ZONING BOARD OF APPEALS

19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

MINUTES
January 26, 2016

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

Others Present: Neil Kessler, Robert Johnson, Elizabeth Johnson, Kate Alfieri, Phil Paradis, Lee Chertavian, Elaine Chertavian, Sarah Hunsucker, Rebecca Hunnewell, Richard Littlefield, Richard Linden, Marian Neutra, Ruby Krower, Chee-chong Tai, Pat LeBlanc, Dan Hill, Ben Stevens, Bruce Saluk, Ed Marchant, Addie Mae Weiss, Michael Lesser, Steve Gaskin, Barry Levy, Daryl Beardsley, Mark Kablack, Scott Horsley

Chairman Alan Rubenstein called the meeting to order at 8:00 p.m. in the Sherborn Town Hall, Room 204B. This meeting was audio-recorded by a resident.

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 discussion of the site plan revisions that have been introduced since the last meeting of the Zoning Board of Appeals (ZBA) on November 23, 2015. The Chairman would like to have input from the applicant, Ben Stevens, from the peer reviewer, Phil Paradis, and from the Chairwoman of the Board of Health (BOH), Daryl Beardsley, about these site plan revisions as well as each party's opinions on the matter of recommending the approval or denial of BOH-related waivers.

Ben Stevens presented the modifications he and his design team have made to the Fields at Sherborn site plans since the issue was last discussed at a public ZBA hearing. Those modifications include the removal of Building A from the plans, transforming Building B into a three-unit building rather than a four-unit building, and adjusting the location of Building J. These changes result in a reduction in the number of buildings from ten to nine and a reduction in the number of units from 36 to 32. A sidewalk has been added on the east side of the project's entrance driveway. The number of leeching fields on the site has been reduced to two from three. According to the applicant, the project will have a total bedroom count of 76 as a result of these

site plan modifications and that, because of this total bedroom count, the previously-discussed nitrogen-enhancing technology planned for the septic treatment system on the site has been deemed unnecessary by the applicant. Unit floor plans with a second floor study have been eliminated and the option for a full bathroom in the basement level has been eliminated. Attorney Mark Kablack, representing the applicant, stated that his client is fully willing to deed-restrict the bedroom count per unit to disallow use as bedrooms of any other rooms in the units not intended to be used as bedrooms by the developer. Mr. Kablack reported that, in his experience, it is common that the Town has a say in the policing of deed restrictions, above and beyond the purview of the Condominium Association or the Trustees. The applicant stated that there are no instances of there being more than nine bedrooms total per building and that there will be one well per building. A tenth well will be used for irrigation and fire response. Mr. Stevens reported that the Abbey Road well testing plans were used for comparison to the proposed Fields at Sherborn well testing plans relating to water quality and quantity and he feels that the Fields project is fully compliant with Title 5 requirements.

An extensive discussion was had on the interpretation of the definition of a bedroom and how bedroom count relates to the compliance requirements for septic systems. Attorney Dan Hill, representing concerned residents, stated that bedroom count is determined mathematically whereby, if a unit has more than eight rooms, the total number of rooms divided by two results in the presumed bedroom count. There are some units in this project with eight rooms. Therefore, the number of bedrooms presumed by the Department of Environmental Protection (DEP) would be four. Based on this calculation, Mr. Hill insists that the bedroom count for the project would be higher than the 76 given by the applicant, which would be in excess of the 10,000 gallons per day septic usage limits set by the DEP. Mr. Hill further stated that, in his opinion, there is no good way to adequately or accurately enforce this kind of proposed room usage deed restriction. Mr. Hill expressed that he is concerned for public safety related to water quality and quantity as potentially influenced by this project. Mr. Stevens stated that, in his experience with this type of development, the communities regulate themselves as residents are aware of proper uses of units and discourage their improper use. Daryl Beardsley stated that anecdotal stories of community self-regulation do not have bearing on the DEP's calculations and data or the physical structures present. She reports that she has been attempting to contact the DEP regarding this project but has been so far unsuccessful.

Peer reviewer Phil Paradis, of Beta Group, discussed changes to the site plans and to the stormwater management plans for the proposed project. He informed those present that the entrance driveway has moved approximately 30 feet east. Mr. Paradis stated that, due to the amendments to the site plans, a previously-planned area of pervious pavement will be replaced in the plans as pervious paver driveways for the units. Mr. Paradis is requesting that the applicant write into the plans that the pervious paver driveways are an important part of the stormwater management plan of the site and that individual owners of units must maintain the pervious material in perpetuity. Several guest parking spaces previously planned for the project have been removed in the updated plans. Overall, Mr. Paradis feels that the modifications made to the project plans are improvements over the original plans.

Speaking as a member of the Conservation Commission, Michael Lesser reports that the Town is still awaiting a response from the DEP regarding further analysis about the project's potential

impacts to the nearby wetlands. Further analysis is required as changes have been made to the stormwater management infrastructure, including the relocation and combination of stormwater collection chambers.

Chairwoman Beardsley reported that the BOH met with the applicant earlier on the date of tonight's hearing to discuss septic issues. The Board reviewed the applicant's requests for waivers and voted on some of those requests. She stated that the waiver requests fell into four basic categories: early-on requests which have generally been made moot as the updated plans now comply with Town regulations; waiver requests that have been reviewed and approved as they do not compromise public health; waiver requests the Board is still considering or still awaiting the receipt of more complete information; and waiver requests the Board has voted not to recommend granting. The BOH will compile all voted decisions made so far and supply the decisions to the ZBA in writing. The BOH is holding a special meeting on February 2, 2016 to discuss unresolved waiver requests and is currently awaiting technical information regarding the site plan and stormwater management plan modifications. Chairwoman Beardsley stated that it is expected that all necessary information will be made available to the BOH prior to that special meeting and that they will be able to vote on any outstanding waiver requests. However, it is possible that conclusions drawn at the special meeting will result in the BOH requiring more data. Both Ben Stevens and representatives of the BOH expressed some frustrations in the slow exchange of information and communication in the process thus far. Dan Hill will provide a list of waivers for which he feels the applicant should be required to request approval.

Scott Horsley, a professional in the fields of watershed planning and water resources management, has been retained by Attorney Dan Hill to review the site plans for the Fields at Sherborn. Mr. Horsley gave a brief presentation of his analysis of the updated site plans as submitted in mid-December. He feels that the data submitted by the applicant relating to the watershed area, site runoff, and wetlands impacts is incomplete as system inputs and outputs beyond the limits of the site boundaries are not taken into account. A more detailed analysis from Mr. Horsley is forthcoming, pending the receipt of additional data.

Gina Kapillian stated that she does not find it appropriate for the applicant to compare the Fields at Sherborn to the Abbey Road project and that the analysis of this project should remain focused on the Fields at Sherborn. Michael Lesser expressed concern with the one-week time frame of the submission of information by the applicant and the receipt and expected analysis of that information by the BOH and the peer reviewer. Richard Novak insisted that all parties involved in this issue be included in electronic information sharing to reduce the delay of the transmission of information among the stakeholders.

Mr. Paradis reported that Beta Group has spent the allotted budget for the peer reviewing services for this project and are expecting to need an additional $9,500. Mr. Stevens was aware of this amount and was prepared to provide the additional funds at tonight's meeting.

The next meeting of the Zoning Board of Appeals will be held on Monday, February 8, 2016 at 8:00 p.m. Chairman Rubenstein expects to have a substantive discussion about the modified septic system and the related nitrogen analysis. Mr. Rubenstein is not anticipating the ZBA making any final decisions on this matter, and is thus forecasting additional ZBA meetings

beyond February 8, 2016, but will be expecting to hear further discussion from the BOH regarding their special meeting on February 2, 2016 on these issues.

The meeting was adjourned at 10:35 p.m.

Respectfully submitted,
Samantha Shepherd

DOCUMENTS REFERENCED DURING TONIGHT'S MEETING
A January 26, 2016 document from Attorney Dan Hill detailing the analysis and findings of Scott Horsley on the water resources management of the site

Minutes approved February 10, 2016