

# ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

Timothy V. Corrigan  
District I

Douglas B. Monger  
District II

M. Elizabeth Melton  
District III

## Work Session

July 6, 2020

Times listed on the agenda are approximations and may be longer or shorter with no notice. Agendas are subject to change 24 hours before the meeting start time. To ensure you have the most up-to-date information, please check the agenda after 24 hours of its start time.

If you are joining the meeting for a specific item, please join 10 minutes before the item to ensure you are present for the beginning of the item.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85106670945?pwd=UXZZSGx1Q01Mc0s2ckIGVk13Qld5UT09>

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*The Routt County Board of Health or Board of Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.*

1. **9:30 A.M. COUNTY MANAGER UPDATE**  
Mark Collins, Interim County Manager

The Routt County Board of County Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.

2. **10:15 A.M. LEGAL**  
Erick Knaus, County Attorney

The Routt County Board of County Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.

3. **11:00 A.M. ENVIRONMENTAL HEALTH**  
Scott Cowman, Director

**A. DISCUSSION OF OWTS VARIANCE PROCEDURES**

Explanation of Regulation 43 for Onsite Wastewater Treatments Systems (OWTS) variance process and consideration for adopting state approved variance procedures.

Documents:

[BCC AGENDACOMMFORM REG 43 VARIANCEPROCEDURES 20200630.PDF](#)  
[HAHNSPEAKSEPTICMAP.PDF](#)  
[PAGES FROM REG 43 2017.PDF](#)

**4. 11:30 A.M. COVID-19 WORK SESSION**

The Commissioners will address critical items for regular county and emergency operations related to the COVID-19 pandemic. Action may be taken and direction to staff may be given in relation to any of these items.

The Routt County Board of County Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.

**5. 12:00 P.M. MEETING ADJOURNED**

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# ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

## AGENDA COMMUNICATION FORM

<b>ITEM DATE: 7/6/2020</b>	<b>ITEM TIME: 11:00am – 11:30am</b>
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<b>FROM:</b>	Scott Cowman & Rick Melzer
<b>TODAY’S DATE:</b>	6/30/2020
<b>AGENDA TITLE:</b>	Regulation 43 for Onsite Wastewater Treatments Systems - Variance Procedure
<b>CHECK ONE THAT APPLIES TO YOUR ITEM:</b>	
<input type="checkbox"/> ACTION ITEM	
<input checked="" type="checkbox"/> DIRECTION	
<input type="checkbox"/> INFORMATION	
<b>I. DESCRIBE THE REQUEST OR ISSUE:</b>	
Explanation of Regulation 43 for Onsite Wastewater Treatments Systems (OWTS) variance process and consideration for adopting state approved variance procedures.	
<b>II. RECOMMENDED ACTION (<i>motion</i>):</b>	
Information and consideration for adopting state approved procedures for variances to Regulation 43 for OWTS.	
<b>III. DESCRIBE FISCAL IMPACTS (VARIATION TO BUDGET):</b>	
<b>PROPOSED REVENUE</b> ( <i>if applicable</i> ): Potential to implement additional fee	
<b>CURRENT BUDGETED AMOUNT:</b>	
<b>PROPOSED EXPENDITURE:</b> N/A	
<b>FUNDING SOURCE:</b>	
<b>SUPPLEMENTAL BUDGET NEEDED:</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
<b>IV. IMPACTS OF A REGIONAL NATURE OR ON OTHER JURISDICTIONS (IDENTIFY ANY COMMUNICATIONS ON THIS ITEM):</b>	
None	



**ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS**  
**AGENDA COMMUNICATION FORM**

**V. BACKGROUND INFORMATION:**

Please refer to attached relevant sections of Regulation 43 for OWTS.

There are two current situations where a variance to Regulation 43 should be considered:

1. The Milner Landfill (Twin) submitted an application to install an OWTS several years ago during construction of their new scale house/office building. Although the permit was approved Twin never installed the system. Instead a vault was installed (illegally) and is currently serviced by Twin (according to information from Twin). Another vault was installed (also illegally) at their new shop/maintenance building to accommodate added restroom facilities. The Building Permit has since been updated but the vault remains without any approved OWTS permit. Since Twin owns its own pumping equipment and this is an industrial facility, it may make sense to consider a variance to allow continued use according to Regulation 43 requirements for vaults.
2. An application was received for a parcel at Hahn's Peak Village for a new system that would replace a vault installed prior to development of state regulations for septic systems. Because of the size of the parcel no new system would meet property boundary setback requirements. In this case the septic treatment area (STA or leach field) butts up against the line that separates the property from a right-of-way (Placer Street). STA's are designed to treat water prior to it leaving a treatment area so it is not anticipated that there would be negative effects to the right-of-way or any future infrastructure built within the right-of-way.

**VI. LEGAL ISSUES:**

Septic system built within setback on boundary of right-of-way

**VII. CONFLICTS OR ENVIRONMENTAL ISSUES:**

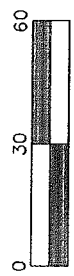
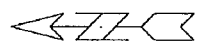
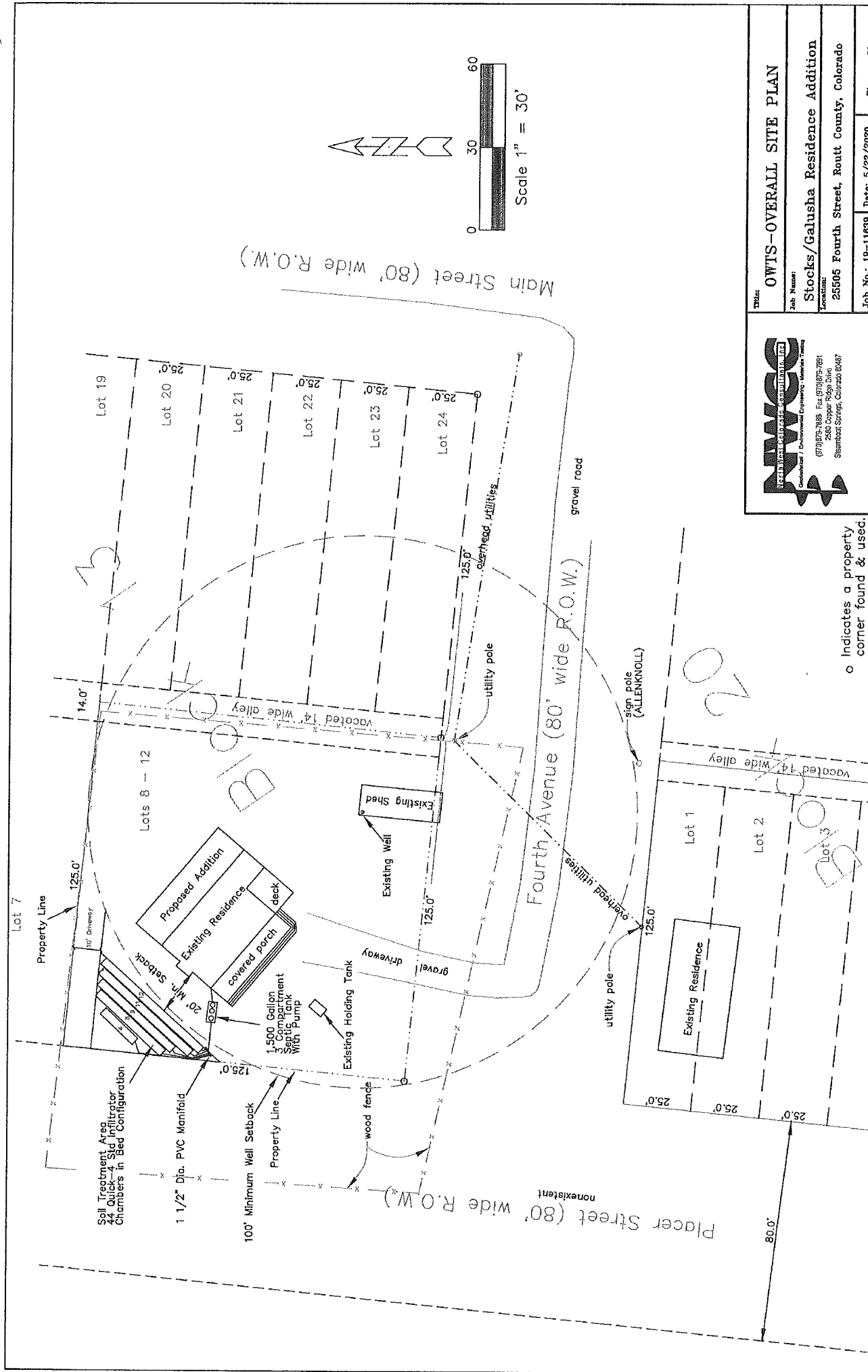
None

**VIII. SUMMARY AND OTHER OPTIONS:**

The Board may elect to adopt a variance process but not approve a variance to the regulations for the scenario's presented above.

**IX. LIST OF ATTACHMENTS:**

- Regulation 43 for Onsite Wastewater Treatment Systems (refer to Section 43.4.N - pgs. 23 to 25)
- Map of proposed STA at Hahn's Peak Village



Scale 1" = 30'

**RWC**  
REGISTRATION / ENVIRONMENTAL ENGINEERING / UNDERGROUND UTILITY

**OWTS-OVERALL SITE PLAN**

**Job Name:** Stocks/Galusha Residence Addition

**Location:** 25506 Fourth Street, Routt County, Colorado

**Job No.:** 19-11639    **Date:** 5/22/2020    **Figure:** #1

(870) 675-7888 Fax: (870) 675-7881  
 2560 Copper Ridge Drive  
 Steamboat Springs, Colorado 80487

o Indicates a property corner found & used.

- a. An acceptance document must be revoked if it is determined that the system is no longer functioning in accordance with this regulation or that false or misleading material statements were made on the application or inspection reports.

#### 11. Penalties

- a. Failure to obtain an acceptance document for a covered transaction as provided by this regulation will subject the owner who failed to obtain the document to a penalty assessed under section 25-10-113, C.R.S.

#### M. Permit for the Continued Use of an On-site Wastewater Treatment System

1. A local board of health may choose to issue a permit authorizing the continued use of an OWTS. A local board of health is not required to develop an additional permit program for the continued use of an OWTS.
2. Permits for the continued use of an OWTS may be issued for purposes, including but not limited to:
  - a. An "Operating permit" used for maintenance and inspections performed on an OWTS at regular intervals;
  - b. A "Use permit" used for transfer of title inspections; or
  - c. Other situations deemed necessary or useful by a local public health agency.
3. A local public health agency may determine the time frame for the permit either at equal time intervals or based on recurring events.
4. A local public health agency may revoke the permit for non-compliance.
5. A local public health agency may assess penalties for non-renewal of a permit as required, or non-compliance with the terms of a permit as allowed in this regulation.

#### N. Variance Procedure

##### 1. General

- a. The purpose of this section is to provide a procedure for local public health agencies to consider variances from the design and/or siting requirements of the OWTS regulations. A local board of health may adopt these procedures or more stringent procedures, but is not required to adopt any variance procedure. Variances may only be included in permits issued by those local public health agencies which formally adopt and implement a state approved variance procedure.
- b. The local board of health may set fees for processing an OWTS permit with a variance in accordance with section 25-10-107, C.R.S. This permit fee may be the standard OWTS permit fee or may be a separate fee based upon the cost of processing a permit with a variance.

##### 2. Requirements for Variance Consideration

- a. To consider a variance request, the local board of health must adopt a procedure for issuing variances.
  - b. Where the local board of health adopts a variance procedure, the board must hear the variance request.
  - c. The local board of health will determine what type of variances will require public hearings. Prior to the rendering a decision on a variance request requiring a public hearing, a public hearing must be held. The hearing must be the subject of a public notice or notice must be sent via certified mail, with a minimum 20-day reply time from the date of mailing, to all adjacent property owners.
  - d. Variance requests must be accompanied by:
    - (1) Site-specific request identifying the specific criteria from which a variance is being requested;
    - (2) Technical justification by a professional engineer or professional geologist, which indicates the specific conditions which exist and/or the measures which will be taken that support a finding that the variance will result in no greater risk than that associated with compliance with the requirements of the regulation. Examples of conditions which exist, or measures which might be taken, include but are not limited to the following: evidence of a natural or manmade physical barrier to the movement of effluent to or toward the feature from which the variance is requested; placement of a manmade physical barrier to the movement of effluent to or toward the feature from which the variance is requested; soil replacement with sand filter media to reduce the infiltration rate of the effluent such that the travel time of the effluent from the absorption field to the physical feature is no less than the travel time through the native soils at the prescribed setback and Treatment Level 2;
    - (3) A discussion of alternatives considered in lieu of the requested variance;
    - (4) Technical documentation for selected alternative, which may include a testing program, which confirms that the variance does not increase the risk to public health and to the environment; and
    - (5) A statement of the hardship that creates the necessity for the variance.
  - e. The applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting the regulations.
- 3. The local board of health has the authority to impose site-specific requirements and conditions on any variance granted.
  - 4. Outcome of the Variance Proceeding
    - a. The applicant must be notified, in writing, of the local board of health's decision regarding the request for a variance. The notice of a denial of a variance must include those reasons which form the basis for the denial. The notice of an approval of a variance must include any conditions of the approval. The variance, and any conditions thereof, must be recorded on the deed to the property and

any expenses associated with that recording must be the responsibility of the party obtaining the variance.

5. Prohibitions on the Granting of Variance Requests

- a. No variance shall be issued where the property can accommodate a conforming OWTS.
- b. No variance shall be issued to mitigate an error in construction involving any element of property improvements.
- c. No variance shall be allowed solely for economic gain.
- d. No variance shall be issued, if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks defined in Table 7-1 of this regulation without the board of health considering any concerns of the owner of property containing said feature. Property lines are considered offsite features. The property owner containing said feature must be notified of the time and date of the hearing.
- e. No variance shall be issued, if it reduces the separation to ground water or bedrock based on the level of treatment in Table 7-2.
- f. No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors.
- g. No variance shall be issued for the installation of a higher level treatment system based on sizing or separation reductions without the LPHA having a maintenance and oversight program as defined in section 43.14.D.

6. Variances for Repair of Failing Systems

- a. When a proposed variance for a system repair or upgrade would result in encroachment on minimum distances to physical features on neighboring properties required by the Division, the hearing procedures in 4.N.2, Requirements for Variance Consideration above must be followed.
- b. For the repair of or upgrade to an existing system where the existing system does not meet the required separation distances and where conditions other than lot size precludes adherence to the required distances, a variance to the separation distances may be requested. The repairs or upgrade must be no closer to features requiring setbacks than the existing facilities. Variances requesting setbacks no closer than existing setbacks do not have to provide technical justification from a professional engineer or professional geologist.

7. Findings on Appeal

- a. A request for review must be made within 60 days after denial of an application by the local public health agency.
- b. The applicant must bear the burden of supplying the local board of health with sufficient evidence to document that the denied system will be constructed and used in such a manner that will result in no greater risk than that associated with compliance with the requirements of the regulation, comply with the declaration