ZONING BOARD OF APPEALS

19 WASHINGTON STREET
SHERBORN, MASSACHUSETTS 01770

DRAFT MINUTES
November 23, 2015

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

Others Present: Neil Kessler, Carol McGary, Robert Johnson, Elizabeth Johnson, Kate Alfieri, W. David Thorn, Chuck Morris, Lenor White, Phil Paradis, Lee Chertavian, Elaine Chertavian, Sarah Hunsucker, Rebecca Hunnewell, Richard Littlefield, Richard Linden, Thomas Trainor, Marian Neutra, Ruby Krower, Chee-chong Tai, Jacquie Marcus, Pat LeBlanc, Jon Coblyn, Gregory M. Kennan, Dan Hill, Ben Stevens, Bruce Saluk, Ed Marchant, Addie Mae Weiss, Michael Lesser, Steve Gaskin

Chairman Alan Rubenstein called the meeting to order at 8:00 p.m. in the Sherborn Town Hall, Room 204A. The public hearing for the Fields at Sherborn was continued to the same date and time as a regularly scheduled meeting of the Zoning Board of Appeals. Therefore, the hearing on the Fields at Sherborn will be continued at 8:30 p.m. after the discussion of regular business.

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 the impact of the Fields at Sherborn on adjacent wetlands and the recommendation of the Conservation Commission on the matter.

Chairman Rubenstein thanked the Conservation Commission for their work and their offering of a recommendation. Conservation Commission Chairman Steve Gaskin and Treasurer Michael Lesser were present to discuss the Commission's recommendations. After reviewing the plans for the Fields at Sherborn, the Commission recommends not granting a waiver to the Sherborn wetlands regulation 3.4 regarding the no alteration zone. The Commission is of the opinion that the project would extensively impact the wetlands within the 50-foot buffer zone. Additionally, the Commission recommends not granting a waiver of the Sherborn wetlands regulation 10.1 on the basis that there is limited fill testing of the site and the Commission would like to see more complete testing. These recommendations for denying the granting of waivers are based on the

Commission's opinions that there will be several impacts of the proposed project on the nearby wetlands and the associated buffer zone, including tree cutting and site grading. While there are mitigation efforts in place, the Commission feels they will not be sufficient enough to overcome the negative impacts. The Commission also feels there is uncertainty in the volume of effluent from the sewer system and the ability of the wetlands to maintain a healthy water quality and a properly functioning ecosystem. To the Conservation Commission, this proposed project will significantly impact the health of the wetlands and, by association, the functionality of the wells on the property and on the abutters' properties. Mr. Gaskin informed the ZBA and the audience that his Commission's recommendation was not a decision reached in haste or without thoughtful consideration. He remarked that other 40B projects have been approved in Sherborn but that this particular 40B project presents serious negative effects. Mr. Gaskin stated that the applicant-provided information on the potential wetlands impacts does not include information on the impacts to the fauna of the area, and he noted that the habitat is ecologically significant as there are endangered species present. At the site, the Commission finds that there will be both temporary – during construction – and permanent – after construction – disturbances to the wetlands and the buffer zone.

Chairman Rubenstein asked for specific adverse effects to allowing building within the 50-foot buffer zone. Mr. Lesser answered that building within the 50-foot buffer zone would negatively impact the water quality and the wildlife habitat. Furthermore, allowing building within the buffer zone would result in the lowered filtration of sediments and contaminants before runoff reaches the wetlands.

Chairman Rubenstein reiterated, as he has in past hearings on this matter, that the denial of waving local Bylaws can only be done if it can be adequately shown that local needs for adhering to Town regulations override the regional need for affordable housing. Representatives of the Conservation Commission stated that they understand and recognize that there is a regional need for affordable housing but thinks, for this site, that it is more important to protect this ecologically significant environment and thinks there will be negative impacts if the project is built as currently planned.

Lenore White, a wetlands scientist and employee of Beta, praised the Conservation Commission for their work in reaching their conclusion, stating that they did thorough work in weighing the potential impacts to the wetlands and buffer zone for this site. She supports the recommendations of the Commission on the basis that this wetland supplies water to a large region and it is home to rare and endangered species of fauna. For these reasons, the maintenance of the health of the wetlands and buffer zone are important.

Attorney Mark Kablack, representing the applicant Ben Stevens, stated that he submitted a letter to the Zoning Board of Appeals on November 11, 2015 regarding the wetlands issues for this site. He reports that the applicant fully intends to appeal to the Massachusetts Department of Environmental Protection, following the Conservation Commission's recommendation of waiver denial, as he believes the project has legitimate reasons for waiver approval. Mr. Kablack stated that the degree of the impacts to the wetlands and buffer zone are subjective, as well as the uniqueness of the site's flora and fauna. To Mr. Kablack and the applicant, when the regional need for affordable housing is weighed against the uniqueness of the habitat, the affordable

housing side is more important. Applicant Ben Stevens would like to note that Attachment A in the Conservation Commission's report was done after the close of their public hearing process and should not be included in the Department of Environmental Protection's review. Attachment A is a collection of information that the Commission feels was not fully addressed by the applicant and this list was not provided to the applicant prior to the close of the public hearing. This, Mr. Stevens feels, is significant because one of the reasons for the recommendation of the denial of waivers is cited as insufficient information which may have been provided had the applicant been made aware of the insufficiency.

The applicant is seeking a waiver of Town wetlands regulation 10.1 which requires testing of each load of fill. Mr. Stevens stated that he would be willing to have a fill supplier or fill suppliers pre-approved by the approving authority on the basis that the quality and content of fill meets Town requirements.

Chairman Rubenstein inquired of the applicant why he is seeking a waiver of Town wetlands regulation 3.4. Mr. Stevens stated that he does not believe the impacts on the wetlands will be as dramatic as the Conservation Commission asserts they will be because of construction techniques, including erosion control, sediment control, and landscape architecture mitigations.

Neil Kessler, of 43 Page Farm Road, stated that he emailed Chairman Rubenstein on November 22, 2015 and discussed the contents of the email tonight. Mr. Kessler raised concerns with the proximity of the septic system to the wetlands and the wetlands' ability to attenuate the increased nitrogen entering the system via the septic system. Mr. Kessler asserts that this would result in debilitation of the wetlands' ability to self-regulate.

Carol McGary, a member of the Conservation Commission, spoke about the importance of the wetlands and buffer zone as it relates to the fauna of the area. She stated that most fauna in a wetlands area begins life in the wetlands and then most of life is spent in the buffer zone. Additionally, plant and animal life is co-dependent in the buffer zone and in the wetlands. She further stated that the life in this particular habitat is unique and should be protected.

Attorney Dan Hill, representing a group of concerned citizens and abutters to the proposed project, informed those present that he has retained Scott Horsley, a professional in the fields of watershed planning and water resources management, for input on this issue. Mr. Horsley will be providing the Zoning Board of Appeals with further analysis of the potential impacts of this proposed project on the wetlands and buffer zone.

Mr. Stevens reports that he and his design team are planning to reduce the total number of bedrooms for the project. The extension period for the Zoning Board of Appeals public hearing will expire on December 16, 2015, as per an agreement made on August 12, 2015. However, more time is needed as the Board of Health has not reached a recommendation as of tonight's meeting. Therefore, it was agreed tonight that the public hearing period will be extended to February 18, 2016. Mr. Stevens will provide this agreement in writing.

The next meeting of the Zoning Board of Appeals will be on Tuesday, January 26, 2016 at 8:00 p.m.

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

MINUTES
The minutes of October 21, 2015 were approved as amended.

Respectfully submitted,
Samantha Shepherd