

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
February 1, 2023**

**Members Present:** Matt Vitale, MD, Chair, Daryl Beardsley, Lisa Campe, Rebecca Hunnewell, MD, and Matt Bevers, MD, PhD

**Members Absent:** None

**Others Present:** Connor Cassis, Brenda & Robert DeFrancesco, Courtney Ek, Joe Losanno, P.E., Magnus Nicklasson, Anne Schuette, “mm”, Timothy Cote, Brian Moore, “owner”/Patrick, Dan McIntyre, P.E., and Mark Oram, Agent.

By a roll call vote:

Vice Chair Ms. Beardsley - Present

Member Dr. Bevers – Present

Member Ms. Campe – Present

Member Dr. Hunnewell – Absent

Chair Dr. Vitale - Present

This VIRTUAL meeting came to order at 7:00 PM via Zoom. It was noted that all votes shall be taken via roll call vote.

1. The Chair noted the members present and reviewed the agenda, noting the following items not anticipated by the Chair 48-hours in advance of the meeting, requesting that they be added to the agenda:  
(1) Board of Health 2022 Annual Report

A motion was made to amend the agenda as stated, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

[Dr. Hunnewell arrived during the following discussion.]

2. **Lot B at 0 Hunting Lane, Connor & Christina Cassis – New Septic/New Well #22-56/57** – Mr. Cassis was present with his engineer, Joe Losanno, P.E. from DGT Associates. The Agent stated that this property was tested on 2/10/06 by Paul Saulnier, P.E. Additional soil testing was conducted on 11/9/22 in different areas by the current engineer, Joe Losanno, P.E., and the new testing confirmed the groundwater levels found by Mr. Saulnier. The Conservation Commission has approved this new construction plan with an Order of Conditions.

Noting that no variances are requested, the Agent recommended approval of the new septic and new well plan, conditional to the garbage grinder prohibition deed recording, and such a motion was made and seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Abstained

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with condition. **APPROVED 4-0 / 1 ABSTENTION**

Dr. Hunnewell abstained from the vote as she was not present for the full discussion.

3. A **2023 Disposal Works Installer Permit renewal** was received from **Robert SanClements of Sherborn - #I23-20** – The Agent recommended approval of this renewal, conditional to a pre-construction conference prior to any work commencing, and such a motion was made and seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved with condition. **APPROVED 5-0 with condition**

4. **2023 Application for Exemption from Rabies Vaccination – “Gunnar”, owned by Brenda and Robert DeFrancesco, 113 Prospect Street** – Dr. Bevers introduced the discussion, noting the severe consequences and typically poor outcome of a Rabies infection. Mr. and Mrs. DeFrancesco stated that “Gunnar” is close to end-of-life, noting that someone must be with “Gunnar” at all times and that he does not go outside by himself. He remains in a fenced-in yard when outside. Dr. Bevers confirmed that “Gunnar” must not be allowed outdoors without being on a leash, muzzled, and under the direct physical control of an adult owner at all times. A motion was made to approve this 2023 exemption request and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the exemption was approved.

**APPROVED 5-0**

5. **2023 Food Establishment Permit renewal – Art’s Specialties, LLC, 11 South Main St. – #F23-16** – It was noted that the level of sodium in the water supply is 336mg/L, requiring a sodium posting. Ms. Beardsley noted that on page 2 of the application, the owner indicates that the building is served by public sewer, and she requested that section be corrected to indicate “private”, in part to remind the applicant of that. The Administrator noted that this building is served by a Public Water Supply well, and the DEP PWS number can be added for the well. A motion was made to approve the issuance of this renewal permit, conditional to a sodium posting and correcting the sewage disposal to “private”, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved with conditions. **APPROVED 5-0 with conditions**

6. **New 2023 Mobile Food Vendor Permit – Cousins Maine Lobster** of Medway - #F23-17 – This Food Truck will be located at Dowse’s on North Main Street. The Food Inspector has reviewed the application, spoken with the applicant, and has recommended approval of this annual permit. A motion was made to approve this issuance of this permit as requested, and it was seconded. By a roll call vote:  
Vice Chair Ms. Beardsley – AYE  
Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell – AYE  
Chair Dr. Vitale – AYE  
The motion passed and the permit was approved. **APPROVED 5-0**
7. **2023 Mobile Food Vendor Permit renewal – Jordan Bros. Seafood** of Brockton - #F23-11 – This Food Truck will be located at Dowse’s on North Main Street. The Food Inspector has recommended approval of this renewal permit. A motion was made to approve the issuance of this permit, and it was seconded. By a roll call vote:  
Vice Chair Ms. Beardsley – AYE  
Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell – AYE  
Chair Dr. Vitale – AYE  
The motion passed and the permit was approved. **APPROVED 5-0**
8. **2023 Food Establishment Permit renewal – Saint Theresa of Lisieux Parish**, 35 South Main Street - #F23-18 – It was noted that the level of sodium in the water supply is 56 mg/L, requiring a sodium posting. The Food Inspector has recommended approval of this renewal. A motion was made to approve the issuance of the renewal permit, conditional to a sodium posting, and it was seconded. By a roll call vote:  
Vice Chair Ms. Beardsley – AYE  
Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell – AYE  
Chair Dr. Vitale – AYE  
The motion passed and the permit was approved with condition. **APPROVED 5-0 with condition**
9. **2022 Board of Health Annual Report** – Ms. Beardsley reviewed that the report is essentially “the year in review”, with each different section being contributed by those who do that specific work. The final report goes to the Select Board for incorporation into the town’s Annual Report. A motion was made to endorse the 2022 BOH annual report as presented, and it was seconded. By a roll call vote:  
Vice Chair Ms. Beardsley – AYE  
Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell – AYE  
Chair Dr. Vitale – AYE  
The motion passed and the report was endorsed. **AGREED 5-0**
10. **Minutes** – The Minutes of 1/18/2023 were reviewed. It was noted that Ms. Beardsley provided minor edits. A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 5-0 as amended**

11. **Regulations Review** (see also #14 of these Minutes, and the Minutes of 1/4/23-#6 and #8, 12/7/22, 11/16/22, 11/2/22, 10/5/22, 9/21/22, 9/7/22, 7/20/22, 6/1/22, 5/18/22, and 4/6/22) –

**Application Procedures – Regulation I, Sewage Disposal – Section 4.0 and Regulation II, Domestic Water Supply – Section 1.3** – Dr. Vitale reported that he had received initial feedback from Town Counsel, but there were still a few clarifications needed. He is planning another Zoom meeting with Town Counsel early next week after which a final draft of these proposed changes will be circulated.

The Chair noted that the proposed changes to the Well Regulations would be discussed later in this meeting. Following a question from Ms. Beardsley, Dr. Vitale stated that the timeline to get the proposed changes to a Public Hearing and adoption would be early spring.

12. **2/15/2023 agenda items** were mentioned. The Chair requested that the first three items (all pertaining to proposed regulations changes) listed on tonight’s agenda also be included on the 2/15/23 agenda. Ms. Beardsley suggested that “Next steps on shared services” be listed for discussion. Dr. Bevers noted that he would be on service and may not be available to attend.

13. **267 South Main Street – Preliminary discussion of room count (house and barn) and septic design** – Daniel McIntyre, P.E. was present with the property owner “Patrick”. Mr. McIntyre stated that he has provided floor plans showing what the owner would like to do on his existing 4-bedroom house, noting that they would be adding at least one bedroom. They would like the Board to determine if a 5- or a 6-bedroom septic system would be required.

The existing floor plans were reviewed and Dr. Vitale stated that he counted 4 existing bedrooms on the second floor. Following the proposed addition, he stated that the house would have 10 total rooms, with 6-bedrooms, noting that the 1<sup>st</sup>-floor office shows a full-bathroom directly off of it so it is considered a bedroom.

The engineer stated that the existing barn has no plumbing in it right now – it is just an out-building. The owner would like to add a ½-bath on the first floor (currently unfinished space). Dr. Vitale stated that would result in a total room count of 13, with 3-rooms in the barn, but that would still require a 6-bedroom septic system. He stated, however, that no rooms in the barn could ever be used as bedrooms. Ms. Campe noted that if there were to be a ½-bath on the 1<sup>st</sup> floor of the barn, they would have to finish it to prevent those pipes from freezing. Patrick responded that the 1<sup>st</sup> floor is already heated with propane, and the barn is insulated in the walls and under the slab. He noted that they also have a pool, and he felt it would be a good idea to have a ½-bath in the barn so those using the pool wouldn’t need to go to the house to use the bathroom. Dr. Bevers confirmed that the 1<sup>st</sup> floor of the barn is definitely what the Board would consider a “garage” rather than a finished room. Ms. Beardsley asked if vehicles go into the garage, noting that there would be a Building Code issue if so, due to vehicle exhaust, but the owner stated it is used mostly for woodworking.

Dr. Vitale stated that with a locally climate-controlled 1<sup>st</sup> floor of the barn, the 2 upstairs rooms would still need to count in the room count. The workshop space in the barn (1<sup>st</sup> floor) is being counted in the most conservative way in the absence of a full bath. It must remain a ½-bath. This would require a 6-bedroom septic system. Ms. Campe agreed that none of the rooms in the barn could ever be converted to bedrooms.

Mr. McIntyre stated that they would be able to design a 6-bedroom septic system replacement plan with no waivers, and he confirmed with the Board that a ½-bath is a toilet and a sink only. The owner asked if all of this needed to be executed at one time, and the Agent responded that the septic system must be installed first. Mr. McIntyre stated that the barn is separate from the house and would have its own septic tank. The Agent stated that, 2-3 years after the septic system installation, if the building addition hasn't been done, a Title 5 Inspection would be required.

14. **Regulations Review** (see also #11 of these Minutes, and the Minutes of 1/4/23-#6 and #8, 12/7/22, 11/16/22, 11/2/22, 10/5/22, 9/21/22, 9/7/22, 7/20/22, 6/1/22, 5/18/22, and 4/6/22) –

(A) **Regulation II – (Domestic) Water Supply** – Ms. Beardsley began the review of the proposed changes to this total regulation, with the exception of *Section 1.3* – “Permit Application”, which was reviewed and discussed separately earlier in the meeting. She noted the first proposed change was to remove “Domestic” from the title of the regulation, and Dr. Bevers stated this proposal is to avoid making the requirements narrower than they should have been. He felt this title was more inclusive, noting that if water is needed for any reason, this regulation would apply. Dr. Bevers stated the other big change was instead of using the term “lot”, it says “property” – to make it clear that it's not a single parcel, as legally defined, but if there are contiguous parcels that make up one individual property, then it is still limited to one well.

Dr. Hunnewell stated that she had many questions, and asked if the Board wanted her to go through them. The Chair responded that she could do that, or just jump in when her question(s) relate to the section that is on the screen. Dr. Hunnewell stated that she felt the Board did good work with these proposed changes and she thanked them, however, she felt they sharply delineate the original problem that she keeps bringing up, which she stated is the “loophole between a single dwelling and a single lot”. She stated that anything less than the threshold for the State defined semi-public water supplies or public. Dr. Bevers referenced *Section 2.4*, where the regulation defines “Semi-Public Water Supply”. Dr. Hunnewell stated that she had no problem at all with the definition of “Public Water Supply”, now saying that all of her questions have to do with the private water supply.

Dr. Hunnewell stated that the local regulations very clearly apply to a single house on a single lot, but she stated that a couple of Town Meetings ago, the town passed a By-Law that allows apartments. She noted that the town already has apartments, and there are multiple areas where there are both shared wells that fall below both the local proposed definition of a semi-public water supply and the State definition of a semi-public water supply. Ms. Campe, noting that she might not be understanding the question, stated that the proposed wording is saying that a semi-public water supply is anything more than a single-family dwelling, but clearly not a State-regulated Public Water Supply, and she asked where there is a gap? In response to another question, Dr. Vitale reviewed that in the regulations we have a single house (which is private), and we have anything that is more than a single house and smaller than a public water supply (which is semi-public). Dr. Hunnewell stated that the local regulations are providing no regulation to public water supply because the State already provides it, and that was confirmed. Dr. Hunnewell stated that was great, saying that was her first question. There was much confusion when Dr. Hunnewell then stated that anything more than one house would go to the State definition of semi-public water supply. Dr. Bevers stated that was incorrect, noting that the State definition of semi-public does not play in the local regulations at all. Discussion moved to *Section 2.4*, and it was briefly discussed.

Referencing *Section 2.7* (which had no proposed changes), Dr. Hunnewell noted that there is a definition of a “Traveled Way”, and she noted that it talks about “pavement”. She stated that there are a couple of dirt roads in town and asked if a word or phrase could be added to include dirt roads. After brief discussion, the Chair stated that no change or addition to this section was necessary.

Dr. Vitale reviewed minor changes proposed in *Section 4.0*, to update that MassDEP now regulates well drillers, and discussion moved to *Section 6.0*. Dr. Hunnewell noted that *Section 6.0(D)(1)* allows the

Board to allow a well to be located closer than 5-feet (from a driveway), and she asked for an example of when that would be authorized by the Board. Dr. Bevers responded by explaining that this section says that a well must be located 20-feet from a driveway. If you are less than 20-feet, but more than 5-feet, the well must be protected in a manner approved by the Board of Health. Dr. Hunnewell responded that this loophole doesn't appear in the semi-public, so she felt that maybe the Board needs to be more cautious because those are the people who don't have the DEP. Ms. Campe stated that it is their own private well and they need a barrier if they are going to be closer than 20-feet to their own driveway. Dr. Hunnewell stated that she understood and asked if the Board is allowing this for new construction. Dr. Vitale responded that we do, noting that it has been allowed in the regulations and is not being changed. He stated that he was not inclined to change this as it is not necessary. Dr. Hunnewell stated that she didn't understand the public health reason, instead of semi-public, which would be regulated by DEP. Ms. Beardsley jumped in, stating that it would not be a semi-public, and that semi-public wells are not regulated by DEP. The Vice-Chair stated that this is nothing to do with semi-public – this is just saying that if you have a well, and the only place to put the well is next to your driveway, you have to include well protection approved by the Board of Health if the well is less than 20-feet from the driveway. Dr. Hunnewell responded that she *did* understand, and commented that the reason this may matter is because an individual person, who is taking on the burden of a well that might less than 20-feet from their driveway, might not understand the risk, or, they might purchase a house that has a well too close. After some additional, confusing discussion, Dr. Vitale stated that he would not support the making a private water supplier meet the State requirements for a public water supply, but Dr. Hunnewell stated that is what the State recommendation is. Dr. Vitale stated that he was not inclined to support that, noting it would be an undue burden on individual residents. He stated that if the concern is new construction and if somebody doesn't know their well is located there, they could have a problem. This section of the regulations will make sure that scenario doesn't arise, because if the well is located within the distance where a plow truck could hit the well, there needs to be a barrier there to protect it. He noted that section is not part of the regulation that is changing. Dr. Hunnewell stated that under all the other categories in our regulations, the Board requires 25-feet, but under "private well", this is it. Ms. Beardsley questioned that statement, noting the Board regulates private wells – *not* public water supply wells.

Following additional back-and-forth, Dr. Bevers made a motion that the Board maintain the existing regulation to allow protection for wells located between 5-feet and 20-feet from a driveway, allowing people to construct them provided the Board approves an appropriate protection, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – NAY

Chair Dr. Vitale – AYE

The motion passed, and the Board was in agreement.

#### **AGREED 4-1**

Ms. Beardsley spoke briefly, noting the Board regulates private wells (for a single home) and that *Section 6.0(G)* was added for semi-public wells, to get a little closer to what the State does for public water supplies. Ms. Campe agreed, noting that the Board regulates private wells and semi-public wells only. The discussion became heated and Dr. Hunnewell stated that she respectfully disagreed, from a public health perspective – private, individual rights, property values, and public health. Dr. Vitale ended the discussion, noting a vote had been taken. He stated that Dr. Hunnewell was welcome to provide other comments, or to submit a letter to the Board, or take any other steps, but the Board was not going to continue to adjudicate it.

The regulation review of Section 6.0(G) continued. Dr. Vitale requested some clarification of the required 125-foot radius around a semi-public well, and asked how that would work in an Open Space

Subdivision with clustered houses. Ms. Beardsley responded, saying she wrestled with the situation between a single house with a single well and septic co-located on that one property, and then all the way up to where the public water supply kicks in. She noted that is a wide range with many different circumstances, especially now that accessory units have been increasing. She noted the language added to say that the Board has some discretion because of the variety of circumstances. She stated that to pick a large number of rules to apply across that whole range of possibilities would be difficult. She stated that this proposal was a bit easier and the protective radius when you apply the equation doesn't get huge for the sizes of systems we are talking about. However, it is different from what we have now. Ms. Beardsley agreed that this proposal was not easy, but stated there is some basis for it, drawing from what DEP is doing for public water supplies. She stated that she was willing to discuss it further, noting it was the newest, biggest change being proposed. Dr. Bevers agreed, saying this was tricky. He said the Board wants to be conservative enough, but not punitive, and he felt this proposal "threads the needle" the best the Board can. On the smaller side, it is going to feel conservative, but on the bigger side it is not going to feel conservative enough. Dr. Vitale noted that the larger it is, the more public-water-like it is, and we'd want to provide protection to that level. He stated that he'd love to get Planning Board feedback on this proposal, possibly how Marion Neutra did when they were doing their by-law change for the Open Space Subdivision Plan, and he asked what that mechanism might be. Ms. Campe and Ms. Beardsley agreed. Ms. Beardsley felt this might be another place where the Board could say it would be evaluated on a case-by-case basis. The Vice-Chair reviewed the equation for a specific scenario. Ms. Campe noted that we are scaling – the larger the development, the larger the distance. It will guarantee that the wells will be at least 125-feet from any abutter property line.

Dr. Hunnewell stated that, especially for a rental apartment or something where they are sharing the same well, the Board needs to protect individual rights, and she suggested requiring water testing at the time of real estate transfer or at the time of a rental agreement. Ms. Campe responded that should be addressed when the Board is reviewing the water testing section.

Dr. Vitale reviewed that the Board wishes to seek feedback from the Planning Board on *Section 6.0(G)* because this is a regulation being considered that specifically relates to open space subdivision. He noted that the Planning Board might have a different type of focus, but he felt that having that perspective would inform the Board before they move to a Public Hearing.

Dr. Hunnewell had a question regarding *Section 7.0*, where the words "owner" and "association" were added. She asked how the Board would protect the "public health interests" of residents in apartments that are smaller developments that might be owned by an owner association who isn't a certified Board of Health and might not have the resources, education or understanding to protect those individual rights. She asked if there is a way the Board can look at the individual rights in an owner association owned private well or septic system. Ms. Campe stated that she didn't understand the question, and Dr. Bevers stated that he didn't understand how the question relates to the number of wells on a property.

*Section 8.0* and *Section 11.0* were reviewed, as were newly added *Sections 11.3 and 11.4*. *Section 12.0(H)* was added to detail requirements regarding well flushing. The discussion continued, with the Board reviewing each proposed change – whether a deletion or an addition to the current regulations. Ms. Campe noted that *Section 17.1* limits the approach to disinfection of a well and requires that it be done by a qualified professional. The required analytical methods were discussed for *Section 17.0*. There was a lengthy discussion about the required analytical method required for volatile organic compounds. The Agent asked, if EPA method 524 had a lower detection level than EPA method 624, 524 might show a detection, and he asked if he should recommend 524. After some thought, Ms. Campe stated that we should keep that as a placeholder for further discussion after a comparison of the MDLs of those methods is completed.

Dr. Hunnewell commented that within our regulations, we do not require testing after a private well has received its Certificate of Compliance. It is up to each individual property owner to do whatever they want with their own private well. She asked if it would be appropriate to recommend testing of water with the transfer of property, or rental properties, since it is our jurisdiction? Dr. Vitale stated that he was not inclined to add that. Ms. Campe stated that, for cases where it is a semi-public water supply, there should be some water testing, because it is serving a large number of people. It was noted that *Section 17.3(F)* notes that semi-public water supplies shall comply with all requirements of *Section 17.0*, and that the Board can make additional requirements (and they are detailed out in that section). Dr. Bevers agreed, saying he worries about a blanket statement about rental units.

The Board moved more quickly and reached a version that is ready for review by Town Counsel, after the parenthetical for drinking water analysis is clarified by Lisa. Dr. Vitale will disseminate the version of this regulation reached tonight to both Ms. Campe and the Administrator. Once refreshed by Ms. Campe, the document will be sent to Town Counsel for legal review.

Dr. Hunnewell requested that Town Counsel also review the issue the Board voted on earlier in this discussion, saying she believes it is a liability issue. Dr. Vitale declined that request, saying that it was voted by the Board and was done. There is nothing to ask Town Counsel.

Resident Brian Moore was recognized. He appreciated the Board for reviewing and updating their regulations, and he applauded their efforts. He asked about *Section 6.0(G)(1)* and how the Board members interpret this section, asking if someone co-locates 3 wells 5-feet apart from each other in an effort to skirt the requirement of a protective radius. Dr. Vitale responded that, if each of those wells was serving multiple homes, such that it was essentially 3 semi-public water supply wells, then each well would have a radius and it would be more prudent for them to have a single public water supply because the Board would consider each of those 3 wells as semi-public water supply wells. Dr. Bevers clarified that if it is 3 private wells, they would be at least 75-feet from each other (per *Section 6.0(E)*), and if they are semi-public water supply wells, they would be at least 125-feet from each other.

[The Board recessed briefly at 9:10 PM and reconvened at 9:15 PM to discuss Regulation III.]

**(B) Regulation III – Public and Environmental Health Review Regulations and Standards (For Selected Site Development Activities or Other Special Conditions, or) For Other Than a Single-Family Dwelling on A Single Lot** – Dr. Bevers noted the title of this regulation is difficult, noting that there are other things here, such as bedrock disruption, that could also apply to a single-family dwelling. He wondered how all of it can be encompassed. Ms. Beardsley noted that a phrase was added to the title and felt the Board could change it when they could come up with something concise and comprehensive in the future.

*Section 3.0* – This section, especially *Section 3.1*, had many amendments. Dr. Hunnewell asked, stating that “we know loopholes exist in our regulations” that the Board is still holding on to the designation of “greater than 10” for the EHIR to be recommended, and she asked what about smaller subdivisions. Each of the activities listed in *Section 3.1* was reviewed by the Board, noting that each require the submittal of a complete EHIR. Sub-section (a) states that if the application is to construct 10 or more dwelling units, the EHIR is required, but each of the following sub-sections (b) – (h) would also require one. You only need to meet one of these. There was discussion regarding how much earth is in 350-cubic-yards, as noted in *Section 3.1(h)*, and it was noted that it would be 10-20 dump trucks’ worth of material.

*Section 5.0 – Definitions* of “person”, “Board”, and “Project” were reviewed. Ms. Beardsley reviewed that the definition of a “project” came from anti-segmentation legal documentation related to a MEPA filing. She stated that it was the nicest summary she could find. Dr. Vitale noted that getting clear guidance from Town Counsel on this will be helpful. In addition, just figuring out what part is Board of



Health and what part is Planning Board. Ms. Campe stated that this is the section she is most curious about Town Counsel's guidance and what it will be. Dr. Hunnewell asked if the Board should include here "state defined semi-public" and "Sherborn defined semi-public", but Dr. Vitale did not agree. Dr. Hunnewell felt an opinion from Town Counsel should be obtained, but Dr. Vitale responded that no part of this section is defining any part of a semi-public water supply – it is defining what makes a "project". Dr. Hunnewell stated that it goes back to the original question, which she still thinks should be specifically asked to Sherborn's Town Counsel since it is clearly defined at the State level, so we might have to specify "Sherborn". Returning to the discussion of the definition of "project", Dr. Vitale stated that he liked the draft, believing the language works well. He stated he is comfortable moving forward.

The remainder of Regulation III was reviewed for proposed changes, and discussed at length. Several robust discussions occurred. Dr. Vitale wanted to ensure the regulation does not make compliance burdensome for either a single home or any other development, and he felt the regulation was clear and concise. The Board came to agreement that Regulation III was ready for review by Town Counsel.

Ms. Campe agreed to complete her review/clarification for Regulations II and III by the end of business next Friday (2/10/23).

A heated discussion on bedrock disruption was held, with Ms. Beardsley finally noting that we actually have a progressive regulation that others are interested in because it is another way to address this topic. She noted that we have had one application come before us to date, and they actually chose another path and did not conduct the bedrock disruption. Ms. Campe noted that nothing in life has "0" risk, commenting that getting in a car, or eating a piece of food have risk, as well as the drinking water standards are not "0" – they are a set of limits above which the potential for adverse health effects may occur – not *will occur*, so it is completely in keeping with how the State and every government agency handles risk management. Dr. Hunnewell responded, saying that while all of those statements are true, we do have a lot of data that manganese, for example, and in the case that took place in Sherborn, the drinking water threshold was exceeded by something like 500, and there were neurotoxic levels of manganese in the drinking water of a resident who didn't have the resources to defend their interests. She stated that this case exposed a risk that nobody anticipated, and she felt the Board should learn from it. She stated that we did some research and that research did not result in a lot of information. That lack of information doesn't confirm a lack of risks, and she stated that obviously we take risks. She felt, however, that it is important to notify people when ledge disruption is taking place.

Resident Brian Moore made several additional recommendations regarding the submittal of an application for an EHIR and when it is formally accepted so someone just doesn't dump it on a desk. He suggested that it be clarified to indicate when the Board determines it was delivered. Dr. Bevers noted that the regulation states later that the applicant can't do anything until the Board has reviewed it.

Dr. Vitale stated that he would not be able to join the next meeting because he will be away. However, we will get the final drafts for Regulation II and Regulation III to Town Counsel.

15. **FY2024 Budget** (see Minutes of 12/21/22, 12/7/22, 11/16/22, and 11/2/22) – Ms. Beardsley reported on the January 25, 2023 meeting with the Advisory Committee, noting that the Administrator also attended. She stated that she presented the budget numbers, explaining the increases needed for things like telephone. She explained the new calculation for the Administrator's compensation (increased from 35 to 40-hours/week, to try to cover at least some of the extra hours the Administrator is working per week). She noted that 2 days before the meeting with Advisory, she received the final report from the HR Consultants who had done benchmarking about salaries in peer towns for both the Administrator's role and also the Administrative Assistant's role. The report stated that Sherborn is at the bottom end of compensation for the Health Administrator/Director role and close to the bottom for the Administrative Assistant. Ms. Beardsley noted that the discussion then was focused on other things, such as fees. She stated that Advisory has asked for more information.

Ms. Beardsley stated that Advisory is concerned about equity, such as if they increase the Administrator's pay, what would that mean in the grand scheme of salaries within the town. Dr. Vitale felt it odd, asking why the town would hire an HR consultant, who says what we should do, if we are not going to listen to them – why were they hired? Dr. Bevers commented that “equity” doesn't usually mean pay everyone worse than every other town.

Dr. Vitale felt there are 2 parts of the discussion, stating that one part is the functions that the Administrator fills for the town, and noting that it is more a director-like position rather than a simple administrator. He stated that there is a higher level of function being performed, and he felt that is an important distinction that the HR Consultants made. The Chair stated that the town truly depends on that level of function, citing the Administrator's recent short-term absence. He stated that the concrete tasks, such as the Minutes, as wells as other higher-level pieces that are part of the roles and responsibilities of the position, were his biggest take-away from the HR Consultants report. The salary is matched to the wrong job description or the wrong job code for the current position. He stated that a salary commensurate with the duties makes sense, both for the Administrator's time with the Board of Health and for the town long-term. Ms. Beardsley stated that the consultants took the Administrator's job description and compared it with other peer towns, and they agreed that she is functioning as a director. Ms. Beardsley noted that when the position was created, the title of “Administrator” was put on, it was pretty explicit by the Personnel Board at that time that they chose “Administrator” over “Director” because it fell into a different salary range that was less expensive. Ms. Beardsley noted that the consultants also evaluated many towns, and settled on a subset of towns that they felt were the best matches with Sherborn. Dr. Vitale stated that the Board would assemble more information and continue to pursue, which he felt was clearly appropriate.

16. **Adjournment** – A motion was made to adjourn the meeting, and it was seconded.

By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

This virtual meeting adjourned at 10:11 PM.

Respectfully Submitted,



Ellen J. Hartnett  
Administrator

cc: Town Clerk; and File.

[cc: via email to: Planning Board; Conservation Commission; Board of Assessors; Select Board; Fire Chief; Building Inspector; and Mark Oram, Agent]

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**DOCUMENTS REVIEWED AT THE VIRTUAL 2/1/2023 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **267 South Main Street –**
  - Proposed house floor plans, dated 1/9/2023
  - Existing Barn floor plans
  - Photo of 1<sup>st</sup> floor of barn
  - Photos of 2<sup>nd</sup> floor of barn
  - Groundwater estimate submission
  
2. **Lot B a 0 Hunting Lane –**
  - New Septic/New Well plan #22-57/58, drawn by DGT Associates, and last revised 1/18/2023
  
3. **2023 Rabies Exemption Application –**
  - “Gunnar”, owned by Brenda and Robert DeFrancesco, 113 Prospect Street
  
4. **2023 Disposal Works Installer Permit Application –**
  - Robert SanClements of Sherborn - #I23-20
  
5. **2023 Food Establishment Permit Renewals –**
  - Art’s Specialties, 11 South Main Street - #F23-16
  - St. Theresa of Lisieux Parish, 35 South Main Street - #F23-18
  - Jordan Bros. Seafood – Mobile Food Vendor #F23-11
  
6. **New 2023 Food Establishment Permit –**
  - Cousins Maine Lobster – Mobile Food Vendor #23-17
  
7. **Proposed Regulations –**
  - Regulation II – (Domestic) Water Supply
  - Regulation III – Public and Environmental Health Review Regulations and Standards (For Selected Site Development Activities or Other Special Conditions or) For Other Than a Single-Family Dwelling on a Single Lot
  
8. **Minutes –**
  - BOH meeting Minutes of 1/18/2023