

Mark and Katy Shannon
21 Greenwood St
Sherborn, MA 01770
January 22, 2024

Sherborn Board of Health Zoning Board of Appeals
19 Washington St
Sherborn, MA 01770

Dear Sherborn Board of Health Zoning Board of Appeals:

We are writing to express our concern about the proposed 40B project on Greenwood Street ("Greenwood Homes"). While we support the town's commitment to increase access to affordable housing, we feel that the proposed development seriously threatens the quality of ground water in the surrounding area due several factors:

- The known effects on groundwater quality from drilling new wells - blasting of rock allows contaminants to enter our groundwater.
- Not meeting town regulations for distance between wells and septic systems poses risk to wastewater/septic effluent negatively impacting the quality of drinking water for current and future residents.
- The scarcity of groundwater in our community is a significant concern, as recently demonstrated with emergency well deepening throughout our town over the last 2 years

Given our town relies solely on private wells and septic systems, the impact on the environment and current/future residents must be carefully considered by both the Board of Health and the Zoning Board of Appeals.

The current application for comprehensive permit includes several requested variances from town regulations in relation to the siting and distance between the

4 proposed wells and septic systems. We do not believe a variance bypassing this key water safety measure would be acceptable in any case.

While this project would bring one affordable home to the community, the benefits should never outweigh the potential risks to residents.

There is recent precedent in a neighboring town to protect residential water, as Hill Law reports:

In an important victory for environmental protection and sustainability, the Appeals Court last week struck down a Chapter 40B “comprehensive permit” in the Town of Stow, MA for a 37-unit apartment building on a mere two acres of land in the town’s Water Resource Protection District. See, Reynolds v. Stow Zoning Bd. of Appeals, Appeals Court No. 14-P-663 (Sept. 15, 2015). The Project’s single septic system would have been in close proximity to drinking water wells used by an abutting affordable housing complex and other single-family residences. Like most suburban and rural communities, Stow has a set of local bylaws that are more restrictive than state laws governing septic systems. These laws are intended to protect not only water quality but wetlands, streams and other natural resources from the effects of wastewater and stormwater pollution. The Zoning Board ignored the advice of its own engineering consultant and waived these bylaws for the Project, despite scientific evidence presented by neighbors (from hydrologist Scott Horsley) that the septic system would contaminate abutting wells.

Under Chapter 40B, the state’s affordable housing permitting statute, local bylaws and regulations are viewed as “barriers” to the construction of multi-family, affordable housing, and there is a strong legal presumption that any “local concerns” associated with the waiver of these bylaws are outweighed by the need for affordable housing. The precedent that has evolved over the last 40 years in our judicial system has made it nearly impossible for municipalities to deny chapter 40B projects, or to deny requested waivers. Last week’s Appeals Court ruling is the first appellate-level decision (precedent) that we are aware of revoking a comprehensive permit on substantive grounds and sends a clear message that Chapter 40B does not override local protection of water resources. The decision will probably be cited to defend future municipal

comprehensive permit decisions in which other public health, safety and environmental interests are at stake.

With the above concerns in mind, we request the following:

- That no variances are granted for this project in issuing a comprehensive permit.
- That the ground be tested again, now that the water levels are closer to historical norms.
- That test holes are drilled around the site for monitoring purposes, should wells be drilled.

In the absence of a public water supply, while this, and other applications under 40B take some power away from the town, the Board of Health, Zoning Board of Appeals, Select Board and all other committees should do everything in their power to ensure that **any and all** developments, affordable in nature or not, follow all regulations instituted to protect our groundwater. The protection of the health and safety of Sherborn's current and future residents that rely upon this critical resource through private wells is absolutely vital.

Sincerely,

Mark and Katy Shannon