

Minutes of the Town of Marble
Special Meeting of the Board of Trustees
May 20th, 2021

A. Call to order & roll call of the Special Meeting of the Board of Trustees – Mayor Ryan Vinciguerra called the meeting to order at 6:37 p.m. Present: Ryan Vinciguerra, Emma Bielski, Josh Vogt, Larry Good and Tim Hunter. Absent: none. Also present: Ron Leach, Town Administrator, Terry Langley, minutes.

B. Discussion with On-site Waste Water Treatment System (OWTS) committee regarding non-conforming properties in Marble – Ron Leach explained that the meeting was scheduled to allow for focus on the OWTS nonconforming lots. There are 10 properties that were identified with structures but that have no OWTS and do not meet minimum lot size. The minimum lot size is the only place in the codes that allows the town to stop OWTS being placed on nonconforming lot sizes without a variance being granted. Variances are currently granted or denied based on relatively subjective criteria. If denied, the property owner's recourse is to go through the courts. The working group (Ron, Mark Chain and Josh Vogt) has studied the OWTS in town and have identified the 10 lots mentioned above. They have developed a flow chart that can be followed when a variance is requested.

Mark reported that Marble is unique in that most incorporated municipalities have a waste water treatment system. Minimum lot sizes were set primarily to protect water and wells. Technology has improved. Mark went through the attached memo (see below) and explained the listed options.

Josh reported that there are three categories – 1. The 10 developed nonconforming lots without OWTS. 2. Nonconforming, developed properties that do have systems. 3. Vacant lots. The first group is the immediate focus. There is a need for consistent decisions and to use key metrics contained in the code to develop a flow chart. Josh illustrated a possible flow chart with such questions and next steps as: 1. Is the property developed with a habitable structure? 2. Does it meet minimum lot size? Yes: proceed to OWTS permitting process. No: Can lots owned by the same owner be merged? Yes: merge the lots and proceed to OWTS permitting process. No: have they have reached out to adjacent property owners to acquire more lots? 3. Does it have water Yes – good to go! No: can it get water? Yes – good to go. No: take a hard look at that. If it can get water, does it have or has it had a full OWTS system (not outhouse or tank)? Yes: good to go. No: can you meet such critical setbacks as proximity to wells, waterways, proximity to neighbor, roads. Yes: there may be more questions before granting a permit, such as historical use, possible deed restrictions, use and size of the lot. The working group will develop a more formalized flow chart.

Tim asked about the size of a habitable structure. Marble requires 600 sq ft minimum for a building permit for single family dwelling. Emma asked about outhouses and pit privies. Tim said he would prefer a pumpable tank. Larry asked for an example/menu of legal deed restrictions such as number of bedrooms (capacity/occupancy), size of structure, type of OWTS, commercial/noncommercial, no short term rentals, bathrooms, sinks. Emma suggested using the document that attorney Kendall Burgemeister developed regarding the Lawrence property as part of the process. Tim said that a deed restriction would follow the property in case of a sale.

Density is an issue as well. Repair permits can be another issue. It was explained that a flow chart gives a tool to use to treat everyone the same. Another option would be to leave things as they are. A question was asked regarding the definition of an existing structure. Josh feels that it is a structure that has been maintained and used. Tim stated that, because the Carbonate Creek aquifer is shallow – 40 feet, water quality is at top of concerns. Tim reported on the Colorado River District study and said the study shows 10,000 people will be moving to western slope a month.

Josh Vogt moved to adjourn. Emma Bielski seconded and the meeting was adjourned at 7:44 p.m.

Respectfully submitted,

Terry Langley

Mark Chain memo

Mark Chain Consulting, LLC

M E M O R A N D U M

TO: Marble Board of Trustees

FROM: Mark Chain, Planner

DATE: May 4, 2021

RE: OWTS Changes & Process

The Town of Marble has been reviewing its OWTS (On-Site Waste Treatment System) regulations since the end of 2020. This has included a review of all the existing properties in the town, their size, information available related to the utilities provided to the existing lots and other matters that are available online in the Gunnison County Records and by drive-by site inspection in a few cases. A number of issues have been identified including;

- there are existing, nonconforming lots (in terms of size) with nonfunctioning or outdated septic systems.
- There are existing lots that are undeveloped that are nonconforming in terms of lot size.
- There are cases where habitable structures are located on lots that are “off-site” from the lot with the habitable structure on it. Some of these are “merged” for purposes of having an OWTS, but may not be merged legally.
- Some of the non-conforming lots lie adjacent to or across an alley/right-of-way from other properties owned by the same person/entity or that individual has an interest in that adjoining entity. Are there conditions under which it would be advisable for these lots to be merged when there is an application for a building permit or a new OWTS?

We have made progress and have discussed potential code changes with the Town Attorney but still need to have a final conference with an OWTS designer. We then will be able to identify the preferred course of action related to all these issues. Most important, we feel we need a work session with OWTS changes as its sole focus and not share a long meeting with other Municipal business. At this time and unless otherwise directed, the working group suggests that the Town should address its immediate efforts to having a process and regulations for evaluating existing, nonconforming lots with habitable structures which have a nonfunctioning or outdated septic system. A couple of paragraphs added to the OWTS regulations can identify a specific process and submittal requirements. In deliberating the outcome of the 2 application, these are some of the options/outcomes that should be considered (below). There may be others.

- allow the OWTS as described in the application.
- allow the OWTS but require modifications to the system under consideration.
- allow the OWTS but limit the size of structure to either existing size of habitable structure or another size and include deed restriction or other legal requirements.
- consolidation with surrounding properties if under the same ownership (this should be considered if the ownership can attain a conforming size – depending on location in town).
- Consider an option of amnesty as long as some changes are made to nonfunctioning systems within an agreed upon time frame.
- ask for a limited system and limited size of structure.
- Deny the application.
- Take no action.