Policy P-49
Effective: September 27, 2007

STATE AGRICULTURE DEVELOPMENT COMMITTEE

POLICY

Placement of Septic Systems to Service Residential and Agricultural Uses Located on Exception Areas

I. Purpose

To establish a policy regarding the location of septic systems that service residential and agricultural uses located within exception areas.

II. Authority

N.J.A.C. 2:76-6.2

III. Policy

A. Definition of Septic System

For purposes of this policy, “septic system” shall mean a system for disposal of sanitary sewage into the ground which is designed and constructed to retain most of the settleable solids in a septic tank and to discharge the liquid effluent to a disposal field, and shall include the disposal field.

B. Severable Exception Areas (Exception areas that may be severed and subdivided from the preserved property)

Septic systems that service structures in the exception area shall not be located on the preserved portion of the farm.

C. Non-severable Exception Areas (Exception areas that cannot be severed or subdivided from the preserved property)

1. Applicability

Septic systems can be located outside the boundary of an exception area to service only residential and agricultural uses that are located within the exception area, subject to the conditions and limitations set forth in 2 through 6 below. Such septic systems can service only agricultural or residential uses occurring within the exception area. However, such septic systems cannot serve agricultural uses that are not associated with agricultural production on the preserved farmland.

2. Existing Houses

For houses existing on an exception area at the time the farm is preserved, the septic system can remain outside the delineated boundary of the exception area.

3. Replacing or Expanding Existing Houses or Replacing an Existing Septic System.

A landowner who is replacing or expanding an existing house or replacing an existing septic system that is located within the exception area may place the septic system outside the delineated boundary of the exception area if:

(1) the landowner is not increasing the number of bedrooms that existed in the original house *;
(2) the SADC finds that there is no feasible alternative location for the system in the exception area; and
(3) placement of the system outside the exception area has a minimal impact on the agricultural operation.

* If there were fewer than four bedrooms in the original house, however, the septic system can be placed outside the delineated boundary of the exception area if the new or expanded house has four or fewer bedrooms and meets the other criteria set forth in Paragraph 3.

4. New Houses

A landowner who is constructing a new house on an exception area may place the septic system outside the delineated boundary of the exception area if:

(1) the new house has no more than four bedrooms, as defined in N.J.A.C. 7:9A-2.1;
(2) the SADC finds that there is no feasible alternative location for the system in the exception area; and
(3) placement of the system outside the exception area has a minimal impact on the agricultural operation.

5. Demonstrating No Feasible Alternative

To demonstrate that there is no feasible alternative location as described in 3 and 4 above, the landowner shall provide a report showing that it is not possible to obtain approval for the construction of a septic system within the exception area pursuant to the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A and the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23.

The report must be signed and sealed by a licensed professional engineer as defined pursuant to N.J.A.C. 7:9A-2.1 and include supporting documentation including soil logs, plat showing the location of test pits that were properly witnessed by the local regulatory authority and any other relevant tests or information.

The report shall include justification that the proposed location is suitable and minimizes negative impact to the agricultural operation to the extent practicable.

6. Demonstrating Minimal Impact on Agricultural Operation.

When considering whether the septic system will have a minimal impact on the agricultural operation, the owner of the development easement and the SADC shall consider how much agricultural land will be displaced, the location of the land being displaced, and whether the septic system will obstruct, or act as a barrier to, the agricultural operation.

IV. Procedures

A. Landowner Application

An application to consider the placement of a septic system located outside of an exception area must be directed to the owner of the development easement on the Premises for consideration. A copy of the application shall be forwarded to the SADC.

B. CADB or Owner of the Development Easement Action

The CADB or owner of the development easement shall conduct a review of the landowner's application to place a septic system outside of an exception area pursuant to Policy P-49. A copy of the CADB's resolution that includes reasons for approving or denying the application shall be forwarded to the SADC.

C. SADC Action

If an application was approved by the CADB or owner of the development easement, the SADC shall conduct a review of the application pursuant to Policy P-49 and approve or deny the application accordingly.

The SADC shall notify the CADB/owner of the development easement and the landowner of its action.

D. Other `Approvals

Receipt of approval of an application by the SADC, and where appropriate, the owner of the development easement, shall not affect the landowner's need to obtain all other necessary approvals or permits as otherwise required by ordinances, regulations or law.

The landowner shall provide a copy of all such approvals to the SADC and if appropriate, the owner of the development easement upon receipt thereof.