

January 23, 2024

Sherborn Board of Health and Sherborn Zoning Board of Appeals
19 Washington Street
Sherborn, MA 01770

Dear Members of the Sherborn Board of Health (“BOH”) and Sherborn Zoning Board of Appeals (“ZBA”):

We are writing to, once again, raise our very serious concerns over the proposed Greenwood Street/0 Washington development. It creates risks for us, our neighbors, and potentially to the town.

The property’s abundant wetlands combined with need to blast as part of the construction would create significant risk to our water supply, our neighbors, and the town. Should our water supply be contaminated in this process, we would be risking both the health of our family as well as risk to the town.

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 these concerns in mind, we request the following:

- That no variances are granted for this project in issuing a comprehensive permit and that we abide by existing code.
- 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.

We appreciate your attention to this matter.

Sincerely,

Michael and Crista Mahoney
56 Greenwood Street

Please share this letter with all members of the BOH and ZBA.