

# ZONING BOARD OF APPEALS



19 WASHINGTON STREET  
SHERBORN, MASSACHUSETTS 01770

## MINUTES October 21, 2015

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

**Members Absent:** None

**Others Present:** Robert Johnson, Ben Stevens, Ed Marchant, Ruby Krouwer, Gina Kapilian, Barry Levy, Michael Barbiero, Charles Morris, Addie Mae Weiss, Peter Liffiton, Neil Kessler, Michael Lesser, Charles Blaney, Elizabeth Johnson, Melinda O'Neil, Pat LeBlanc, Jacque Marcus, Cheechong Tai, Gary Goldberger, Peggy Novak, Marian Neutra, Bob Wittey, Maureen Wittey, Gino Carlucci, Robin Perera, Daryl Beardsley, Dan Hill, Philip Paradis

Chairman Alan Rubenstein called the meeting to order at 8:01 p.m. in the Sherborn Town Hall, Room 204B.

### MINUTES

The minutes of August 12, 2015 were unanimously approved as amended.

### 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. Applicant Ben Stevens reports that he believes he and his team have supplied the Board of Health with all information the Board has requested. As Chairman of the Board of Health, Daryl Beardsley responded that she and the Board are currently unsure if all requested information has been provided and that the Board will be in contact with their agent and the peer reviewer for this project to analyze the provided information for completeness. The next meeting of the Board of Health will be held on November 4, 2015 where this issue will be discussed and the Board will report back to the Zoning Board of Appeals. Mr. Rubenstein inquired as to whether the information submitted to the Board of Health by the applicant included a site-specific mass balance analysis which, in his interpretation of the requirements, should be included as this is a nitrogen-sensitive area. Mr. Stevens does not feel that a mass balance analysis is necessary as the septic system being

analyzed is an enhanced system and has different requirements for analysis. Peer reviewer Phil Paradis said that the issue will be further investigated to determine what testing is required. Mr. Rubenstein also inquired as to whether a groundwater mounding analysis had been provided and Mr. Stevens responded that it had.

Attorney Dan Hill, representing various citizens, reported that a mass balance analysis has been performed according to the original site plans by an independent party and that the information obtained for the analysis has been provided to the Board of Selectmen. Mr. Hill stated that the findings of this mass balance analysis showed that the plans exceed the 10 milligrams per liter requirement for nitrogen in the septic system. Mr. Hill reports that a new assessment of revised site plans suggests an even greater increase in nitrogen. Mr. Hill raised other concerns around the septic and well systems, including the transmission of pathogens and viruses. Information on the transmission of viruses in the well system has been requested of the applicant by the Board of Health and has been partially provided. Mr. Hill informed those present that the Advisory Committee unanimously voted to approve a Town-funded, independent hydrogeologic study to analyze water quality and quantity at the site and the possible influence of this project on abutting wells. A discussion was had as to which nitrogen requirements this project's Department of Environmental Protection-approved nitrogen-enhanced septic system must adhere. Mr. Hill stated that this is not just a matter of whether the state requirements are met, but it is also a matter of whether the requirements of the Town's Board of Health are satisfactorily met. Mr. Rubenstein reminded the room that the Zoning Board of Appeals will only deny the applicant's request for waivers to Town regulations if evidence can be given that shows a public health threat as this is a 40B project.

Mr. Rubenstein asked about the progress of the Conservation Commission in regards to stormwater management and wetlands issues. Mr. Paradis reports that the Conservation Commission is next meeting on October 27, 2015 where he expects the approximately four or five open issues on the topic of stormwater management to be discussed. Information learned during that hearing will be relayed to the Zoning Board of Appeals. Mr. Stevens reports a delay, on the order of two months, in receiving any response from the Conservation Commission to which the applicant can, in turn, respond. Mr. Rubenstein asked the applicant if it remains true that the sole request for the approval of a waiver from the Conservation Commission with respect to wetlands is wetlands regulation 3.4, which requires no alterations within the 50 foot wetlands buffer zone. Mr. Stevens responded that that is correct. He added that the analysis of the impacts within the 50 foot buffer zone is subjective and that a waiver may not be necessary, depending on the interpretation. Mr. Hill presented a list of issues that he feels the applicant has not adequately addressed, as well as issues with the data presented by the applicant on stormwater management and wetlands issues. Hydrogeologist Pat Garner, who has analyzed the site plans and associated data, will be present at both the Conservation Commission hearing on October 27, 2015 and the next hearing of the Zoning Board of Appeals to contribute to the public discussion about these issues.

Ron Steffek inquired as to the status of the issue with bedroom counts in relation to local and state regulations and the subsequent capacity of septic and well systems. Mr. Stevens reports that units with floor plans that called for two bedrooms plus a study on the second floor have been eliminated from the project as that study could be defined as a bedroom. The applicant will be

requesting a waiver for floor plans that include a study on the second floor a master bedroom on the first floor. The applicant intends to write a deed restriction that states that studies not be used as bedrooms, depending on whether or not the approving authority accepts. A discussion was had as to which board – either the Zoning Board of Appeals or the Board of Health – is the approving authority and this will be looked into by several parties.

The next hearing of the Zoning Board of Appeals will be held on November 2, 2015 at 8:00 p.m.

Tonight's hearing adjourned at 9:07 p.m.

Respectfully submitted,  
Samantha Shepherd

**DOCUMENTS REFERENCED DURING THE HEARING**

1. An October 21, 2015 document from Dan Hill to the Zoning Board of Appeals, regarding the Fields at Sherborn.

Minutes approved November 23, 2015