

## Jeanne Guthrie

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**From:** Tia Wallach <tiacwallach@gmail.com>  
**Sent:** Friday, February 02, 2024 10:50 AM  
**To:** Rick Novak  
**Cc:** katykshannon@gmail.com; mcw@udel.edu; mlisagor@yahoo.com; bradleyja@comcast.net; kelly.adduci@gmail.com; mark.beaudouin@gmail.com; michael179@gmail.com; ksgarvey@hotmail.com; delgado.brian@gmail.com; Julie Dreyfus; Jeanne Guthrie; Daryl Beardsley; Ellen Hartnett; Jeremy Marsette; Paul Haverty; bob.murchison@me.com; Jonathan Fitch; Todd Labbe; Zachary McBride; Max Wallach; Todd Stoessell; Crista Mahoney; Mark Shannon; Helena Hrabáková  
**Subject:** Re: Fw: Greenwood Street 40B - abutter letters and the Stow case

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Rick,

Thank you for your email. Please note that abutters and interested neighbors are working on a joint letter to be submitted in advance of Monday's meeting, as well as a presentation on relevant science. However, given your email, we thought we should respond to preview a subset of issues that will be set forth in our letter.

We note that Mr. Murchinson has recently filed an application for the 40-unit apartment complex on Washington Street (referred to as Phase 2 below). As we will outline in our letter, the Greenwood homes (referred to as Phase 1 below) and the Phase 2 apartments must be viewed as a single phased development.

As a phased development, the determination of whether the *Stormwater Management Standards* apply is made to the entire project, as a whole, including all phases. When proposing a development or redevelopment project subject to the *Stormwater Management Standards*, proponents shall consider environmentally sensitive site design that incorporates low impact development techniques in addition to stormwater best management practices. 310 Mass. Code Regs. 10.0.

It is our understanding that Mr. Murchinson has not undertaken any efforts to comply with the *Stormwater Management Standards* for Phase 1. He is similarly seeking a waiver of Chapter 25 of the Town General By-Laws (regarding comprehensive stormwater management). Our understanding is that any stormwater management contemplated in the plans for Phase 1 only takes into account the impact of stormwater from 3.68 acres of the 18.5 acre property, or less than 20% of the entire parcel.

It is therefore appropriate that Mr. Murchinson be required to develop a stormwater management plan for Phase 1 that accounts for the impact on stormwater, inclusive of any impact from Phase 2.

We also note that you have asked for any scientific studies regarding the risk of groundwater contamination. The facts and scientific impact of the project has changed with the addition of Phase 2. The expectation that scientific evidence be immediately available to support our site-specific concerns is unreasonable. And that is part of the folly of this whole process, which extends far beyond Sherborn, its people and its land – the source of these many planning disputes originated decades ago and we will be providing what we believe to be a generalizable defense for maintaining some local control of regulatory authority to help alleviate the worst outcomes of these disputes. That said, we'd like to raise a couple of specific issues related to stormwater



management and compliance with the Massachusetts Environmental Protection Act, as this topic has clear statutory and regulatory weight at the state level:

- Stormwater runoff results from rainfall and snow melt and represents the single largest source responsible for water quality impairments in the Commonwealth's rivers, lakes, ponds, and marine waters. New and existing development typically adds impervious surfaces and, if not properly managed, may alter natural drainage features, increase peak discharge rates and volumes, reduce recharge to wetlands and streams, and increase the discharge of pollutants to wetlands and water bodies. This is from the *Massachusetts Stormwater Management Standards*. The additional phase of development on the subject parcel is a new change to the characteristics of the parcel and it is our view that Massachusetts guidelines require a proper stormwater management plan be put in place.
- In determining whether a Project is subject to MEPA [*i.e., the Massachusetts Environmental Protection Act*] jurisdiction or meets or exceeds any review thresholds, and during MEPA review, the Proponent [*i.e., Mr. Murchinson*], any Participating Agency, and the Secretary shall consider the entirety of the Project, including any likely future Expansion, and not separate phases or segments thereof. **The Proponent may not phase or segment a Project to evade, defer or curtail MEPA review.** The Proponent, any Participating Agency, and the Secretary shall consider all circumstances as to whether various work or activities constitute one Project including, but not limited to, whether the work or activities, taken together, comprise a common plan or independent undertakings, regardless of whether there is more than one Proponent; any time interval between the work or activities; and whether the environmental impacts caused by the work or activities are separable or cumulative. 301 Mass. Code Regs. 11.01(c).
- Given the new application for construction of Phase 2 on the same parcel of land, any ground water testing, analysis or other relevant information as to Phase 1 to date is insufficient for purposes of concluding the impact on groundwater from the development and any risk of water contamination. We expect to send further information in support of this statement prior to the meeting, but our expectation is that there will be a reasonable basis to conclude that the groundwater is interconnected and drawing from the same sources, given the extremely close proximity of the projects (all contained on the same parcel of land), the vernal pools that constitute the portion of the parcel to be used to construct Phase 2, the wetlands that run between the two phases of developments, and the location of the large pond immediately opposite the proposed site for Phase 2. Therefore, while we are still continuing to work on the scientific side of things, the now staggered start of Phase 2 site planning renders any prior testing of limited value.

We would like these concerns addressed at the Monday meeting. Specifically:

- What steps has Mr. Murchinson taken to comply with the *Massachusetts Stormwater Management Standards* for Phase 1? If none, why does he think none are required? If any, do plans for Phase 1 take into account the impact on stormwater management due to the construction of Phase 2? If not, what is Mr. Murchinson's basis for concluding that Phase 2 will not create issues with stormwater management?
- What studies has Mr. Murchinson taken to ensure compliance with the Massachusetts Stormwater Management Standards for the entire development, taken as a whole? If none, why not?
- Has Mr. Murchinson delivered, or does he plan to deliver, an environmental impact report under the MEPA for the entire project (*i.e., Phase 1 and Phase 2*) collectively, as we believe is required by the MEPA? If not, why not?



- Phase 2 is being added to what we expect is a shared water resource. What analysis has Mr. Murchinson conducted to determine the additional impact on nitrogen and other contaminants in the ground water applicable to Phase 1 (and abutters) on a collective basis, due to the additional septic systems, bedrock blasting, and other actions that risk contamination of the groundwater? If none, why not?
- In its letter from December 3, 2022, the Sherborn Planning Board stated that the environmental impact of Phase 1 and Phase 2 must be considered together. The Planning Board noted that it will be important to understand the overall groundwater capacity and the recharge, septic effluent and surface water flow on and off the entire 18-acre site that includes Phase 1 and Phase 2, including after periods of extreme precipitation. What specific steps has Mr. Murchinson taken to address these concerns?

Unfortunately, the addition of Phase 2 (and the associated well drilling, bedrock blasting and septic leeching for 70 additional bedrooms) substantially changes the environmental impact and the risk to groundwater contamination as was previously understood and explained by Mr. Murchinson to the Sherborn Board of Health and the ZBA. Collectively, we consider many public health issues unresolved and warranting further consideration and analysis.

It is inappropriate to view these constructions in their own vacuum. Mr. Murchinson is the lead developer on both, holds a single option to purchase the entire lot in his name, controls and is the owner of the two limited liability companies that have applied for the comprehensive permits, and the two projects are on the same parcel of land, separated only by delineated wetlands. While we hope we are wrong, and want to give the benefit of the doubt to Mr. Murchinson, we cannot help but assume and worry that the cleavage of the two projects into separate applications is a strategic attempt by Mr. Murchinson to minimize the environmental impact of his proposed development and avoid asking the hard questions as to the impact of phased development on both the residents of the new homes and abutters. Particularly because discussions by the ZBA and BOH as to the impact of this project to date have been wholly focused on Phase 1.

We'd like a reasonable amount of time to speak at the meeting to raise these concerns and hope by previewing them we are able to be efficient with the Board's time. However, we think it is appropriate to ask that Mr. Murchinson agree to extend the deadline, perhaps even combining Phase 1 and Phase 2 approval processes as they should be, to grant the comprehensive permit and extend the public hearings to afford the ZBA the time it needs to conduct necessary analysis and resolve these unanswered questions.

We ask that this email response be added to the ZBA sites for both the Greenwood Homes and the Washington Street homes.

Best,  
 Tia & Max Wallach  
 Steve & Meredith Wesolowski  
 Katy & Mark Shannon  
 Brian & Helena Delgado  
 Michael & Crista Mahoney  
 Katie & Patrick Garvey  
 Kelly & Alex Adduci  
 Megan & Todd Stoessell

On Thu, Feb 1, 2024 at 12:43 PM Rick Novak <[Rick.Novak@sherbornma.org](mailto:Rick.Novak@sherbornma.org)> wrote:  
 Greenwood Street 40B interested neighbors

(I tried to capture all of you who have written ZBA recently, but if I inadvertently missed anyone, please forward this to them.)

Thank you for your several letters to BOH and ZBA re: concerns on the Greenwood Street Project. Many of the letters focus on potential well contamination risks and cite the *Stow* case. As you probably know, both the 40B statute and the Housing Appeals Committee, HAC (the state agency to which local 40B decisions are appealed) tend to presume that the regional need for affordable housing outweighs local interests in enforcing local regulations.

In the circumstances of the *Stow* case the public health risks (indicated by studies showing a likelihood of well contamination for the 40B project) were deemed sufficient to outweigh the regional need for affordable housing. One of the key factors in *Stow* was the documented site specific scientific evidence presented to ZBA.

To the extent that any of you have such scientific evidence, it would be helpful for the ZBA to receive the same before the hearing closes. The expected hearing close date as of now is February 5.

thanks and regards, Rick

Thank you for your several letters to ZBA and BOH expressing concern over the Greenwood Street 40B project and potential impacts on your wells. Several of you cited the *Stow* case wh

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