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Dept of Health Regulations - Separability - Tilden Commons

1 message

John and Bonnie Lichak [REDACTED]

Wed, May 13, 2026 at 9:35 PM

To: Elizabeth Brutsch <nlpb.brutsch@gmail.com>

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Dear Ms. Brutsch and Planning Board Members:

It is requested that the following public comment be posted to the Case File for Tilden Commons project prior to the May Planning Board meeting. ***This comment is on the inability of the project to meet NYS Dept of Health (DOH) Regulations for the well (separability) for a Public Water System.*** The information is presented as a Q and A with all pertinent links to assist the Town and the public in understanding why Site Plan approval cannot be granted for this project as submitted.

What is a Public Water System

This question and answer posted here are from the NYS Dept of Health (DOH) website (link posted below)

What is a Public Water System?

"A public water system is an entity which provides water to the public for human consumption through pipes or other constructed conveyances. In New York, any system with at least 5 service connections or that regularly serves an average of at least 25 people daily for at least 60 days out of the year is considered a public water system. Public water systems are categorized as one of the following types of systems: community and non-community (including non-transient non-community and transient non-community)".

https://www.health.ny.gov/environmental/water/drinking/faq_def.htm

Does Tilden Commons have to install a Public Water System?

Yes, Tilden Commons must install a Public Water System as defined by the NYS DOH as the proposed project is for 41 apartments and a 12,500 + square feet grocery store and will serve more than 25 people. (See above DOH Q & A and link)

What Regulations must Tilden Commons meet for a Public Water System?

10 NYCRR Appendix 5-D , Special Requirements for Wells Serving Public Water Systems (Statutory authority: Public Health Law, Section 206[18],225), Table 1. See below link and Table 1.

Can Tilden Commons meet the NYS DOH requirements for a Public Water System?

No. Per the Engineer Consultant, Lamont Engineers, the parcel cannot meet the 200' well control area. See Planning Board, Cases Under Review, links for project Engineer letters.

Is the Town aware of these requirements?

Yes, the Town Conservation Advisory Council (CAC) has adopted a Drinking Water Source Protection Plan (DSWPP2) which is posted on the CAC web page. On Page 12 of that Plan, it details that a project of this size is held to the Public Water System Regulations as it will serve over 25 people.

<https://townofnewlebanonny.gov/wp-content/uploads/2024/10/2024-NL-DWSP-Plan-03102024-3rdReviewWAppendixB.pdf>

Analysis and Links:

Tilden Commons inability to meet NYS Dept of Health (DOH) Separability requirements

The Tilden Commons project consultant, Lamont Engineers, has stated in all 3 submissions (July 2025, December 2025, and April 2026) that the site cannot meet the NYS DOH requirements for the 200' well control area.

<https://townofnewlebanonny.gov/wp-content/uploads/2026/04/2026-04-01-Tilden-Submission-1.pdf>
See Page 205 Lamont Engineer 4/1/2026 Letter (paragraph cited below)

<https://townofnewlebanonny.gov/wp-content/uploads/2025/12/2025-12-04-PB-Submission-Tilden.pdf> See Pag 213 Lamont Engineer 12/2/2025 Letter

<https://townofnewlebanonny.gov/wp-content/uploads/2025/07/2025-07-16-tilden-1-200.pdf> See Page 43 Lamont Engineer 7/2/2025 Letter

In each of the above links, the Project Engineer has included the same paragraph about the inability of the parcel to meet NYS DOH Minimum Separation Distances to Protect Public Water Supply Wells from Contamination . The below statement is from the most recent submission by Lamont Engineers dated April 1, 2026, but each submission has included this same paragraph:

"The well location on the site has been considered for the majority of the other components on the site. The well is located on the opposite side of the proposed wastewater treatment system, and it is currently close to the middle of the site. The development parcel is only about 200' in width. The property contains most of the area to be within the required 100' well projection area, but there would be no location on this property able to meet the 200' well control area as suggested by the DOH requirements. The 72-hour pump test included monitoring of several other wells within a 500' radius of the site to ensure the drawdown of this well does not affect nearby property owners. That data will also be used to evaluate the suspected cone of influence for this well to determine if that 200' protection area for this well is a major concern or if some consideration can be given for a narrow cone of influence on a lower flow production well of this size regarding well setback restrictions."

NYS Dept of Health Regulations - Part 5, Subpart 5-1, Public Water Systems - Appendix 5D

https://www.health.ny.gov/regulations/nycrr/title_10/part_5/appendix_5d.htm#d7

5-D.7 Separability**Table 1****Required Minimum Separation Distances to Protect Public Water Supply Wells From Contamination**

Contaminant Source	Distance (Feet)¹
Chemical storage sites not protected from the elements (e.g., salt and sand/salt storage) ²	300
Landfill waste disposal area, or hazardous or radiological waste disposal area ²	300
Land surface application or subsurface injection of effluent or digested sludge from a Municipal or public wastewater treatment facility	300
Land surface application or subsurface injection of septage waste	300
Land surface spreading or subsurface injection of liquid or solid manure	200
Storage Areas for Manure piles ³	200
Barnyard, silo, barn gutters and animal pens ³	200
Cesspools (i.e. pits with no septic tank pretreatment)	200
Wastewater treatment absorption systems located in coarse gravel or in the direct path of drainage to a well	200
Fertilizer and/or pesticide mixing and/or clean up areas	200
Seepage pit (following septic tank)	200
Underground single walled chemical or petroleum storage vessels	200
Absorption field or bed	200
Contained chemical storage sites protected from the elements (e.g., salt and sand/salt storage within covered structures) ⁴	200
Septic system components (non-watertight)	200
Intermittent sand filter without a watertight liner	200
Sanitary Privy pit	200
Surface wastewater recharge absorption system for storm water from parking lots, roadways or driveways	200
Cemeteries	200
Sanitary privy with a watertight vault	200
Septic tank, aerobic unit, watertight effluent line to distribution box	100
Sanitary sewer or combined sewer	50
Surface water recharge absorption system with no automotive-related Wastes (e.g., clear-water basin, clear-water dry well)	None ⁵
Stream, lake, watercourse, drainage ditch, or wetland	None ⁵
All known sources of contamination otherwise not shown above	200

Conclusion for Denial of Site Plan for Tilden Commons

This application cannot obtain the required DOH State Approvals for the Water System and must be denied Site Plan approval. The issue is, as stated by the Engineer repeatedly, that the parcel cannot accommodate the 200' well control area separating the septic system from the well to avoid contamination. Mr. Becker, the project Engineer consultant, does include the words "as suggested" but there is nowhere in the DOH Regulations that state these Regulations are suggested or can be waived. They are the MINIMUM required distances. The Town Engineer and all Boards affiliated with this project (Planning, Zoning, and Conservation Advisory Council) must ensure NYS DOH Regulations are enforced to protect public health. The State of NY has these Regulations to protect public health, and we would strongly urge the Boards to adhere to all Regulations by denying Site Plan approval. We do not understand why Hudson River Housing or the 11 investors would want to keep pursuing approvals for a project that does not adhere to NYS DOH Regulations.

Here is a link to NYS DOH slides that may also be useful:

<https://mdw.srbc.net/pwsap/funding-resource-management-public-water-suppliers-2019/assets/docs/1245-srbc-presentation-doh-v3.pdf>

Sincerely,

Bonnie Lichak
Amy Brueckmann

cc:

Courtney Potter, Planning/ZBA Clerk
Andrew Clark, Tabner, Ryan & Keniry, LLP
Town of New Lebanon ZBA Members
Town of New Lebanon Conservation Advisory Committee Members