Members/Staff Absent:** Diane Kendall (Chair)

12 **Others present:** Cory Staats, Applicant; Joseph Hoppock, Attorney; Chris Guida, Wetland
13 Scientist; Diane Chauncey, Town Clerk; Donna Hanson, Selectman; Marschall Gale, Fire
14 Chief/Health Officer; John Anderson, Planning Board; Rebecca Hull, Abutter; Paul Daly,
15 Abutter; Tim Stone, Hydrogeologist; Orestes Monterey, Resident; and an Antrim Police
16 Officer.

17 **Variance Application for Cory and Cynthia Staats**

18 The applicants are applying for a variance from Article XI, Section E. 1. of the Zoning
19 Ordinance, to allow a septic system to be closer than 75 feet from a wetland.

20 Vice Chair McEwen introduced the Board and staff; noted that one member was absent and
21 appointed Mr. Fitzpatrick to sit; and described the process that would be followed this evening.
22 She stated that one member was still in transit, and asked if the applicants were willing to wait so
23 that there would be a full board, to which they agreed.

24 Mr. Clater expressed his dissatisfaction with not receiving materials relevant to the case until that
25 day, and that it is not acceptable to not have enough time to review materials in advance of the
26 meeting. Ms. McEwen described the procedure for continuing if the Board is not comfortable
27 moving ahead.

28 Mr. Ott joined the meeting by Zoom at 7:25 P.M. at which point Ms. McEwen asked the
29 members if they were ready to move ahead, which they were. She then read the Staff Report that
30 expressed the opinion that the application met the requirements for completeness; she also
31 stressed that the Report noted that the property in question is and has been the subject of other
32 applications, none of which have anything to do with the application that is before this Board this
33 evening.

34 *On a motion by David Clater/seconded by Michael Ott, the Board voted to accept the application*
35 *as complete, with all in favor.*

36 Chair McEwen opened the public hearing. Ms. Hull asked about recording the meeting, to which
37 she was informed that she was allowed to do that without receiving permission from attendees.

38 Ms. Monterey read the public notice and stated when and where it had been posted. Mr. Daly
39 and Ms. Hull both said that they had not received the abutter notification, although in response to

40 the question from Ms. McEwen, they both stated that they had no objection to the hearing
41 continuing.

42 Ms. McEwen then asked the applicants to make their presentation. Attorney Hoppock,
43 representing the Staats', introduced Ingo Schaefer of Busse on Zoom and Chris Guida, present,
44 wetland scientist for the project. He then turned to Mr. Schaefer to describe the septic system
45 that is being proposed.

46 Mr. Schaefer provided a brief description/explanation of the system (see Attachment #1), how it
47 works, and what makes it especially desirable for smaller lots or lots with environmental
48 constraints. Following this explanation, Ms. McEwan called for questions for Mr. Schaefer.

49 McEwan: How do you ensure the ongoing maintenance and operation?

50 Answer: The system is serviced once a year. There is an alarm that sounds if there is a
51 problem and if so, the system shuts down.

52 McEwan: Can you describe visually what the system looks like?

53 Answer: There are pipes on one side for input, which is discharged through pipes on the
54 other side. The system is above-ground, so all parts are easily accessible.

55 McEwan: What about a leach field?

56 Answer: There is a leach field, but it is smaller than a standard system.

57 Nelkens: What about a mound system?

58 Answer: Raised, or mound systems are used when the soil is not adequate to process the
59 effluent.

60 Clater: What about power requirements and outages?

61 Answer: The system runs on 4 kw hours per day. If there is a power outage the system shuts
62 down and restarts when the power comes back. It will not overflow because when the power
63 is out the well is also not pumping, therefore there is not effluent going through the system.
64 The system has capacity for one full day of storage in the event of a power outage.

65 Clater: What about a pump?

66 Answer: There is no pump; the system operates on pressure – it is the weight of the water
67 that pushes through the membrane.

68 Clater: How often are the filters changed?

69 Answer: As needed. These are checked during the annual inspection. In response to a
70 comment from Attorney Hoppock regarding inspections, Mr. Schaefer stated that under the
71 terms of the service contract, there are two inspections the first year, and then once a year
72 thereafter. The length of the service contract is up to the Town. Mr. Guida noted that NH
73 Department of Environmental Services (DES) requires annual inspections for the life of the
74 system. Mr. Schaefer then addressed several questions about the filtering of pathogens and
75 what in particular this system did filter (see Attachment #1).

76 Ms. McEwan noted that there were no more questions for Mr. Schaefer. At this point, Chris
77 Guida described his background as wetland scientist, soil scientist and septic designer. He
78 explained the process for selecting this particular site for the septic system. In effect, given the

79 environmental constraints of this property, there is no location on the lot that could accommodate
80 a system within the required setbacks. He noted that DES has granted a waiver from the 75-foot
81 wetland setback to allow the system to be 38 feet from the edge of the wetland. He is confident
82 that a standard system would not have been approved by DES. DES will approve alternative
83 systems such as this one, but they will still require a leach field, but they will approve a smaller
84 one than the standard system because of the treatment that occurs with this type of system.

85 Ms. McEwan stated that Peter Beblowski of the Antrim Conservation Commission had
86 submitted a letter regarding this application and had questioned the lack of an analysis for a
87 mounded system, and whether that was on oversight on the part of DES. Mr. Guida replied that
88 DES had not required this analysis, but he would be happy to confirm that this would not be
89 necessary.

90 Attorney Hoppock stated that because of the type of system, there are no holding tanks and a
91 much smaller leach field; this is a system that is ideal for small sites and those with
92 environmental issues. Attorney Hoppock then spoke to the five variance criteria and the
93 applicants' response to each of those criteria (see the Staats ZBA Application). He further noted
94 that the Rural Conservation District has four primary uses and that without a variance the Staats
95 would not be able to conduct any one of them.

96 Ms. Nelkens had a question about a warranty on the system, to which Mr. Staats replied that
97 DES requires a service/maintenance contract. Ms. Nelkens asked about phosphates and Mr.
98 Staats stated that they are already very cautious about the use of any products that contain
99 phosphates. Mr. Guida noted that the natural vegetation as well as the leach field will filter
100 nutrients.

101 Ms. McEwan asked about the 25-foot buffer shown on the plan; Mr. Guida replied that this is a
102 town requirement and there will be no disturbance in that buffer. Mr. Staats added that they had
103 already received a special use permit from the planning board for the wetland crossings.

104 Following a few more questions about maintenance and enforcement, Ms. McEwan stated that if
105 the Board had no more questions at this time, she would now call on any abutters in favor of the
106 project. There were none, so she called on abutters on opposition to the project.

107 Rebecca Hull of 380 Stoddard Road stated that she had submitted comments, but that she would
108 yield her time to Mr. Tim Stone, a hydrogeologist who had prepared a report on her behalf
109 regarding the septic system.

110 Mr. Stone introduced himself and described his qualifications. The report he prepared (see
111 Attachment #2) provided his professional opinion on impacts to ground and surface water due to
112 the proposed development. He provided an overview of what he saw as challenges to the site
113 and potential environmental impacts from development and, in his opinion, the weaknesses of
114 the proposed septic system in functioning on a site with these constraints. He also provided in the
115 report suggested wording for a decision – if approved by the Board, that would address ongoing
116 maintenance and inspections of the system.

117 Mr. Clater asked about potential impacts of this project to Ms. Hull's well. Mr. Stone replied
118 that it is hard to say for sure. There is some potential for impact, although if the system works
119 properly, it should not be a problem; however, the system is not a panacea for all of the
120 environmental concerns.

121 When discussing the filtering of phosphates and nitrates, Ms. McEwan asked if conventional
122 septic systems pollute, to which Mr. Stone replied that yes, they are, and while this system is
123 better, his concern is with the size of the lot.

124 Ms. McEwan asked about the distance from the proposed house site to Ms. Hull's well. Mr.
125 Guida stated that it is about 800 feet to the property line, which is downgradient for some
126 distance, and then the land rises a bit before it gets to the road. In his opinion, any risk to her
127 well is greater from her abutters on her side of the road than from the Staats' site.

128 Mr. Daly asked about the size of the lot and the 6.1 acres shown on the plan. Mr. Staats replied
129 that the entire lot is 12 acres. Mr. Guida noted that the Staats are currently involved in a property
130 line dispute with an abutter, so they only showed the 6 acres for the plan; furthermore, the
131 additional acreage is largely uphill and not usable for the house or septic site.

132 Ms. Hull asked what is the ZBA considering, why not address the access to the site. How can
133 they put in the system if they don't have access to get to the site? Ms. McEwan noted that there
134 are other permits needed, but these have nothing to do with this application. Mr. Guida stated
135 that all other permits must be in place before this system could be installed. Mr. Anderson and
136 Attorney Hoppock reiterated that all other permits must be approved before a building permit
137 will be issued.

138 Ms. McEwan noted that it was past 9:00 P.M. and the Board needed to decide whether they
139 would continue this evening or to a future date, and whether to conclude the public input portion
140 of the meeting. On a motion by David Clater/seconded by Connor Fitzpatrick, the Board voted
141 4-1 to continue with public input.

142 Attorney Hoppock stated that they (the applicant) have not had an opportunity to respond to the
143 opposition, and he noted the following:

- 144 ▪ He had not heard any significant objection to the system itself, rather concerns about
145 mitigating potential environmental impacts.
- 146 ▪ Comments expressed about annual inspections and a service contract are both reasonable
147 conditions.
- 148 ▪ Monitoring wells are, in his opinion, overkill for this project.
- 149 ▪ A dredge and fill permit from DES was not required.
- 150 ▪ He would provide no response to specific comments from Ms. Hull (i.e., driveway, well,
151 solar array)
- 152 ▪ The letter from the Conservation Commission did not oppose the project and also offered
153 supporting comments.

154 The discussion then turned to the service contract, including who monitors, who enforces, who
155 actually carries out the annual inspections. Mr. Clater stated that he needed more detail on this
156 issue and wanted more time, to which Attorney Hoppock replied that he objected to board
157 members doing any research outside of the meeting. Mr. Clater disagreed with him, stating that
158 he had not had time to read the materials prior to this meeting.

159 The Board discussed and agreed to continue the public hearing and invite Mr. Schaefer to come
160 back (via Zoom) to answer the technical questions. Furthermore, Attorney Hoppock stated that
161 they could get additional information from DES regarding the question of a mound system.

162 Mr. Ott was in favor of staying and making and making a decision this evening, but the other
163 members wanted more time for additional input and deliberation. In particular, Mr. Clater
164 reiterated that he wanted more detail on the service contract.

165 *On a motion by David Clater/seconded by Shelley Nelkens, the Board voted to continue the*
166 *public hearing to Tuesday, October 10, 2023 beginning at 7:00 P.M., with all in favor.*

167 The meeting adjourned at 9:30 P.M.

168 Respectfully Submitted,

169 Carol Ogilvie

170

171 **Approved February 13, 2024**