



Board of Health

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MEMORANDUM

TO: Sherborn Zoning Board of Appeals

FROM: Daryl Beardsley (Chair) on behalf of the Sherborn Board of Health

DATE: May 4, 2021

RE: Recommendations Regarding Waiver Requests for Coolidge Crossing, 84-86 Coolidge Street, Sherborn

This memorandum provides recommendations and comments regarding the waivers to Board of Health regulations and requirements requested for the Project in Exhibit 10 of the October 2020 Application for a multi-unit apartment housing project, named Coolidge Crossing, proposed by Baystone Sherborn, LLC for the property at 84-86 Coolidge Street in Sherborn, Massachusetts.

The Applicant requested “an exception from each and every provision or requirement of all Local Requirements and Regulations issued by a ‘Local Board’ … including, but not limited to … board of health”. Also, the following Board of Health regulations were singled-out for waivers by the Applicant:

TOWN OF SHERBORN – BOARD OF HEALTH REGULATIONS				
BY-LAW/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Part III, Sections 3.1 and 14	Environmental Health Impact Report/Scope	Report when greater than 10 dwelling units proposed.	Projects greater than 10 dwelling units, to submit an Environmental Health Impact Report to Board of Health	Waived. All review by Zoning Board under Chapter 40B; as project requires no onsite water or sewer, impacts to drainage/stormwater to be addressed in civil engineering plans and within peer review.
Part III, Section 12.1	Drainage	Drainage detail	Limit on stormwater runoff change of more than/less than 10% for volume of runoff or total rate of runoff for subdivisions/projects.	To extent applicable (project is not subdivision):waive. Proposed project to adhere to MassDEP stormwater and stormwater mitigation standards
Part III, Section 12.5	Drainage	Drainage and soil permeability	Soil infiltration rates measured by in-situ field bore hole tests.	Waived; project to utilize infiltration rate design methods as outlined in the MassDEP stormwater and stormwater mitigation standards.

Due to the broad waiver request noted above, the Board of Health has identified the following portions of its regulations¹ to address herein since these are or have potential to become applicable to the Project. If helpful, the Board of Health will participate in further discussions about technical and other details on these items.

¹ Excerpts from the regulations are indicated by italics.

I. SEWAGE DISPOSAL

The provisions of these regulations are based on General Law and the particular physical, environmental, hydrogeological, demographic and land use information and projections relative to the Town of Sherborn. No system or facility to be used for treating, neutralizing, stabilizing or disposing of wastewater from homes, public buildings, commercial or industrial buildings or any other types of establishments shall be located, constructed, altered, repaired or installed until a Disposal Works Construction Permit for such work shall have been issued by the Board of Health.

The Project as currently presented does not include plans for on-site wastewater treatment and/or disposal. Thus, the majority of this portion of the regulations will not apply (with the exception of 18.3, which is applicable during the construction phase) unless and until Project plans include partial or total on-site wastewater treatment and/or disposal. The Board of Health recommends that it be consulted if on-site wastewater management becomes necessary.

18.3 Temporary Facilities: *When no approved sanitary facilities exist on the site, all builders and contractors shall provide approved temporary sanitary facilities at their work sites. These facilities shall remain on the site from the first day of operation until completion of the contract.*

For the benefit of site workers, stormwater run-off quality, and general sanitation, the Board does not recommend a waiver to Section 18.3. Meeting this requirement will not inhibit the Project and is a standard good practice for construction sites.

II. DOMESTIC WATER SUPPLY

1.0 Permits, 1.1: *In order to enforce the provisions of Article 11 of the State Sanitary Code, Regulation 4, "Water Supply", a permit from the Board of Health shall be required for the development of a suitable source of water supply prior to the start of any construction on a building or buildings intended for human occupancy where water will be used. (Per 6.0.F, this includes wells intended for irrigation use.)*

2.1 Well: *Includes any pit, pipe excavation, spring, casing, drill hole or other source of water to be used for any purpose of supplying potable water in the Town of Sherborn and shall include dug wells, driven or tubular wells, drilled wells (artesian or otherwise) and springs, gravel packed, gravel walled wells, gravel developed and wash borings and as further described in U.S. Environmental Protection Agency Manual of Individual Water Supply Systems.*

As the Project is seeking a water supply from a neighboring municipality, an on-site water supply is not included in the current plan and thus a permit from the Board of Health is not required under these circumstances. The Board of Health recommends that it be consulted if on-site water supply becomes necessary.

At the ZBA's March 31, 2021 hearing, Roy MacDowell stated, "I think in the future if we think we may want to have wells, we will approach the Board of Health on that issue." As there are no state level regulations for private wells, that would be the only appropriate course of action. The Board of Health cannot waive this important requirement and responsibility for the permitting of wells.

III. PUBLIC AND ENVIRONMENTAL HEALTH REVIEW REGULATIONS AND STANDARDS FOR OTHER THAN A SINGLE FAMILY DWELLING ON A SINGLE LOT

2.0 Purpose: *These regulations are intended to protect the public and environmental health, provide adequate water supply and wastewater treatment, and ensure that there will be adequate protection against flooding, siltation, and other drainage problems. These regulations are also intended to make certain that earth removal projects will (a) maintain a depth to groundwater which is adequate for the construction of subsurface wastewater disposal systems under both local regulations and the State Environmental Code and (b) not be injurious to water supply and (c) will be carried out so as to provide adequate protection against flooding, siltation, and other drainage problems.*

Naturally deposited soils are recognized as best for treatment of stormwaters that recharge groundwater reserves. A greater thickness of soil provides a correspondingly greater degree of filtration, adsorption, absorption, and reaction (including drying out time of viruses and bacteria) of possible contaminants. Thus, removal of soils diminishes protection of area-wide groundwater resources.

As currently described, significant soil removal is not anticipated by this Project. If soils are to be removed from current locations, the Board of Health recommends that the soils be used elsewhere on site, particularly as the Project describes the need to bring in fill to, for example, increase the separation to groundwater of stormwater management infrastructure. This is a practical cost-saving measure and, as the land was previously undeveloped, the risk of importing contamination to the site is reduced.

3.1 Environmental Health Impact Report: *The applicant for any proposed project of ten (10) or more dwelling units, whether in a subdivision or on an approved roadway, or any commercial or industrial development with a gross floor area exceeding 7500 square feet, or a design sewage flow of 2000 gallons per day or greater, or any Planned Unit Development (PUD), or any earth removal project exceeding 350 cubic yards of material per lot, or 1000 cubic yards of material per project, shall submit an Environmental Health Impact Report (EHIR) to the Board of Health.*

This regulation addresses the importance of overlying, naturally deposited soils. The Board of Health recommends that the requirements of *Section 13.0 Earth Removal Standards* be applied in

the event that the Project identifies the need for removal of 1000 cubic yards or more of earth, which is not currently anticipated but may change as site work begins.

3.2 Environmental Health Permit: *The applicant for any project that meets the criteria stated above shall be required to obtain an Environmental Health Permit from the Board of Health.*

The Board of Health does not anticipate the need to issue an Environmental Health Permit due to:

- a lack of on-site water supply and wastewater discharge, and
- the current storm water management plans for the Project, which have been reviewed and amended through the ZBA's peer review process.

If either of these conditions changes, the Board of Health will need to reconsider this determination.

If a permit for an on-site well is sought in the future, a limited Environmental Health Impact Report (per *14.0 Environmental Health Impact Report - Scope and General Submittal Requirements*) may be required by the Board of Health.

10.0 Bedrock Disruption: *Bedrock disruption means any activity performed upon ledge or bedrock, including, but not limited to, hammering, drilling, and blasting and any other activity that breaks up and/or removes portions of ledge and bedrock; bedrock disruption shall not include water well drilling.*

Requirements apply to the Project if 10 or more cubic yards of bedrock (i.e., ledge) is affected during site construction.

The Board recommends that III.10.0 requirements not be waived if site activities meet or exceed the threshold of applicability. There is evidence in Sherborn and elsewhere that bedrock disruption can have detrimental impacts on groundwater quality. The requirement for notification of abutters is of low cost. Other costs may involve application of best practices regarding bedrock disruption management.

12. Drainage: There are a variety of local requirements pertaining to how land development that impacts stormwater dynamics must be assessed, designed, and/or managed to minimize detrimental consequences. Over multiple ZBA hearings, the Applicant and its agents as well as the Peer Reviewers have indicated that the stormwater management plans for the Project will adequately address Board of Health concerns that have been raised. Comments on several specific issues are provided below.

- **12.1:** *The proposed drainage for a subdivision or project shall not cause an increase of more than 10% nor a decrease of more than 10% in either the total volume of runoff discharged offsite, or total rate of runoff discharged offsite, as compared with the*

respective discharge offsite prior to the development. Such condition shall be required for storms of 2, 10, and 100-year frequency events.

This requirement is applicable to the Project as it covers “a subdivision or project”. The Applicant’s technical consultants have indicated that they do not anticipate any increase in runoff from the site and the Peer Reviewer concurs. However, as there has not yet been an explicit evaluation regarding any decrease in off-site runoff, the Board of Health recommends that this evaluation be performed.

- *12.2: No channelization of surface runoff shall be allowed offsite without the written consent of the owner of the land affected, in the form of a permanent grant of easement, recorded at the Registry of Deeds.*

Although channelization of surface runoff is not anticipated as necessary, the Board of Health recommends that this requirement is not waived if it does become applicable, for reasons of the significant problems that could be created on nearby properties (such as inundation of a septic system’s soil absorption system).

- *12.5: ... Unless, in the opinion of the Board of Health, such testing is not applicable for a particular site, all permeability tests shall be in-situ field bore hole tests for permeabilities in the acceptable range as specified above. ...*

The Applicant is using infiltration rate design methods as outlined in the MassDEP stormwater and stormwater mitigation standards, which have undergone Peer Review. Given that a significant amount of fill is planned for the Project, in-situ testing is not the only factor involved. Under these circumstances, the Board of Health will defer to MassDEP standards but recommends that the Peer Review takes into consideration that state standards for treatment and re-infiltration are meant to be practical for areas that may not use groundwater as drinking water and thus represent minimum standards, which may or may not be sufficient for Sherborn.

IV. DESIGN, OPERATION AND MAINTENANCE OF SMALL WASTEWATER TREATMENT FACILITIES

1.0 Permit Requirements / 1.1 Disposal Works Construction Permit: *No system or facility to be used for treating, neutralizing, stabilizing or disposing of wastewater from homes, public buildings, commercial or industrial buildings or any types of establishments shall be located, constructed, installed, operated, altered or repaired until a Disposal Works Construction Permit for such shall have been issued by the Board Of Health.*

The Project as presented to-date does not include plans for the design, operation, or maintenance of a wastewater treatment facility. Thus, the regulations and requirements contained in IV are not currently applicable to the Project. The Board of Health recommends that it be consulted if on-site wastewater treatment becomes necessary.

ADDITIONAL ISSUES

Other Regulated Activities

Project plans to date do not include indications of or provisions for:

- commercial or shared food preparation and/or service operations;
- retail sales of packaged foods or tobacco and nicotine delivery products; or
- body art or bodywork (e.g., massage) activities.

If such activities are pursued at the Project at any point in time, the Board of Health recommends full compliance with the requirements specified in:

- *V. Water Testing Requirements for Food Establishment Permits*
- *VI. Regulation Restricting the Sale and Use of Tobacco and Nicotine Delivery Products*
- *VII-A. Body Art Establishments and Practitioners*
- *VII-B. Bodywork Regulations*

The Board of Health is also the local implementation authority for *state food establishment, housing, and other relevant regulations*. Public health protections in these arenas are necessary and should be applied equitably across the state, meaning that compliance requirements should not be waived.

Although unlikely that this Project's construction will involve handling of outdated mercury-containing thermostats, adherence to *VIII. Mercury Thermostat Disposal Regulations* should not be waived given the significant health and environmental risks posed by improper mercury disposal.

For the protection of groundwater resources being used throughout Sherborn for drinking water, the Board of Health recommends that:

- All materials brought onto the Project property for fill shall be tested for contaminants that could impair groundwater potability.
- The design and on-going maintenance/inspection of sewer lines (on the Project property and running through town to connect to the neighboring municipality's system) should exceed minimum requirements for preventing leaks from and inflow of groundwater into those lines. Minimum standards are developed to be applicable to areas where groundwater is not used as drinking water.