

# **APPENDIX H**

**Suffolk County Department of Health Services**  
**Board of Review Variance Approval**  
**December 17, 2019**

COUNTY OF SUFFOLK

A-69



STEVEN BELLONE  
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF HEALTH SERVICES

JAMES L. TOMARKEN, MD, MPH, MBA, MSW  
COMMISSIONER

December 17, 2019

Mr. Steven A. Martocello  
East End Holdings  
24 Miller Woods Drive  
Miller Place, New York 11901

Subject: Board of Review Hearing ~ August 15, 2019  
S10-13-0005 ~ The Orchards ~ 2595 Orchard Street, Orient ~ t/o Southold – SCTM: 1000-027.00-01.00-003.000

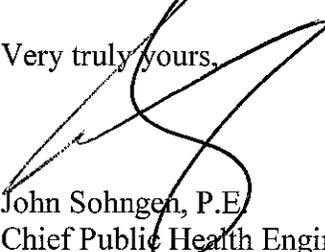
Dear Sir:

Enclosed is a copy of the findings, recommendations and determination of the Board of Review concerning the subject application.

Based on the information submitted, the Board granted the request for variance/waiver with the provisions indicated in the determination.

The granting of this waiver does not imply that your application will be automatically approved. It is your responsibility to ensure that your application is complete; otherwise, your approval will be subject to unnecessary delay.

Very truly yours,

  
John Sohngen, P.E.  
Chief Public Health Engineer  
Chair, Board of Review

Enclosure

Cc: Board of Review File ~ Yaphank  
Mr. Steven Churchill ~ Reviewer  
Ms. Heather Lanza ~ Town of Southold

Ms. Lynne Burns ~ OWM  
Mr. Andrew Freleng ~ Planning Department  
Mr. John Ehlers



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♦ Division Of Environmental Quality ♦ Board Of Review ♦ 360 Yaphank Avenue, Suite 2B ♦ Yaphank NY 11980 ♦  
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**SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES  
DIVISION OF ENVIRONMENTAL QUALITY  
BOARD OF REVIEW  
ARTICLE 2, SECTION 220, SUFFOLK COUNTY SANITARY CODE**

To: James L. Tomarken, MD, MSW, MPH, MBA, Commissioner  
From: John Sohngen, P.E., Chair, Board of Review  
Subject: Findings and Recommendations of the Review Board Regarding: S10-13-0005 ~ The Orchards  
~ 2595 Orchard Street, Orient ~ t/o Southold – SCTM: 1000-027.00-01.00-003.000

Hearing Date: August 15, 2019

Board Members: Anthony Condos, Kenneth Zegel, P.E.

Reviewer: Steven Churchill

**Statement of Problem**

Private Water System Standards require test well results for realty subdivisions to comply with the guidelines and Maximum Contaminant Levels (MCL) contained in Part 5 of the New York State Sanitary Code. In addition, the arithmetic mean nitrate concentration of all wells tested (on the same day) cannot exceed 6.0 milligrams per liter (mg/l) and no well shall exceed the Nitrate MCL. Nitrate and Aldicarb levels in the subject subdivision's test wells exceed the limits specified in the Private Water System Standards.

**Findings and Facts**

1. The parcel to be divided is located in Groundwater Management Zone 4.
2. The parcel is 579,348 square feet (sf) in area, and is shown as one lot on the 1981 tax map.
3. The subject parcel is currently vacant.
4. The proposal is to divide the parcel into five (5) residential lots meeting the minimum lot size requirements of Article 6 of the Suffolk County Sanitary Code, for lots to be developed with onsite sewage disposal systems and private wells. The residential lots sizes range from 40,000 sf to 406,548 sf.
5. The parcel would yield 13 residential lots based on the Suffolk County Sanitary Code Article 6 lot size requirements.
6. All residential parcels will be served by on-site sewage disposal systems, to be designed in accordance with Department design standards with sanitary leaching structures placed a minimum of 3 feet (ft.) above the highest expected groundwater elevation.
7. Soils are acceptable, with 0 to 1 ft. loam, 1 to 7 ft. silty sand, 7 to 11 ft. sand and gravel, and 11 to 16 ft. water in sand and gravel.
8. Depth to groundwater is 11 ft. below grade as per the submitted test hole results.
9. As per the groundwater contributing areas and source water assessment maps prepared by Camp Dresser McKee (CDM) in 2009, as part of the Comprehensive Water Resources Management Plan

James L. Tomarken, MD, MSW, MPH, MBA, Commissioner

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(CWRMP) for Suffolk County, groundwater flow is southeast towards Long Beach Bay, and the subject parcel is located within the 10 to 25 year contributing area to this surface water body.

10. Test wells were installed on Lot 1 and Lot 2 of the subject subdivision.
11. The well driller's certificate for the Lot 1 test well (Well # S-133850T) shows a total well depth of 65 feet with a static water level of 14 feet, and 47 feet of water above the 4-foot well screen. A water sample taken by the Department on August 17, 2017 showed water quality in the well to be in conformance with drinking water standards with the exception of Nitrates, which were 7.2 mg/l.
12. The well driller's certificate for the Lot 2 test well (Well # S-133851T) shows a total well depth of 65 feet with a static water level of 14 feet, and 47 feet of water above the 4-foot well screen. A water sample taken by the Department on August 17, 2017 showed water quality in the well to be in conformance with drinking water standards with the exception of Nitrates, Aldicarb-Sulfoxide, and Aldicarb-Sulfone, which were 11.2 mg/l, 6.0 mg/l and 4.2 mg/l respectively.
13. The MCL for the Nitrates, Aldicarb-Sulfoxide, and Aldicarb-Sulfone are 10.0 mg/l, 4.0 mg/l and 2.0 mg/l respectively.
14. The high Nitrates and Aldicarbs can be treated to levels below the MCL with the proper water conditioning equipment. The Nitrates can be treated with reverse osmosis and the Aldicarbs can be treated with granular activated carbon.
15. The Board notes that Aldicarb treatment removal devices are free to homeowners in Orient and funded by the Department through Bayer Scientific.
16. Department records indicate that groundwater in the area has been known to have high Nitrates. As an example, Department staff provided the Board with test well results for a residential application adjoining the subject parcel (SCTM: 1000-027.00-01.00-004.000 and Reference Number R10-05-0047) that had Nitrates at 10 mg/l. The application received final approval from the Department on April 1, 2009.
17. The applicant submitted a Suffolk County Water Availability letter dated September 13, 2019 stating a water main extension of 10,000 feet would be required. Private Water System Standards require water mains to be extended to a subdivision when the existing mains are located within a distance equivalent to 150 ft. multiplied by the number of proposed lots, from the applicant's property line. Therefore, the applicant is not required to extend the public water main since the existing main is located a distance greater than 750 ft. from the subdivision property line.

### Determination

It was a 3 to 0 determination of the Board to grant the request for the variance for the use of onsite private wells, provided that the following conditions are met:

- Covenants and/or deeds shall be prepared and filed, in language acceptable to the County Attorney for the following:

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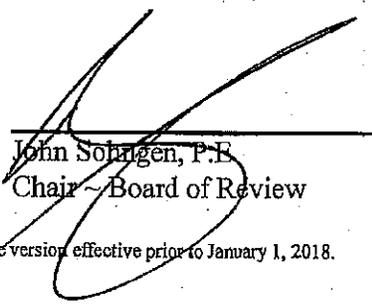
- o Require the installation of water conditioning equipment to treat Nitrates and Aldicarb to ensure the levels meet the minimum drinking water standards and/or guidelines of the State of New York at the time of development of each lot.
- o Recommending periodic comprehensive water analysis of the onsite private well in order to monitor drinking water quality.
- o Require the installation of necessary water conditioning equipment to meet the minimum drinking water standards and/or guidelines of the State of New York if the periodic comprehensive water analyses of the onsite private well indicate water contamination in excess of the minimum drinking water standards and/or guidelines of the State of New York.
- o To hold harmless, indemnify and defend the County of Suffolk, its employees, offices, or agents harmless from any claim for damages or injuries that may arise out of the installation or use of the private well and sewage disposal system.

The Department's Private Water System Standards are intended to protect public health by ensuring residential lots can install a potable private water supply meeting installation and drinking water quality standards. Although, the test wells results indicate high Nitrates and Aldicarb, the applicant will install necessary water conditioning equipment to treat Nitrates and Aldicarb to ensure the levels meet the minimum drinking water standards and/or guidelines of the State of New York.

The granting of this variance is not a formal approval to divide the parcel, or to construct new dwellings or install new sewage disposal systems or onsite private wells on the subject site. Rather, it is a determination on the specific variance requested, based upon factors noted in §760-609 of the Sanitary Code. In compliance with §760-609A(1)(a), the variance is in general conformity with the Sanitary Code. The variance should not impair groundwater, surface water and drinking water supplies, and, as such, is consistent with criteria specified in §760-609A(1)(b). The granting of the requested variance will not adversely affect the design of an adequate on-site water supply and/or sewage disposal system, taking into account soil conditions, depth to groundwater, and site specific physical conditions, and as such, is consistent with criteria specified in §760-609A(1)(e).

As per §760-609 of the Suffolk County Sanitary Code, the approval of the variance with the specified conditions is in harmony with the general purpose and intent of the Sanitary Code to protect groundwater and drinking water supplies, surface water and other natural resources, and public health, safety and welfare.

December 17, 2019

  
 John Schirgen, P.E.  
 Chair ~ Board of Review

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12/17/19

\*Note: All references to Article 6 of the Suffolk County Sanitary Code refer to the version effective prior to January 1, 2018.