ZONING BOARD OF APPEALS

19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

DRAFT MINUTES
November 2, 2015

Members Present: Alan Rubenstein, Richard Novak, Ron Steffek, and Paul Kerrissey

Others Present: Peggy Novak, Ruby Krouwer, Steve Gaskin, Michael Barberio, Charles Morns, Neil Kessler, Greg Sheldan, Bob Willey, Theresa M. Fryer, Thomas J. Fryer, Gina F. Kapilian, Cheechong Tai, Ben Stevens, Dan Hill, Philip Paradis, Ed Marchant, Mark Kablack

Chairman Alan Rubenstein called the meeting to order at 8:00 p.m. in the Sherborn Town Hall, Room 204B.

PUBLIC HEARING FOR THE FIELDS AT SHERBORN
This is a continuation of the public hearing for the proposed 40B project, known as The Fields at Sherborn, which began on March 12, 2015. Chairman Alan Rubenstein gave a brief overview of the hearing process and its progress so far. Mr. Rubenstein also discussed the agenda to which he hopes to adhere at tonight's meeting, including potentially discussing final remarks on the issues of stormwater management and a review of updated site plans from the peer reviewer and the project engineer.

Philip Paradis, a peer reviewer from Beta Group, received updated site plans from the Fields at Sherborn development team on October 30, 2015. Beta Group has reviewed those updated plans, which have some modifications from the original site plans submitted on August 10, 2015. In reference to site circulation, the site plans will include a sidewalk on either the east or west side of the development, closer to Washington Street. Ben Stevens, the developer of the project, is opposed to installing a sidewalk on the entirety of the project as these sidewalks would intersect with driveways and he sees that as an unnecessary safety hazard. The Zoning Board of Appeals (ZBA) members are in favor of at least a partial sidewalk section so as to provide a safe path for children when approaching or exiting school buses. The developers are agreeable to this and will install a section of sidewalk on the site. Sufficient access for fire and rescue vehicles is a condition of the special permit for this project and will be satisfied. Related to that issue, the water supply on site for use by emergency crews will be shown on the final site plans. Additionally, transformers and a utility plan will also be included in the final plans. The

Conservation Commission has recommended that the plans include adding additional plantings in the wetlands buffer zone as part of the wetlands protection mitigation efforts. Native field grasses are also planned to be planted over the septic system. Attorney Dan Hill, representing concerned citizens, inquired further about the proposed landscape plans and requested that the developer provide perspective plans detailing the view of the project from abutters' properties and from Washington Street. Mr. Stevens is agreeable to this and will provide the requested views showing the potential screening plans, including walls and plantings.

A discussion was had about the use and classification of a small area of open space on the southeast end of the lot, near Washington Street. Ed Marchand, representing the developer, would prefer not to qualify the space with a specific use, but would rather leave the area as open space and allow the condominium owners' association to decide its use, whether it be for recreation or another purpose. Dan Hill countered that producing plans for recreational development for the site could be costly to future residents. Richard Novak would like to include a condition in the special permit that the area be reserved for low-impact recreational use as determined by the condominium association, consistent with it being at the top surface of the septic system. Paul Kerrissey would like to leave the use of the space undetermined as of now and allow the condominium association to decide a use and come before the ZBA for a special permit modification with tangible, rather than hypothetical, plans. Ron Steffek agreed that Mr. Novak's condition is general enough to allow for use of the space for recreational purposes while allowing for the potential that the condominium association could come before the ZBA to change that use, pending approval of a special permit modification.

On the issue of the housing density of the project, Philip Paradis feels the project is too dense and would like to see either the elimination of two buildings – Building A and Building J – or the changing of Building J into a three-unit building from than a four-unit one. Chairman Rubenstein reminded the audience that, because this is a proposed 40B project, local regulations or preference for lower density can be overridden unless it is shown that the local regulations outweigh the need for regional affordable housing. Dan Hill referenced local regulations regarding water quality and quantity which he feels cannot be uncoupled from the issue of site plan density.

The issue of the roles of each of the three boards involved – the Board of Health, the Conservation Commission, and the ZBA – in the approval or denial of parts or the entirety of the project was raised and discussed. Dan Hill presented a case which shows that the decision on subjects in the jurisdiction of boards – for example, the matter of septic is under the purview of the Board of Health – lies with that board and not with the ZBA. Attorney Mark Kablack, representing the developer, was of a different opinion that the Conservation Commission and Board of Health act in an advisory role to the ZBA, who makes the ultimate decision to approve or deny the project. Members of the ZBA expressed similar uncertainty but will investigate further to ensure that the correct process is followed.

To the matter of stormwater management, Dan Hill, accompanied by hydrogeologist Pat Garner, laid out several Department of Environmental Protection (DEP) regulations which they feel are not met by the Fields at Sherborn site plans. The decision of compliance with these regulations, Mr. Hill feels, lies with the Conservation Commission. One such regulation states that rates of

water flow off the property post-construction cannot exceed rates of flow off the property pre-construction. Mr. Hill and Mr. Garner feel that precipitation rates and models used by the development team are outdated and that some precipitation inputs were not taken into consideration in the water flow calculations. It is also their opinion that the design engineer, Mr. Bruce Saluk, underestimated the watershed area, or the area of land from which water drains. To these issues, the developers responded that the metrics which Mr. Hill and Mr. Garner referred to as "outdated" are in compliance with Massachusetts DEP regulations. Additionally, Mr. Saluk stated that the calculations of the watershed area have been updated in the revised site plans and include an expanded watershed area. Mr. Garner discussed new standards of precipitation frequency estimates, called Atlas 14, currently being considered by the DEP to replace present estimation standards and stated that these are very common and should be used in this case. Mr. Paradis stated that these standards are not very common and may potentially not have an impact on runoff calculations or system capacity requirements. Mr. Novak and Mr. Steffek expressed interest in having the calculations redone using the Atlas 14 figures to either add confidence that the stormwater management systems proposed for the project would be capable of performing adequately or inform all involved that the systems would be inadequate.

Another DEP standard that Mr. Hill and Mr. Garner feel is not being met is caution to avoid stormwater discharge into environmentally sensitive areas; in this case, the environmentally sensitive area is the wetlands. Mr. Saluk says that the plan meets requirements. Mr. Hill says that it would be best to redirect the stormwater drainage pipe away from the wetlands as it is now within 50 feet of the wetlands. This is an issue that the Conservation Commission is considering and will consider further. Ben Stevens reports that the public hearing on the 40B project with the Conservation Commission is closed but that a final decision by the Commission has not yet been reached.

Beta's contract for work performed during this review process contains a "not to exceed" amount of $28,500. As of approximately one week prior to tonight's meeting, the expenditures had reached close to $21,000 of the total. Chairman Rubenstein requested that Beta provide an estimate of the cost of work yet to be completed and that estimate was returned on November 2, 2015. The estimate calls for an additional $8,450 over the $28,500 contract amount, attributed to the fact that Beta employees have had to attend more meetings and perform more analysis and more complex reviews for the Conservation Commission and the Board of Health than what was originally budgeted for in the contract's scope of work. Mr. Stevens reviewed the itemized list of additional expenditures and was understanding and agreed to pay the increase.

The next public hearing on the Fields at Sherborn will take place on Monday, November 23, 2015 at 8:00 p.m. The proposed agenda for this hearing will include wetlands issues and, pending the readiness of the Board of Health, septic issues.

The hearing adjourned at 10:40 p.m.

Respectfully submitted,
Samantha Shepherd