



## Board of Health

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### MEMORANDUM

**TO:** Sherborn Zoning Board of Appeals (ZBA)  
**FROM:** Julie Dreyfus and Daryl Beardsley, on behalf of the Board  
**DATE:** September 19, 2025  
**RE:** Washington Street Sherborn Homes 40B – Conditional Recommendation to Maintain 5-feet to Groundwater Below the SAS

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In an email sent to the ZBA on September 16, 2025 with the subject “Sherborn BOH 8.0(1) Five Feet Minimum Above High Groundwater”, Mr. Murchison makes the following request regarding the Washington Street Sherborn Homes 40B project:

*“I am respectfully asking the ZBA to treat this development as the BOH does all our neighbors.”*

The email includes reference to 4 recent septic repair/replacement plans that were approved with soil absorption system (SAS) separations to groundwater that were less than 5 feet.

Existing homes with failed septic systems, that cannot meet current regulations due to site conditions, are required to provide maximum feasible compliance given site constraints. In these situations, not granting a variance would result in making an existing home unfit for occupancy, resulting in manifest injustice for the owner. It is only in these situations that the BoH grants variances.

At its meeting of September 17, 2025, the Board reviewed the email and reaffirmed its original recommendations to the ZBA on this topic. Washington Street Homes is new construction not a replacement system, and the examples cited by Mr. Murchinson are *all* replacement systems. The Board of Health does not grant any variances for new construction. Thus, there is no inconsistency in the Board’s recommendations. The project’s future residents deserve the same drinking water quality protections as other new homes in Sherborn *and* is expected when buying a new home. According to subsurface exploration and testing performed at the site thus far, the property does not have site conditions that are compliant with Regulation I.8.0(1) (recodified as Chapter 305-1.8(A)).

While the BoH does not recommend waiving the requirement for at least 5 feet of naturally deposited soil between the bottom of the SAS and historic-high groundwater, if the ZBA allows such a variance, then the BoH strongly recommends at least maintaining the 5-foot separation between the bottom of the soil absorption system and groundwater. (Please also refer to the memorandum on the science of soils and depth to groundwater beneath SASs.)

Described below are how and why the requirements of Sherborn Regulation Chapter 305-1.8(A) are applied through the standard septic plan approval process:

- a) ***Variances are not granted for new construction.*** Rationale for this includes the fact that our scientific understanding of environmental and drinking water impacts resulting from septic system use has been evolving and getting better over time. Our society accepts that standards overall have increased over time (e.g., akin to increasing vehicle safety standards) and thus applying something substandard to new construction is not reasonable.
- b) ***Variances may be granted for repairs and replacements.*** For existing properties developed under the rules and regulations of a prior era and now looking to improve their septic systems, it would be manifestly unjust to not grant variances if the requirements of current regulations cannot be met on the property. Under those circumstances, lack of variance approvals could render an existing residential property uninhabitable.
- c) ***Multiple technical and compensating factors are evaluated by the BoH when considering which variances are allowable.***
  - The key goal is to upgrade under-performing current systems and in a feasible manner that recognizes site constraints that are beyond the control of the property owner.
  - Oftentimes, other concessions are offered by the applicants to compensate for the variance being requested. For example, the use of nitrogen reducing technology may be included when the SAS' separation from groundwater is less than 5 feet.
- d) ***One additional bedroom may be permitted for repair/replacement systems under limited circumstances.*** When it is not possible to site a replacement septic system on an existing residential property without variances (i.e., the property will not support a system that is fully compliant with Title 5 and Sherborn regulations), there are a limited number of circumstances under which a replacement system can increase its capacity by one bedroom over the capacity of the existing septic system.
  - Adding one-more-bedroom to the septic system sizing means that it might be a room or rooms other than a bedroom because all significant rooms are factored into the “bedroom count”. Bedroom counts are commonly used across the country for determining appropriate septic system sizing, although formulas for such are variable. Massachusetts has one of the lower gallons-per-bedroom requirements in the country (i.e., there is a smaller margin of protection).
  - For all current residential properties in town having a functional and adequate septic system (e.g., passes a Title 5 inspection), an existing home may be taken down and replaced with a new home as long as its size (per bedroom count) is less than or equal to that of the existing septic system. Additional guidance and requirements about “Demolition and Reconstruction of Existing Structures” are provided in Sherborn Regulations Chapter 305, Appendix A.VII.
  - It was noted that denials of the plus-one-bedroom were not found in the review of recent variance hearings for replacement septic systems. This is explained by the engineers’ and registered sanitarians’ awareness of Sherborn procedures and precedence, so they do not request variances if meeting the requirements is feasible.

Their awareness extends to Title 5 restrictions on septic loading increases under certain site and technology circumstances. Through pre-screening of options and alternatives with the Health Agent and/or the Board, standard variance procedures may also be communicated to the system designers and the applicants; this helps variance hearings to proceed more smoothly. Denials could cause installation delays and additional expense.