

To: Sherborn Zoning Board of Appeals (Zach McBride, Chair) 2/6/25

From: John Garrison, 33 Hunting Lane

Re: Revised and Remanded Application for 41 N. Main St. (the “Pine Residences”) -- Title V Requirements

As I pointed out in my letter from November 25th to the ZBA, I continue to believe that there is a threshold question which needs to be addressed by this Board, before any further discussions take place on this proposed development:

Is this property – or is it not – located in a “Nitrogen Sensitive Area” as defined under Title V?

As I pointed out in my previous letter, there are two determinants, either one of which is sufficient for a site to be designated as a Nitrogen Sensitive Area (see attached citation from Title V):

EITHER:

- 1.) If the property falls within the Interim Wellhead Protection Area (IWPA) of a public well or wellhead.

OR:

- 2.) **“Any areas** where the use of both on-site systems and wells that are not regulated as public water supplies serve facilities”.

Either of these alone is sufficient for the site to be designated as a “Nitrogen Sensitive Area”.

Tom Trainor, in his recent letter to this board, has clearly documented that the well serving the Tavern at 33 North Main Street is a public well and the proposed project for 41 North Main falls within the IWPA for that well.

IN ADDITION, the entire Town Center of Sherborn is indisputably “[an area] where both on-site septic systems and wells that are not regulated as public water supplies serve facilities”. It is a well-known fact that the whole downtown area is a mix of densely-packed private wells and septic systems that would never be allowed under current regulations, and that for this reason, many retail business are not able to have public restrooms.

The Sherborn Board of Health has already stated to this Board that the subject property lies within a “nitrogen sensitive area”. Their November 19 letter clearly states: “*The 7.24-acre site cannot receive the wastewater volume from the project as it is currently described **because it is in a nitrogen sensitive area.***”

A simple calculation – as shown in that same letter from the Board of Health and also my previous letter to this Board -- shows that this project, as currently proposed, simply too large for this site, and cannot be constructed to meet the requirements imposed by Title V. If this is the case, I believe that further discussion by the ZBA is not warranted.

It is past time for the ZBA to address this issue before pursuing any further discussions on the 41 North Main St. proposal.

In previous meetings, the applicant’s consultants at first disputed the existence of the public well at 33 North Main St., and when the existence of the well had been demonstrated to them, then claimed that the Interim Wellhead Protection Area for that well no longer existed because it had somehow been “dissolved” on a GIS map. Tom Trainor, in his recent letter, has shown both claims to be patently false.

IN ADDITION, this property is clearly in a Nitrogen Sensitive Area because of the exclusive use of private wells and septic systems throughout the Town Center.

That is: this property clearly meets BOTH requirements for determining a “Nitrogen Sensitive Area”. As a result, this project is simply too large to be built in compliance with the requirements imposed by Title V – as previously pointed out by the Board of Health.

On this basis alone, it seems clear that the Board would be justified in denying this application. Further meetings on any other topics (traffic studies, groundwater protection, etc.) would simply be a waste of both the applicant’s money and this Board’s time.

Thank you,

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Citations from Title V:

Title V: 310 CMR, § 15.214

(1) The following areas have been determined by the Department to be particularly sensitive to the discharge of pollutants from on-site sewage disposal systems and are therefore designated Nitrogen Sensitive Areas: **(a) Public and Private Water Supply Protection Areas:**

1. Department-approved Zone IIs for wells or wellfields used by public water systems as defined in 310 CMR 22.02 and, in the absence of a Department-approved Zone II, the Interim Wellhead Protection Area (IWPA) for a public water system's well or wellfield as defined in 310 CMR 22.02; and

2. Any areas where the use of both on-site systems and wells that are not regulated as public water supplies under 310 CMR 22.00: *Drinking Water* serve facilities.

310 CMR, § 15.215

The necessity of providing increased treatment of pollutants and reduction in nutrients discharged from on-site sewage disposal systems in areas designated as nitrogen sensitive areas warrants the imposition of the following nitrogen loading limitations:

(1) Public and Private Water Supply Protection Areas. No facility owner for New Construction in Nitrogen Sensitive Areas designated in 310 CMR 15.214(1)(a) shall install a system designed to receive or allow a system to receive more than 440 gallons of design flow per day per acre* except as set forth in 310 CMR 15.202 (use of recirculating sand filters), 310 CMR 15.216 (aggregate flows) or 310 CMR 15.217 (enhanced nitrogen removal).

[*An "acre", as defined in the statute, is 40,000 sq. ft. – not the standard 43,560 sq. ft.]