

**VIRTUAL
SHERBORN
BOARD OF HEALTH MEETING
MINUTES
September 6, 2023**

Members Present: Daryl Beardsley, Chair, Matt Bevers, MD, PhD, Julie Dreyfus, Diana Hoek, and Rebecca Hunnewell, MD

Members Absent: None

Others Present: William Harris, Courtney Ek, Pat LeBlanc, Artem Abramian, Zenya Wild, Tom Trainor, Nicole Kepnes, Erick & Theresa Luskin, Jonathan & Lisa Hodson-Walker, Eric Dickinson R.S., Daniel McIntyre, P.E., Jonathan Schwarz, Melinda O’Neill, “jgannon”, Jim Byrnes, Rory McGrath, Peter Alphas, Sarah Tipton, “iPhone Nora”, Tom Curran (Food Inspector), and Mark Oram (Health Agent).

By a roll call vote:

Vice Chair Dr. Bevers – Present

Member Ms. Dreyfus – Present

Member Ms. Hoek – Present

Member Dr. Hunnewell – Present

Chair Ms. Beardsley – 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) 212 Farm Road, James Campbell – Septic Replacement #23-43

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

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley– AYE

The motion passed, and the agenda was amended.

APPROVED 5-0

2. **Heritage of Sherborn – Status** (see Minutes of 8/23/23, 12/21/22, 10/19/22, 6/1/22, 10/20/21, 9/29/21, 7/21/21, 6/16/21, and 6/2/21) – Food Inspector Tom Curran was present, and he noted receipt of a brief letter dated 8/30/23 from Scott Herzog of “HETI Services” (Hydro-Environmental Technologies, Inc.) of Acton. Mr. Curran stated that he has reviewed many of these reports in the past, and he felt this letter was sparse on the details, noting that causes and long-term prevention strategies were not mentioned. He noted that the letter mentions the freezer and walk-in cooler, but does not mention storage of food in the basement in general.

Ms. Beardsley agreed that inclusion of technical details, including what was considered in their inspection, was lacking. She stated that she felt it was apparent, both from previous inspection reports and from the Board’s discussions with the owner, that cleaning would be a good step, but they must stop the

problem from re-occurring. She expressed surprise to not see that addressed, and asked Mr. Curran to ask the owners of the Heritage to have that addressed specifically.

Dr. Bevers agreed that the letter was superficial, noting that it meets the letter of what was requested, but nothing more. He thought the Board had been explicit about what they wanted, but noted it mustn't have been obvious to the owner. He stated that he would be in favor of asking to have more detail presented at the next meeting, when they are supposed to present the Board with remediation of the mold in the attic space. Dr. Bevers noted that repairs have been made to the refrigeration system, but he would like to see details about what those repairs were.

Ms. Beardsley stated that the mold was a major issue. Ms. Dreyfus requested clarification that the moisture issue was not just in the refrigeration unit, and Mr. Curran responded that there was also water in the back corner of the basement near the washer and dryer. He stated that he wants to ensure the moisture in the entirety of the basement is addressed. Ms. Dreyfus noted that this report does not address the moisture outside of the cooler. Dr. Bevers reviewed the previous Minutes and noted the Board had asked for an assessment by an environmental engineer of the viability of storing or keeping food in the basement, and he felt that the scope of the remediation is missing from this letter. Ms. Beardsley agreed, saying it is not just about the refrigeration unit, which is sitting on the concrete floor in the basement. She noted that if there is moisture coming up through the basement floor, that could be part of the issue. Or, improper ventilation of the washer and dryer, as well as proper maintenance, could also cause issues. Ms. Beardsley stated that something needs to be identified more clearly.

Mr. Curran also noted that the refrigeration unit is also quite old, and he wondered about the structural integrity of the unit while also noting it is still capable of maintaining temperature.

Dr. Bevers asked about next steps and Mr. Curran stated that he could re-inspect, remove issues from the inspection report that have already been addressed, and require a more detailed report from the engineering firm.

A motion was made to authorize the Food Inspector, following a re-inspection and meeting with the owners of the Heritage, to prepare a letter to the Heritage requesting additional information from an Industrial Hygienist regarding all items he'd like to see addressed, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed. The Food Inspector will inspect and send a letter to the owners of the Heritage regarding a more detailed report.

AGREED 5-0

3. **32 Pleasant Street / 195 Western Avenue, Silverwood Farm - Jonathan Hodson-Walker – Function Hall / Barn** (see Minutes of 9/21/22, 3/17/21, 6/19/19, 2/6/19, 12/18/18, 10/17/18, 10/3/18, 9/19/18, 9/5/18, 3/5/14, 2/19/14, 6/5/13, 7/18/12, 4/11/12, 11/4/09, 10/21/09, 10/21/98, 9/16/98, 9/2/98, 8/19/98, 5/6/98, 4/15/98, 2/4/98, and 12/3/97) – Jonathan and Lisa Hodson-Walker were present at the request of the Food Inspector to discuss various issues at events at Silverwood Farm. Mr. Curran stated that, overall, vendors have been good to reach out to the Board of Health, but there have been a few tweaks he'd like to address.

First, Mr. Curran stated that access to hand-washing seems confusing to some vendors. Mr. Curran stated that he doesn't mind clarifying with the vendors, but he stated that is a very important access restriction that needs to be in place. The owners should ensure the vendors are aware that a portable hand-washing sink is required, and they cannot access the barn kitchen (which is not a commercial kitchen). Either the owners of Silverwood Farm could provide the portable hand-washing sink, or they should ensure all vendors are aware they need to provide one on the day of the event.

Second, Mr. Curran reviewed an issue he had with a vendor that had a pig roast. The vendor showed up and left it onsite on its own. Mr. Curran stated the owner of Silverwood Farm should ensure there is oversight of such complex cooking processes. There must be monitoring of temperatures, and food safety and protection with the person in charge. Vendors and caterers should not be dropping food off without oversight.

Third, Mr. Curran addressed the applications, noting that the “d/b/a” listed in some of the applications we’ve received have been pre-populated applications with Silverwood Farm listed as the “d/b/a”. He stated that he wants to ensure that, while the applicant should certainly note the location of the event, the name of the vendor should be listed at the top of every application.

Fourth, the Food Inspector noted the porta-potties should be in place for every event, noting the bathrooms in the barn are not allowed to be used during events by vendors or guests.

Finally, Mr. Curran noted that the barn kitchen is off limits to all vendors and event guests. He stated that kitchen is essentially a “break room” for staff and farm hands only. It is not a commercial kitchen.

Mr. Curran clarified the definition of a “caterer” noting that it is someone who prepares and cooks food offsite in a licensed commercial kitchen. They then transport the cooked food to the serving location under temperature control, and once it arrives, it is presented for immediate service. Afterwards, the caterer brings all utensils back to their base of operations for washing and sanitizing. He stated that at Silverwood Farm, some vendors are coming in and doing extensive cooking – charcoal fires, pig roasts. He stated that once that level of cooking is considered “complex cooking processes”, and the vendor is *not* considered a “caterer”, even if they call themselves that. With those particular vendors, there have been some grease management concerns – they must dispose of it properly (bring the waste oil back to where they came from and properly dispose of it there. They cannot introduce any grease into Silverwood Farm’s septic system.

Mr. Curran stated that he would like to work with the Administrator to streamline the application process for clarity for Mobile Food Vendors, listing all requirements (recent health inspection, Serv-safe and allergen awareness certificates), noting that he also flags the fire department for those who use open flames.

Ms. Beardsley noted the misconceptions of some vendors going to Silverwood Farm about their ability to use the facilities there, and by the time the application reaches the Food Inspector, the timing is close to the date of the event. Vendors then seem surprised about not being allowed to use the barn. She felt that finding a way to get that information out to the vendors should be the responsibility of Silverwood Farm. The Agent reported that he spoke with the Building Commissioner, who confirmed that the barn itself is not to be used for public assemblies or any use by the public. It is for hired hands only. The kitchen is only an employee kitchen for the hired hands, and the bathrooms are only for use by the hired hands. He noted that there has been soil testing conducted for an onsite septic system for Silverwood Farm, but no septic design with grease management has been submitted for review. The barn is currently connected to the residential septic system serving Mr. Hodson-Walker’s residence.

Mr. Hodson-Walker stated that his intention is to purchase some hand-washing stations so they will be compliant with that requirement. He stated that they are still learning about the operation of the site with different vendors coming through. Mr. Hodson-Walker stated that they’ve modified the permit application by pre-filling it out, and stated that it would be helpful to receive guidance and a checklist so the vendors understand exactly what is required by the town, since it is unusual in some regards versus towns without municipal water and sewer. Mr. Hodson-Walker stated that their principal objective is to make sure whoever shows up onsite has coordinated with Mr. Curran and understand what they need to do to be compliant. He stated that they take pains when they sign a contract with someone to use the site that they understand exactly what the can and cannot do. He stated that their site manager, Laura Rainey, is very focused on keeping people out of the building.

Mr. Hodson-Walker stated that they had a “soft launch” last year, and that this year has been more of getting a better understanding of the process of operating an event facility. He stated they are trying to figure out what they need from the septic perspective, acknowledging the Agent’s comments about the soil testing, and felt they will move forward once they figure out what is optimal from the business point of view.

Mr. Curran commented that it is also important to note that hand-washing facilities outside of the porta-potties if they aren’t available inside. Mrs. Hodson-Walker stated that there is hand-washing available inside the two premium porta-potties, but there is not inside the ADA one, as it isn’t available.

Mrs. Hodson-Walker stated that they have a requirement in their contract for the people to get a food permit for the event. She stated that often, after the contract is signed (which could be a year in advance of the event), they think everything is fine and the food vendor isn’t lined up for months later. One thing they are now doing is have them sign a contract with a checklist, noting that they would need to get a permit from the Board of Health by a specific date so they can then provide a copy of the permit to them. However, they might provide a permit from the State or from Framingham – they don’t understand they need one from the Town of Sherborn. Mr. Curran empathized with the challenges, but again reviewed the definition of a “caterer”. He noted the issue he is having is that people are presenting themselves as “caterers”, but they are doing a pig roast – that is not a caterer. Under the Food Code, they need a permit as a temporary food establishment. Mr. Curran noted that the Board requires a 30-day minimum notice for a food establishment permit, and he stated that he is encouraged to hear that they are working to insert that verbiage into their contracts. Mrs. Hodson-Walker stated that she would be happy to work with Mr. Curran to develop a checklist or the exact verbiage needed to make sure everything is in compliance. Mr. Curran responded that the vendors need to apply for a permit with the Board of Health a minimum 30-days in advance. That should provide enough time to get everything vetted out prior to the event.

Mrs. Hodson-Walker noted that they are not wedding planners or coordinators, but they are doing their best to interject into that process to get it done much earlier than what is happening now. They will now try to get the needed information directly to the food vendor as opposed to the wedding couple. Ms. Beardsley commented that she wasn’t aware the wedding couple is between the venue operators and the food providers, noting that explains a lot of the confusion.

Dr. Bevers reviewed that the useful action item for Silverwood Farm is for them to streamline some of their processes, particularly when they have to deal with a different organizer or wedding couple, and some of that might be a simplified checklist. He suggested that they work with the Health Agent and/or Food Inspector with that.

4. 263 Western Avenue, Eric & Theresa Luskin – VARIANCE HEARING – Septic Replacement #23-42 (see Minutes of 3/29/23) – The owners were present with Eric Dickinson, R.S., from CIVILized Solutions. The Administrator reported that the certified mail return receipts (green cards) and a copy of the abutter notification letter had been received, and all is in order. The Hearing was opened.

Mr. Dickinson reviewed the plan, stating that the owners are planning an addition, but there will be no increase in flow – the replacement system is designed for 3-bedrooms. He stated the lot is small – only 25,000-square-feet, and there is an inground pool behind the house. Mr. Dickinson stated that there is a lot of ledge in the area of the proposed soil absorption system, as well as shallow ledge throughout the property. An innovative/alternative system is proposed – GeoFlow with a FAST unit. The requested variances were reviewed:

1. Section 1.2 – to allow the proposed soil absorption system to be designed in “bed” configuration, with the use of the GeoFlow drip disposal system with a MicroFAST treatment unit. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

2. Section 5.1(C) – to allow the proposed soil absorption system to be designed on the basis of 5 test pits with a depth of more than the required 10-foot minimum, due to refusal. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

3. Section 8.0(1) – to allow the bottom of the proposed soil absorption system to be installed 4-feet above seasonal high groundwater rather than the required 5-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

4. Section 8.0(2) – to allow the proposed soil absorption system to be located in an area where groundwater is <6-feet below ledge. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

5. Section 10.1(B)(C) – to allow the proposed soil absorption system to be located 79.6-feet from the existing onsite downhill well rather than the required 150-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

her than the required 150-feet.

6. Section 10.2 – to allow the proposed soil absorption system to be located 10-feet from a property line rather than the required 20-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

7. Title 5 Local Upgrade, 310 CMR 15.405(1)(b) – to allow the proposed soil absorption system to be located 6.3-feet from the cellar wall rather than the required 20-feet. A motion was made to approve this local upgrade as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the local upgrade was approved.

APPROVED 5-0

8. Title 5 Local Upgrade, 310 CMR 15.405(1)(j) – to allow the proposed soil absorption system to be located 79.6-feet from the onsite well rather than the required 100-feet. A motion was made to approve this local upgrade as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the local upgrade was approved.

APPROVED 5-0

9. Title 5 Local Upgrade, 310 CMR 15.405(1)(k) – to allow the use of only one deep hole test in the proposed soil absorption system area. A motion was made to approve this local upgrade as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the local upgrade was approved.

APPROVED 5-0

The Hearing was closed.

The Agent recommended approval of the plan as presented, conditional to the Garbage Grinder Prohibition deed recording, and the DEP Notice of Alternative System deed recording, and such a motion was made and seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with conditions.

APPROVED 5-0 with conditions

5. **73 Washington Street, Shannon & Joseph Gustafson – VARIANCE HEARING – Septic Replacement #23-40** – The Administrator reported that the certified mail return receipts and/or usps.com printouts, as well as a copy of the abutter notification letter, had been received, and all was in order. The Hearing was opened.

Daniel McIntyre, P.E., was present on behalf of the owners. He stated that the house was constructed in the 1950’s, and he mentioned several site constraints, including the well being located in the front yard, existing cesspool in the back yard, and an extensive driveway system on the property (for use by the Fire Department so they can pump water out of the pond if needed). An innovative/alternative

technology – the Geomat system in bed configuration – is proposed. Mr. McIntyre noted that the plan has been approved by the Conservation Commission. The requested variances were reviewed:

1. Section 1.2 – to allow the use of a bed design with the use of a Geomat 3900 system rather than the required trenches. Following discussion, it was noted that this innovative/alternative technology uses pressure distribution, and therefore this variance is not needed, as the design is allowed under the regulations. This requested variance was withdrawn.

2. Section 5.1(C) – to allow the proposed soil absorption system to be designed on the basis of two test pits in the proposed system area rather than the required three test pits. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

3. Section 5.1(D) – to allow the proposed soil absorption system to be designed on the basis of one percolation test in the system area rather than the required two percolation tests. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

4. Section 8.0(1) – to allow the proposed soil absorption system to be installed 3-feet above seasonal high groundwater rather than the required 5-feet, with the use of the Geomat 3900 system. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

5. Section 8.0(2) – to allow the proposed soil absorption system to be located in an area with less than 5-feet of natural grade above high groundwater, and where groundwater is less than 5-feet below natural grade. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

6. Section 10.1(A)(C) – to allow the proposed soil absorption system to be located 109-feet from the existing onsite uphill well, and 122-feet from the uphill abutting well serving 70 Washington Street, rather than the required 150-feet (in soils with a percolation rate of less than 3-minutes/inch. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

7. Section 10.2 – to allow the proposed soil absorption system to be located 17-feet from a property line rather than the required 20-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

8. Section 10.2 – to allow the proposed soil absorption system to be located 102-feet from bordering vegetated wetlands rather than the required 125-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

9. Title 5 Local Upgrade, 310 CMR 15.405(1)(h) – to allow the proposed soil absorption system to be installed 3-feet above seasonal high groundwater rather than the required 5-feet (in soils with less than 2-minutes/inch percolation rates). A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

10. Title 5 Local Upgrade, 310 CMR 15.405(1)(j) – to allow a reduction of the required 12-inch separation between the inlet and outlet tees to high groundwater, provided all boots and pipe joints are sealed with hydraulic cement or installed with watertight sleeves, and the tank is proven watertight. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

The Hearing was closed.

The Agent recommended approval of the plan as presented, conditional to the garbage grinder prohibition deed recording and the DEP Notice of Alternative System deed recording, and such a motion was made and seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

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

6. **Minutes** – The Minutes of 8/23/2023 were reviewed. Minor edits were provided by several members. Ms. Hoek reported that she had watched the full 4-hour video of the meeting. A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

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

7. **9/20/2023 agenda items** were reviewed. Heritage of Sherborn will be discussed, and the owners will be invited to attend. The Agent stated that 13 Course Brook Road will also be discussed. Additionally, there will be a discussion of the North Sherborn Water-Sewer District with former BOH member Matt Vitale, M.D.

8. **36 Ivy Lane, Janet & Jeff Gannon – VARIANCE HEARING – Septic Replacement #23-47 -**

The Administrator reported that the certified mail return receipts, usps.com printouts, and/or unopened returned envelopes, and a copy of the abutter notification letter had been provided and all was in order. The Hearing was opened.

Daniel McIntyre, P.E. was present with the owners. Mr. McIntyre stated that the current system was built in the 1970's and failed a Title 5 inspection. The owners are in the process of selling the home. Mr. McIntyre stated that the only possible site for the replacement system is in the exact location as the existing system. An innovative/alternative technology – an Eljen system in trench configuration – is proposed. The requested variances were reviewed:

1. Section 5.1(D) – to allow the proposed soil absorption system to be designed on the basis of one percolation test in the system area rather than the required two percolation tests. The Agent noted that this is required due to safety concerns. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved. **APPROVED 5-0**

2. Section 8.0(1) – to allow the proposed soil absorption system to be installed 2.2 – 3.8-feet above seasonal high groundwater rather than the required 5-feet, with the use of the Eljen Geotextile Sand Filter System. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

3. Section 8.0(2) – to allow the proposed soil absorption system to be located in an area with less than 5-feet of natural grade above high groundwater, and where groundwater is less than 5-feet below natural grade. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

4. Section 10.2 – to allow the proposed soil absorption system to be located 69-feet from bordering vegetated wetlands rather than the required 125-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

APPROVED 5-0

The Hearing was closed.

The Agent recommended approval of the plan as presented, conditional to the garbage grinder prohibition deed recording and the DEP Notice of Alternative System deed recording, and such a motion was made and seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with conditions.

APPROVED 5-0 with conditions

9. **81 Brush Hill Road, Rory McGrath & Peter Alphas – Discussion of ORDER to replace cesspool and complaint received** (see Minutes of 8/23/23 and 7/19/23) – Ms. McGrath and Mr. Alphas were present. The Agent reviewed that he received a complaint from MassDEP at the end of July indicating that a cesspool was being pumped out with a sump pump to their front yard. An ORDER was sent to the owners to stop, and they were informed there would be a future need to clean up the area where the discharge had gone. According to an abutter, some of the discharge had gone towards his property. The Agent reported that MassDEP provided information on the necessary cleanup, stating that lime should be placed over the area, and he noted that the homeowner has completed that action. The other issue was to recognize if there were any issues with the abutter's well, but he has informed us that the water analysis results showed no issue with bacteria levels. The Agent stated that as a result, he feels that aspect of the ORDER has been satisfied. The other part of the ORDER was in respect to the status of the cesspool. He stated that we have a failed Title 5 Inspection report, dated 4/25/22, that indicates the cesspool has backup into the house or component and/or is in the groundwater. The Agent stated that the cesspool needs to be replaced as soon as possible, and while a septic replacement plan has been submitted, it is pending the Board's review at a Variance Hearing. The Administrator stated that the Variance Hearing has now been scheduled for October 4th.

Ms. Beardsley noted that the Board reviewed, at the previous meeting, the Title 5 report, the Agent's observations, and the timeline for replacing a failed cesspool. Owner Rory McGrath stated that

she didn't have any questions, but wanted to clarify that the house has been empty for close to 10-years, and that they had it professionally pumped 3 days prior. She stated that her husband was trying to figure something out, and that he now understands, in hindsight, that he absolutely should not have looked into the cesspool. Ms. McGrath apologized and stated it would never happen again. She noted that they did mitigate the situation by spreading lime over the property. Ms. McGrath stated that there has never been a backup of sewage into the house, and that she has every intention of replacing the cesspool with a new septic system before allowing occupancy of the house (which they will rent out). She stated that they canceled their 8/23/23 meeting with the Board because of personal issues, but noted that no one is living there and it is not ready for anyone to move in yet.

Mr. Alphas spoke, saying that he was the "foolish person" who made the mistake. He explained that this was "top groundwater" that was coming down the properties. He stated that cesspool is 10-feet below the house to the side, and there was not a proper cover on it, so a lot of the rushing water was going into the cesspool. Mr. Alphas stated that he looked into the cesspool and felt it looked clear. He called a professional to pump it out and they commented that it was all water. Mr. Alphas then explained that the next time he looked in, it felt it was filled with "beautiful, clear water". The professional scoped the line and found no backups or blockages and suggested he pump out the water. Mr. Alphas admitted that "optically, it was so stupid", but he put a sump pump in and they pumped this water to the middle of his front yard. Ms. McGrath apologized. Mr. Alphas stated that he has put a proper cover on the cesspool, and that he also installed a French drain around the back of the house to take that "groundwater" away from the cesspool. He stated that it is a perfectly functioning cesspool, with no groundwater getting into it – the water was caused by the cover. Ms. McGrath again apologized.

Dr. Bevers commented that the abutter had his well tested, and everything turned out fine, so that issue has been addressed. He felt the main issue is to ensure there will be no occupancy of the house until the cesspool has been replaced. Ms. McGrath responded that she did place an ad on Zillow, noting that she is within her rights to do that, but that was done only to gauge interest and to see if the price point was appropriate. She stated that she did inform anyone who called or came to look at the house that it was not yet ready for occupancy. The 2 "serious-lookers" were informed that there is a need for a new septic system before anyone can move in.

Ms. Beardsley reviewed that if anyone thinks they can visually determine if water coming out of a cesspool is clean or not, the answer is "no" – that cannot be visually determined. She noted that the Title 5 Inspector failed the system because there was "backup of sewage into the facility or system component", so it was not necessarily into the house. The other failure criteria was that the cesspool itself is sitting in high groundwater, so she noted that while some of the water in there might have been running off of the surface, it also might have been coming in from the ground. Ms. Beardsley stated that if the cesspool was sitting in the groundwater, things stay wet for a long time, and that promotes the survival of bacteria and viruses. While it might seem like there wouldn't be any contaminants left, they can survive for a very long time if they are maintained in a wet condition.

Dr. Bevers closed the discussion, noting that it appears the owners understand the issues, and that the plan will be reviewed next month at the variance hearing. Ms. Dreyfus asked if Ms. McGrath understands the abutter notification process, and she responded that she did, but that she needs to get an updated letter from the Registered Sanitarian (Eric Dickinson). Noting that Ms. McGrath had advised earlier today that the abutter notification letters would be sent today, the Administrator advised the owner to be sure those letters get sent out immediately to ensure the notifications are received in time.

10. **212 Farm Road, James Campbell – Septic Replacement #23-43** – Daniel McIntyre, P.E., was present on behalf of the owner. Mr. McIntyre stated that this replacement system is a conventional stone and pip system, and has been designed for 5-bedrooms. The plan meets all local and State regulations – no

variances are needed. The Agent recommended approval of the plan as presented, conditional to a garbage grinder deed recording, and such a motion was made and seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

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

11. **Farm Pond – dead fish** – The Agent stated that he started to receive calls from residents about dead fish showing up at the Pond about 2 weeks ago. Town Administration and staff, Tom Trainor, Catherine Rocchio and himself worked to have this situation reviewed by the Division of Fisheries and Wildlife. While they never came out to see the actual situation, they did review by telephone. The Agent stated that it was mostly smaller fish, but there were 3 larger fish at the boat ramp and to the right side of the beach. He stated that one member of the town administration staff actually raked up the dead fish. The Agent stated that the next step is to ensure the dead fish don't reappear, but he felt that might.

The Agent stated that a new resident in town is a veterinary pathologist, and an expert in fish diseases and he took some of the dead fish for analysis. He gave a preliminary diagnosis of "Flavobacterium columnare or columnaris disease", and has indicated that it will not harm swimmers. Causes can include possible nitrogen overload, and suggested continuing testing of eColi for the swimming beach, and also including testing for Nitrogen.

Tom Trainor stated that this level of dead fish was new for the Pond, and he stated that he was quite concerned. He reported that he had a conversation with a Division of Fisheries & Wildlife biologist who guessed it was a natural die-off of fish, which he indicated was not uncommon. The expert stated that he did not believe there was any human concern. Mr. Trainor noted that the rate of die-off has slowed.

Mr. Trainor noted that the Farm Pond Advisory Committee is in the middle of the first year of a 2-year Grant, and is having a very detailed analysis of the Pond, the water, watershed, and land use. As part of that, the consultant is doing both phosphorus and Nitrate Nitrogen sample at multiple depths at multiple locations. Melinda O'Neill noted that the consultant noted that the die-off might not necessarily be a bad thing because if those fish (perch) overpopulate, they start eating down the zooplankton which helps keep the green algae under control. This is the cycle and ecology of the Pond, and how one affects the other. Noting that a couple of people had collected the dead fish and put them off to the side, Ms. O'Neill stated that they have started to emit a foul odor. She hoped that if this happens again, the town can be more prepared and have a process for cleaning it up, perhaps by the DPW. In response to a question from Ms. Dreyfus, Mr. Trainor stated that the Nitrogen testing at the Pond was occurring on a monthly basis. The results will be provided by the consultant in her final report – they are not seen in real time.

The Agent suggested a chain of communication between departments if this situation reoccurs. Dr. Bevers was interested in hearing back with the details of the Nitrogen levels in the Pond in the consultant's report, and he asked the Farm Pond Advisory Committee to share it with the Board when it is received.

12. **31 Southfield Lane, Artem Abramian – Building Application #23-31** – Dr. Abramian was present. The Agent stated that this is a 2-bedroom unit, with a living room, dining room, and kitchen (and a loft on the 2nd floor), and is part of the Fields at Sherborn 40B. The proposal is to finish the basement level with a gym area, a yoga/Pilates area, and a cardio area. In response to a question, the owner stated that the basement is a walk-out to a lawn area. Noting the open floor plan, Dr. Abramian felt the kitchen and dining area were just one room. Dr. Bevers stated that at a minimum, there are 6-rooms, and that a 2-bedroom unit is limited to 5 rooms. Dr. Abramian asked if the yoga room could be opened.

Ms. Beardsley noted the Board reviews the floor plans not just how the current owner uses the space, but also how future owners could use them. Additionally, the Board looks at functional spaces – a wall is not the only thing that determines room count, especially with open floor plans. She noted that the Board tries to be consistent.

Dr. Abramian stated that he has a family of 4, with a high-schooler who will leave the home in 1-year. He stated that he doesn't have any relatives, and that he does not need to increase living space. He stated that he needs this finished basement space for health reasons, and it has become very important. He also felt that the unfinished basement was not usable because it is not safe – it is dirty and cold, with lots of spiders. Dr. Bevers responded that, from a Board of Health perspective, he has to consider not only the current use of the space, but also the potential use, and whether it could eventually be converted into bedrooms. In reviewing the requested basement floor plan, Dr. Bevers felt it could be considered 2 rooms, given the size of the opening between the spaces. Ms. Beardsley noted the other issue would be the septic system sizing, noting that by allowing more rooms, the septic system could potentially be overwhelmed. Dr. Abramian asked if he opened up the yoga/Pilates area, could it then be allowed? Dr. Bevers responded that it could be one approach – having the basement be one large finished space.

Ms. Beardsley felt the Board should do some research to determine how the floor plans were presented to the ZBA. She asked the Agent to check if the ZBA defined this unit in terms of room count. If there is no definition, the Board could determine that the unit is 4-rooms right now (rather than 5), and the one room in the basement would be the 5th room. She noted, however, that if the ZBA currently defines the unit as already having 5-rooms, the Board might then talk about a deed recording for the basement, including not ever allowing a full-bath in that area. The Agent stated that he would work on this, and that it will be on the next agenda for the Board's review.

13. **44 South Main Street, Jonathan Schwarz – Building Application #23-28** – The Agent reported that this is an “after-the-fact” building application, noting that the work was completed without permit. The situation came to the attention of the Building Commissioner because the house is for sale. The floor plan was reviewed, and the Agent noted that there are 8 rooms in the house, and the 2nd floor yoga room became the 9th room. However, he stated he became concerned because there is a finished space in one of the garage bays. There is a portable heater in that room, but it is not technically “heated”. It has a large screen door as well as a permanent door that closes the room off from the rest of the house, and he wondered if that became a 10th room. Currently, it is being used as a living room, with couches, a sofa, chairs, etc. Mr. Schwarz stated it is really being used as a screened porch because he knew he could not add a screened porch given the abutting conservation land on the other side. He stated that they always wanted a screened porch, so he did a custom screened porch with a garage door. He stated that the space is not insulated to any level. Mr. Schwarz stated that they are supposed to close on the house on 9/18/23, and the buyers very much like the screened-in room, and it is one of their requirements that the room remain largely intact. He stated that he did not intend to create a 10th room. Dr. Bevers stated that the core issue is the room count, and whether this space counts as a room.

Mr. Schwarz stated that he took the 3rd garage bay and put a screen in front of it. He has a TV on the wall, similar to what you could put in a garage. Dr. Bevers felt it sounded like space that the Board could consider unconditioned space, but he stated he was having trouble because he doesn't have a plan or a picture. Mr. Schwarz stated that it has a fire door such as needed in any garage, and he put a reclaimed barn door in front of it.

Ms. Beardsley showed the floor plan, and Mr. Schwarz stated that the garage door can be opened up, and the screen brought down. The Agent showed photographs, and Dr. Bevers commented that it looked like fairly conditioned space. Two (2) ceramic wall heaters were noted, but Mr. Schwarz stated that they were removed because the Building Commissioner advised that he couldn't have any kind of plumbing and heating in there. Ms. Beardsley noted that it is not just plumbing – it could also be electric

heat, and once it is heated space, the Board must count it as a room. Mr. Schwarz again stated that it has been removed, and Ms. Beardsley stated that the Board must receive confirmation of that. The Chair also noted that the Board would need a deed recording so future owners are aware that the house cannot have any more rooms and that restoring the heat in that 3rd garage bay is not allowed without an upgrade to the septic system. Mr. Schwarz stated that he was sure the buyers would be OK, saying they want the screen and to be able to sit out there when the weather is appropriate. Mr. Schwarz accepted that this is self-induced, but he stated that he has done everything the Building Inspector has asked him to do, noting that it has cost him about \$35,000 to bring everything up to the current Code.

Dr. Bevers summarized the discussion, stating that the 3rd bay garage room bring the house over the room count, since the house now has 9 rooms plus this 1 (total 10 rooms). The key things are that that room is no longer heated, and it is separated from the other space in the house. Dr. Hunnewell felt this 3rd bay garage space was a room. She noted that while the heat was removed, it would take 5-minutes to put it back in. She felt this puts the Board in a bad position. She stated that if the owner had come to the Board before he built the space, the Board would not have allowed it, and she felt that allowing it now would end up causing a problem. She felt it is not a porch – it is a room, and it will be used as a room. Dr. Bevers noted that in the absence of permanently installed heat, you are allowed to have an outlet in your unfinished basement or on your porch, so it is how the Board draws that line.

In response to a question about the basement, Mr. Schwarz stated that it is an old fieldstone foundation, and the basement is completely unfinished. He stated that it is definitely not “finish-able”, and it is only accessible from an outside entrance.

Ms. Beardsley stated that the Board needs confirmation of what the door between the mud room and the porch is like now, and a deed recording which will be provided. Ms. Beardsley stated that room cannot be insulated sufficiently to be a 4-season room. Dr. Bevers suggested the deed restriction could specify that the space cannot be permanently conditioned – the space cannot be insulated and no permanent heating is allowed. Ms. Hoek felt the space would not be comfortable in the winter if the space is not insulated and the garage door remained. When questioned about the flooring, Mr. Schwarz stated that it was a plywood subfloor that was raised up about 6-inches. Ms. Beardsley suggested the Board authorize 2 members of the Board to work with the Administrator and Agent on the actual deed recording language.

Following discussion about the language of the proposed deed recording, Dr. Bevers made a motion to authorize the Administrator and Agent to draft proposed deed recording language such that the 3rd garage bay remain unconditioned without installation of permanent heating or insulation for use as a 3-season room. The motion was seconded. By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Board was in agreement.

AGREED 5-0 with condition

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

By a roll call vote:

Vice Chair Dr. Bevers – AYE

Member Ms. Dreyfus – AYE

Member Ms. Hoek – AYE

Member Dr. Hunnewell – AYE

Chair Ms. Beardsley – AYE

This virtual meeting adjourned at 9:40 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 9/6/2023 MEETING
(All items stored in the Board of Health files unless otherwise noted)

1. **263 Western Avenue –**
 - Septic Replacement plan #23-42, drawn by Eric Dickinson, R.S., CIVILized Solutions, dated 7/16/23
 - Variance request letter from Eric Dickinson, R.S., dated 7/26/23 and received 8/2/23
 - Application for Local Upgrade Approval, Form 9A
 - Certified list of abutters from Assessor's office dated 7/26/23
 - Copy of abutter notification letter from Eric & Theresa Luskin dated 8/2/23
 - Certified mail return receipts (green cards) and/or usps.com printouts or original returned envelope from abutter notification letters
 - Local Upgrade Approval, Form 9B

2. **73 Washington Street –**
 - Septic Replacement plan #23-40, drawn by Daniel McIntyre, P.E., McIntyre Engineering, dated 7/20/2023
 - Variance request letter from Daniel McIntyre, P.E., dated 7/24/2023
 - Application for Local Upgrade Approval, Form 9A
 - Certified list of abutters from Assessor's office dated 7/25/2023
 - Copy of abutter notification letter dated 8/9/2023
 - Certified mail return receipts (green cards) and one usps.com printout from abutter notification letters
 - Local Upgrade Approval, Form 9B

3. **36 Ivy Lane –**
 - Septic Replacement plan #23-47, drawn by Daniel McIntyre, P.E., McIntyre Engineering, last revised 8/3/23
 - Variance request letter from Daniel McIntyre, P.E., dated 8/7/23
 - Certified list of abutters dated 8/10/23 from the Assessor's office
 - Copy of abutter notification letter from Daniel McIntyre, P.E., dated 8/10/23
 - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters

4. **Heritage of Sherborn –**
 - 8/30/23 letter from Scott D. Herzog of HETI, subject: Indoor Environmental Inspection, Heritage of Sherborn Food Storage
 - Order letter sent to the Heritage dated 8/15/23 from Food/Camp Inspector Thomas Curran

5. **212 Farm Road –**
 - Septic Replacement plan #23-43, drawn by McIntyre Engineering & Septic Services, Inc.

6. **81 Brush Hill Road** –
 - 8/24/23 ORDER to correct failed cesspool
 - 4/25/22 Title 5 Inspection Report
7. **31 Southfield Lane** –
 - Building Application #23-31, with associated plans
8. **44 South Main Street** –
 - Building Application #23-28, with associated plans
 - Full house floor plan
 - Photographs of 3rd bay garage “room”
9. **Farm Pond** –
 - Email and photographs dated 9/5/23 from Jeanne Guthrie
 - Email dated 8/22/23 from Tom Trainor