

February 8, 2023

Town of Sherborn  
Board of Health  
19 Washington Street  
Sherborn, MA 01770

**Re: Citizens' Concerns**  
53-55-65 Farm Road  
Sherborn, MA 01770  
DEP #283-0418, DEP #283-0422  
BPA-22-34

Dear Board of Health Chairperson and Members:

We have composed this letter to bring to your attention new conditions along Farm Road that we believe are related to the construction and development plans for the 53-55-65 Farm Road parcels. As neighbors and residents, we are concerned about 1) the rapid accumulation of water within the "Pond" at 65 Farm Road and 2) overflowing stormwater drains and flooding/icy conditions along Farm Road.

For many of us in the neighborhood, we have never witnessed such a rapid accumulation of surface water in the area we refer to as the "Pond" that is partially-situated on the 65 Farm Road property – the parcel subject to many recent permitting efforts by its new owner, Fenix Partners Farm Road LLC (Fenix). Just a month ago, the pond was almost empty and now, after a few rainstorms and only minimal snow melt, it has risen to the rim of the pond and beyond the fencing. At the same time, we have witnessed surface water/ice conditions on Farm Road which we believe directly contributed to a bad car accident last week where an SUV lost control on the ice and crashed into a tree. The driver was taken to the hospital in an ambulance and her car was severely damaged. We believe the excessive water on the roadway turning to ice overnight created dangerous driving conditions for us, our children, school buses, and anyone else traveling along this stretch of Farm Road.

Two concerns we wish to raise in front of your Board/Committee:

- 1) Last summer, we presented a presentation on the 'watercourse' between the pond and the wetlands surrounding our property. We believe the fast-rising surface water at the Pond is indicative of a substantial change in site hydrogeology – occurring because of the clear cutting, filling, and foundation construction on the newly created 53 Farm Road parcel. This activity has plugged - much like a bathtub drain – the natural course of water that drains from this portion of the basin. Now, after changing the course of the water flow, the "Pond" elevation has already risen to levels equivalent to or above typical springtime (e.g., March/April) elevations.
- 2) Last year, we also brought to your attention the existence of an 'open drain' and a watercourse on 53 Farm Road and pointed to your regulations prohibiting installation of a septic system within 125 feet (see below). Soon after, the applicant sent a demand letter and the town agreed to 'cap' the stormwater drainage pipe that had been draining onto the 52 Farm Road parcel for the last 50 or so years. We believe that action, along with the removal of 30+ trees, massive quantities of fill brought to the site, and a newly installed

foundation for a large new home has dramatically altered the hydrology and the watercourse, creating flooding and stormwater hazards along Farm Road.

10.2 MINIMUM DISTANCES

All proposed subsurface sewage disposal areas and expansion areas shall be not less than ten (10) feet from any solid subsurface drain pipe if that drain invert is above the invert of the closest leaching trench, line, or bed, and twenty-five (25) feet from any solid subsurface drain pipe if the invert of that solid subsurface drain pipe is at or below the invert of the closest leaching trench, line, or bed. All subsurface sewage disposal areas and expansion areas shall also be twenty-five (25) feet from any curtain drain designed for that system, twenty (20) feet from any property line and one hundred twenty-five (125) feet from any open surface drain or any watercourse, including streams, brooks, ponds, swamps or other wetlands (as defined in Chapter 131, Section 40 of the Massachusetts General Laws).

The applicant is now pursuing a 32 home 40B development on these parcels. [Farm Road Homes \(May 23, 2022\)](#)

The Town's recent actions of closing an open drain on another person's land without consideration for impact to the neighborhood, aquifer, or wetlands is extremely short-sighted and sets terrible precedent. There must be dozens of properties in this Town where open drains exist and routinely discharge accumulated stormwater to the ground surface with and without permit(s)/ permission. Un-named tributaries and the streams/brooks which traverse our Town all serve as control(s) to prevent the type of flooding that we witnessed last week on Farm Road. Many of us in the neighborhood have surface water discharges coming onto our properties but have no power to simply demand they be stopped. It seems unreasonable that such an action took place without any public hearing (refer to Exhibits A and B).

The surface and stormwater that used to flow out of that open drain into this watercourse (we sent you pictures and videos last February) now flows down Farm Road. Additionally, the watercourse that once existed along this portion of the watershed is now finding new ways to travel as evidenced by rising water levels in the "Pond," stormwater drains, and surrounding wetlands. We have reviewed all minutes from your meetings of 2022 (Exhibit C) and have found no evidence that any request was made of this Board to close the drain, nor was any consideration of such closing conducted by your Board at a public meeting, which also means that there was no opportunity for the public to comment on such action.

We would like you to discuss the points raised in this letter in a public hearing before we head into spring and the wettest part of the hydrologic cycle.

Respectfully,

Mary & Brian Moore, 49 Farm Rd.  
Karen Bonadio, 52 Farm Rd.  
Rob & Melissa Burn, 60 Farm Rd.  
Arthur & Meghan Fenno, 58 Farm Rd.  
Suzanne Hirschman, 54 Farm Rd.  
Neil & Sue McPherson, 9 Great Rock Rd.  
Dave & Sue Paolatto, 2 Great Rock Rd.  
Anne Robb, 35 Farm Rd.

Exhibit A

The Law Offices of  
**JAMES W. MURPHY**

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Sherborn, Massachusetts 01770

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February 18, 2022

Mr. Sean Killeen, Director  
Sherborn Department of Public Works  
7 Butler Street  
Sherborn, MA 01770

**Re: Farm Road – Town's 10' Pipe**

Dear Sean:

As you may know this office represents Fenix Partners Farm Road LLC (Robert Murchison, Manager), the owner of the approximate 16 acres commonly referred to as 55 and 65 Farm Road in Sherborn.

Bob has previously discussed with you the presence of a Town installed approximate 10" wide pipe that daylights on his 55 Farm Road property which appears to be illicit and unpermitted and appears to be an overflow pipe from the Town's catch basins in Farm Road.<sup>1</sup> In connection with Bob's efforts to permit the construction of five (5) new single family homes on the site, abutters have raised to the Board of Health the contention that the pipe is an "open surface drain," and that as such the present proposed siting of two of Bob's proposed subsurface septic systems do not meet the setbacks from such an "open surface drain."

Although Bob contests any characterization of the pipe as an "open surface drain," particularly since it did not appear to convey any water at all this past year and there are no physical manifestations of the existence of any channel across his property, he calls upon the Town of Sherborn to remove the illicit pipe within thirty (30) days of this letter. If the pipe is not removed by the Town, Bob will take steps to remove it himself, reserving any rights he may have.

As an alternative, Bob is prepared to grant the Town of Sherborn an easement or license to permit the Town to fully contain the pipe and add additional piping to it so long as no outlet of any flow from the pipe enters his land at either 55 or 65 Farm Road. Any such license or

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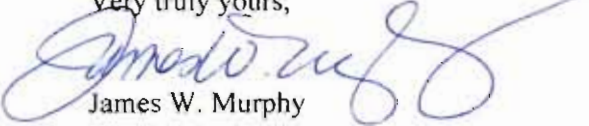
<sup>1</sup> It appears that these catch basins also are receptors for an additional illicit and unpermitted outflow pipe from 64 Farm Road that should likely also be eliminated.

easement would permit the Town to access the pipe in the future for purposes of maintenance or replacement. The Town would be responsible for obtaining any permits for this purpose.

As time is of the essence, please let me know which if any of these two alternatives is of interest and acceptable to the Town. In the interest of time and importance, a copy of this letter is also being provided to the Interim Town Administrator and the Chair of the Select Board.

I look forward to hearing from you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "James W. Murphy", is written over a light blue rectangular background.

James W. Murphy

Cc: Client  
Interim Town Administrator Diane Moores  
Eric Johnson, Chair Select Board



TOWN OF SHERBORN  
DEPARTMENT OF PUBLIC WORKS  
7 BUTLER STREET, SHERBORN, MA 01770  
508-651-7878

March 15, 2022

Sherborn Board of Health  
19 Washington Street  
Sherborn, MA 01770

Re: Stormwater Discharge Pipe on 55 Farm Road

Dear Board of Health,

After closer study of the Stormwater Pipe discharging onto 55 Farm Road, it is evident the flow out of the discharge pipe itself on 55 Farm Road is minimal and my department, DPW, is prepared to cap (seal off) the pipe in place from inside the catch basin and would not require any work on private property. Upon capping, the work will be mapped so we have a record of the abandoned pipe below the street.

Sincerely,

Sean Killeen  
DPW Director

Cc: Murchison

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
January 5, 2022**

**Members Present:** Daryl Beardsley, Chair, Matt Vitale, MD, and Rebecca Hunnewell, MD

**Members Absent:** Lisa Campe and Matt Bevers, MD, PhD

**Others Present:** Courtney Ek, Margo Powicki, Claire McClennan, Wendy Elassy, Diane Moores, “1508....300”, Susan Kelliher, Robert Murchison, Tom Trainor, Marian Neutra, Steve Constantine, Christina Killeen, Bill Keavany, Kitty Sturgis, Jeff Waldron, Tish Gogan, Zach Ward, Jeanne Guthrie, Tim Christofferson, Daniel McIntyre, P.E., Brian Moore, Greg Sieczkiewicz, Marie Elwell, Pam Dowse, and Mark Oram, Agent.

By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

This VIRTUAL meeting came to order at 7:02 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) 59 North Main Street, Unit 9 – Building Application #21-89

(2) 2022 Disposal Works Installer Permit renewal – BIG Excavation of Walpole - #I22-14

(3) FY2023 Budget – Meeting with Advisory Committee – Wednesday, 1/12/22

(4) COVID-19 – Reconsideration of precautionary measures in response to current conditions

(5) COVID-19 – Clarification regarding CDC mask mandate and preschool

(6) COVID-19 – At-home test kits – possible purchase through State contract price

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

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed, and the agenda was amended.

**APPROVED 3-0**

2. **COVID-19 Updates** (see Minutes of 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) –

(A) **Data Review** – Dr. Vitale shared and reviewed his dashboard slides for Dover and Sherborn (treated as a single community) as of 12/30/21, noting that the average daily rate/100,000 is substantially higher than previous weeks. Testing per capita indicates there was a lot of testing over the holiday period. The percent-positivity continues to rise substantially, and he noted that what is shown is likely an underestimate across domains as it only includes PCR testing. The vaccination data was reviewed, and Dr. Vitale noted robust uptake. He stated that vaccination still provides reasonable protection against hospitalization and death. Dr. Vitale stated that the wastewater treatment data is the most concerning, noting that the peak of

last winter (2020) is a tiny portion of what we are seeing now. Ms. Beardsley commented that we are hearing about many people who have taken at-home tests and choosing not to have or unable to get a confirmatory PCR test, so this data is likely an underestimate of the actual number of cases. Dr. Vitale agreed that the data is a low estimate of the total disease burden, and stated that we can expect a rapid rise in cases in the next few weeks.

**(B) CDC Isolation and masking guidance as it relates to preschool** – Dr. Vitale reported that the Public Health Nurse reached out to him regarding how to apply the CDC guidance that allows people to return from Isolation after 5-days provided they remain masked for the next 5-days, since preschool children tend to be unable to mask. He stated that he advised the Public Health Nurse that for preschoolers who *can* be masked, they should be allowed to return to preschool after 5-days provided they are not symptomatic. If they cannot be masked, they should remain out of preschool for the full 10-days of Isolation.

Select Board Member Jeff Waldron asked if the Board of Health is asking people to self-report positive antigen results. Dr. Vitale responded that the guidance from the State is to focus on Nursing Homes, Schools, and congregate settings. The numbers are currently too high for the Public Health Nurses to keep up with contact tracing for all.

**(C) Reconsideration of precautionary measures in response to current conditions** – Ms. Beardsley stated that with the rising case numbers, she believes the mask mandate should return to Town buildings. She also stated that the Board should make a strong recommendation against in-person meetings at this time. Noting that the Board has never recommended any roll-back of the “work-from-home” strategy, Ms. Beardsley recommended that the Board reiterates that “work-from-home” be done to the extent possible by all employees.

Dr. Vitale stated that case rates are now 5- to 10-fold what it was the last time the Board reviewed the data, and he agreed with the recommendations, stating that he doesn’t want to see an entire town department out with COVID.

Town Employee Wendy Elassy stated that there have been some cases of COVID at Town Hall recently, and she stated that no one was notified. She stated that she’d like to see a protocol in place for notification to employees that could have been a close contact. Dr. Vitale responded that some of that is in the purview of the Town Administrator because it’s a personnel matter. He noted that the town will likely have to have some people out either due to their own health or due to COVID infection. Dr. Vitale stated that the next 4-6 weeks is going to be an exceptionally challenging period. Ms. Beardsley noted that the dynamic of notification is different at this time, stating that previously, testing was observed (PCRs). Observed test results all go in to the State database (MAVEN), and the Public Health Nurse conducted contact tracing. Now, with at-home tests, if you take such an at-home test and don’t confirm a positive result with an observed PCR test, you should contact your supervisor and the Town Administrator and notify your own close contacts. Those at-home test results are not reportable to the Board of Health or the State.

Dr. Vitale stated that he was in favor of Ms. Beardsley’s recommendations, but felt they should be reviewed at the 1<sup>st</sup> meeting in February and every subsequent Board of Health meeting. Dr. Hunnewell agreed, stating it makes sense to revisit at every subsequent meeting.

Ms. Beardsley noted that employees have also asked if the Board could recommend the Town either require all employees to be vaccinated, or at a minimum, determine all employee’s vaccination status. Dr. Vitale stated this is a valid question, but he noted that it was not posted on tonight’s agenda, and requested it be added to the next agenda. Dr. Hunnewell felt the Board could make a recommendation tonight, but Dr. Vitale stated it was not an urgent topic for tonight. He stated the Board should talk about it in a clear and transparent way, and noted that the data seems to show that the 3<sup>rd</sup> dose (booster) is very effective.



Ms. Beardsley stated that a KN95 or N95 or surgical mask is far superior to a cloth mask. Dr. Vitale stated that the Board should not dictate the type of mask to be worn by employees. He noted that he can only wear an N95 mask for 4-hours at a time. Dr. Hunnewell stated there is a lot of evidence that even a cloth mask is effective, and she felt there is a very good argument to continue recommending mask usage.

A motion was made to authorize the Chair and/or Vice-Chair to work with the BOH Administrator and Public Health Nurse to create guidance materials for Town buildings. Dr. Hunnewell questioned why the full Board couldn't get a draft so they could provide input on the guidance, and Dr. Vitale responded that we want to get the mask mandate in place without having to wait 2-weeks for the next BOH meeting. Dr. Vitale stated that he wants to see the Select Board and Town Administrator implement the Board's recommendations. He stated that the BOH would prepare the recommendations and then provide them to Town administration. The motion was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and it was agreed.

**AGREED 3-0**

**(D) COA Programs / Senior Café** – Ms. Beardsley stated that she added this to the agenda when she received notification about current programs, but noted that the COA has put all January in-person programs on hold and moved them to Zoom. COA Director Susan Kelliher stated that the Senior Café is also on hold, stating that they would be doing a drive-through lunch next week.

**(E) At-Home Antigen Test Kits** – The Administrator stated that many town employees have sent her the Press Release from the State regarding the ability of towns to purchase at-home antigen tests under a state contract price. She stated that the process is complicated and that she will attend a Webinar on 1/6/21 regarding the process and best practices. Questions remain regarding the number and type of home antigen tests to purchase.

Ms. Beardsley stated that the COA has expressed concern about their inability to obtain at-home antigen tests for seniors, but she noted that the schools have also requested support. Dr. Vitale stated that the Health & Hygiene Workgroup have been discussing the schools, noting that keeping school in-person is very important. He felt that any avenue to get testing should be explored.

COA Director Susan Kelliher stated that some seniors are very compromised, so she is trying to find tests for them. She stated that she worries about seniors who need to find a test. Dr. Vitale stated that there is a new Pfizer medicine, and he felt that the COA having access to antigen tests would be important so compromised seniors can have access to that new therapeutic.

Dr. Vitale and the BOH Administrator will connect on Thursday morning (1/6/22) to discuss questions regarding the at-home antigen tests prior to the DPH Webinar scheduled for that day.

**(F) Woodhaven Community Room** – Kitty Sturgis expressed a concern about keeping the Woodhaven Community Room open, thinking it should be closed for the next 2 weeks, but she wondered if she was being overly cautious. Dr. Vitale stated that he didn't think Ms. Sturgis was being overly cautious, and was in favor of shutting the Community Room down for a short, 2-week period of time, stating that is how we make good choices and stay safe. Dr. Hunnewell noted the benefit of the shared space for seniors, and felt that if masks are required, she did not think there was a need to close the space. Ms. Beardsley stated that she would err on the side of caution, and agreed that room should be closed. Ms. Sturgis stated that she would recommend that it be closed for 2-weeks.

**(G) Clarification of Isolation** – Wendy Elassy asked for a clarification of the 5-day Isolation requirement for confirmed cases of COVID-19. Dr. Vitale stated that if someone is at 5-days and they still have



symptoms, they should remain in isolation for the remaining 5-days. With no symptoms, or marked improvement of symptoms (and no fever), if someone exits isolation after 5-days, they absolutely must remain masked for another 5 days whenever they are around other people or in spaces accessible to others.

**3. 47 Old Orchard Road, Greg Sieczkiewicz – VARIANCE HEARING – Septic**

**Replacement/Expansion #21-119** – Engineer Dan McIntyre and homeowner Greg Sieczkiewicz were present. The Administrator reported that the certified mail return receipts (green cards) and/or usps.com printouts had been provided, and all was in order. The Hearing was opened.

Mr. McIntyre stated that the existing system failed a Title 5 Inspection, and noted site constraints (shallow ledge) in many parts of the property. Twelve (12) test pits were done and one (1) area suitable for a replacement septic system was found. An innovative/alternative system (Eljen Geotextile Sand Filter in trench configuration) is proposed. The requested variances were reviewed and discussed:

1. Section 8.0(1) – to allow the proposed soil absorption system to be installed 4-feet above maximum 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:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the variance was approved.

**APPROVED 3-0**

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

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the variance was approved.

**APPROVED 3-0**

The Agent questioned the engineer to determine if more than 10-cubic-yards of ledge might need to be removed at the site during the installation of the replacement system, but the engineer responded that he did not believe it would be necessary to remove that amount of ledge. 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. Such a motion was made and seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the plan was approved with conditions.

**APPROVED 3-0 with conditions**

**4. 41 Perry Street, Andre Barros – VARIANCE HEARING – Septic Replacement/Expansion**

**#21-120** – Engineer Dan McIntyre was present. The Administrator reported that the certified mail return receipts (green cards) and/or usps.com printouts had been provided, and all is in order. The Hearing was opened.

Mr. McIntyre stated that this house is served by Framingham Town water – it does not have its own well. The owner is doing extensive renovations to the house, and the replacement system includes flow for an additional bedroom (3-bedrooms to 4-bedrooms). Mr. McIntyre stated that he sited the replacement system such that an area has been designated for a well in the event the Framingham Town water is no longer available. Dr. Hunnewell asked if there was any place on the property that would not require a variance, and the Agent responded by noting the constraints of where to locate a future well.

The requested variances were reviewed and discussed.

1. Section 8.0(1) – to allow the proposed soil absorption system to be installed 4-feet above maximum 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:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the variance was approved.

**APPROVED 3-0**

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

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the variance was approved.

**APPROVED 3-0**

The Hearing was closed.

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

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the plan was approved with condition.

**APPROVED 3-0 with condition**

The Agent stated that the upper soil testing had some ledge, but noted that there was plenty of acceptable soil within the system area.

**5. Groundwater Protection Committee Education Webinar regarding private wells – GWPC**

Chair Tom Trainor was present, and he stated that this webinar, which will cover well construction, maintenance, and testing, is scheduled for January 25, 2022 from 7:00-9:00pm. Ms. Beardsley stated that she is having trouble registering, and Mr. Trainor advised that he will try to troubleshoot the issue as others have also had difficulty.

Noting that approximately 40 people have already registered, Mr. Trainor thanked the Chair and Health Agent for agreeing to join. Dr. Hunnewell stated that she was also interested, and Mr. Trainor agreed to email her the registration information. He noted that the Moderator of the webinar will be forming a panel, which now will include Ms. Beardsley, Dr. Hunnewell, Mr. Trainor, and Health Agent Oram.

**6. Potential Part-time Public Health Nurse Position** (see Minutes of 12/15/21, 11/3/21, and 9/15/21-#16) – Discussion of this topic was deferred to the next meeting as the Board is anticipating receipt of relevant information.

**7. Updates to Planning Board Building Permit Procedure document** (see Minutes of 11/3/21-#9, 10/20/21, and 9/29/21) – Dr. Vitale stated that he hasn't had a chance to work on this, and requested that it be deferred to the next meeting.

**8. Central Massachusetts Mosquito Control Project (CMMCP) Presentation** – The Chair reported that the Conservation Commission has scheduled a Zoom presentation with the CMMCP on February 15, 2022. Ms. Beardsley suggested that interested attendees watch the Town Calendar for the time of the presentation.

9. **34 South Main Street, John Conte – Building Application #21-83** – The Agent stated that this house has a 2-bedroom deed-restricted septic system, and the house currently has 4 or 5 rooms. He stated that the owner wishes to install a gym in a detached building (the back shed) and add a ½-bath. Ms. Beardsley asked about the basement space of the existing home, asking if it was finished. The Agent responded that he has asked, but has not received an answer. Dr. Vitale asked if there are any other deed restricted houses where an additional room has been allowed, stating that he was open to being consistent with the Board's general approach to room count. He stated that if allowed, it is important that the ½-bath remain a ½-bath and never be expanded. The Agent stated that he would relay this information to the builder to advise the homeowner, and perhaps have them to a future meeting to discuss with the Board.

10. **59 North Main Street, Unit 9 – Building Application #21-89** – The Agent stated that the Building Commissioner has noted that this unit is already deed-restricted to 2-bedrooms. The Agent stated that he counts 5 or 6 total rooms on the first and second floors. The owner wants to finish 2 rooms in the basement and add a ½-bath, but it was noted that the basement rooms are not labeled as to function. Dr. Vitale stated that he has discomfort with this request, noting that it is a 2-bedroom system. At some point, it could end up as a 2-bedroom, 3,000-square-foot-unit. The Agent noted that the required pump information for the basement ½-bath has not yet been provided. The Agent will advise the applicant and the builder that they should come back to the Board with better plans, including labeling the function of each room.

11. **2022 Disposal Works Installer Permit renewals** were reviewed:

(1) **William Rodenhiser, Rodenhiser Excavating** of Holliston - #I22-11

(2) **Irving Trucking & Excavating Co., Inc.** of Millis - #I22-12

(3) **John C. Parmenter Inc.** of Hopkinton - #I22-13

(4) **Robert Vey, B.I.G. Excavation Corp.** of Walpole - #I22-14

A motion was made to approve the above-noted renewals, all conditional to a pre-construction conference with the Health Agent prior to any work beginning, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the above-noted renewals were approved. **APPROVED 3-0 with condition**

12. **2022 Food Establishment Permit renewals** were reviewed:

(1) **Unitarian Universalist Area Church at First Parish**, 11 Washington Street - #F22-12 – It was noted that the level of sodium in the water supply is 75mg/L, requiring a posting. A motion was made to approve the issuance of this renewal permit, conditional to the required sodium posting, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the permit renewal was approved with condition.

**APPROVED 3-0 with condition**

(2) **Pine Hill Elementary School**, 10 Pine Hill Lane - #F22-13 – The level of sodium in the water, 11mg/L, is acceptable and meets the requirements so not posting is required. A motion was made to approve the issuance of this renewal permit, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the renewal permit was approved.

**APPROVED 3-0**

13. **FY 2023 Budget** (see Minutes of 12/15/21 and 12/1/21) – The Advisory Committee will review the Board of Health budget at their 1/12/22 meeting, which begins at 7:00 PM. Ms. Beardsley invited any other interested member to attend this Zoom meeting, noting that both she and the BOH Administrator would be in attendance.

14. **Minutes** – The 12/15/21 Minutes were reviewed, with suggested edits accepted. Dr. Hunnewell stated that she sent her proposed edits to the Administrator a short while ago. A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 3-0 as amended**

15. **Agenda Items – 1/19/22 Meeting** – The Administrator was instructed to include the following items on the 1/19/22 agenda:

- COVID-19 Updates – data review; discussion of possible vaccination mandate
- Possible Public Health Nurse part-time position
- Building Permit Process document updates

16. **Adjournment** – A motion was made to adjourn the meeting and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – AYE

The motion passed and this virtual meeting adjourned at 8:46 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]

M22-0105.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 1/5/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **47 Old Orchard Road –**
  - Septic Replacement/Expansion plan #21-119, drawn by McIntyre Engineering and dated 10/25/21
  - Variance request letter dated 11/20/21 from Daniel McIntyre, PE
  - Certified list of abutters from the Assessor's office
  - Copy of abutter notification letter dated 11/26/21 from Daniel McIntyre, PE
  - Certified mail return receipts, and/or usps.com printouts for abutter notification letter
2. **41 Perry Street –**
  - Septic Replacement/Expansion plan #21-120, drawn by McIntyre Engineering and dated 11/30/21
  - Variance request letter dated 11/30/21 from Daniel McIntyre, PE
  - Certified list of abutters from the Assessor's office
  - Copy of abutter notification letter dated 12/2/21 from Daniel McIntyre, PE
  - Certified mail return receipts and/or usps.com printouts for abutter notification letters
3. **Minutes –**
  - Board of Health 12/15/21 Minutes
4. **Disposal Works Installer renewal applications –**
  - William Rodenhiser, Rodenhiser Excavating of Holliston - #I22-11
  - Irving Trucking & Excavating Co., Inc. of Millis - #I22-12
  - John C. Parmenter Inc. of Hopkinton - #I22-13
  - BIG Excavation of Walpole - #I22-14
5. **Food Establishment renewal applications –**
  - Unitarian Universalist Area Church, 11 Washington Street - #F22-12
  - Pine Hill Elementary School, Pine Hill Lane - #F22-13
6. **34 South Main Street –**
  - Building Application #21-83, with attachments (available from the Building Department)
7. **COVID-19 –**
  - Dr. Vitale's local data/graphs for Average Daily Rate/100K, % positivity, Daily Rate, Average Daily Case Rate by Age, and table of Dover and Sherborn vaccination rates by age.
8. **Private Well Management –**
  - Email from Tom Trainor 12/14/21 re: Groundwater Protection Committee sponsored webinar on 1/25/22
9. **Mosquito Control –**
  - Email from Cindy Ostrowski 12/15/21 (via D. Beardsley on 12/16/21) re: CMMCP presentation for residents on 2/15/22
10. **59 North Main Street, Unit 9 –**
  - Building Application #21-89, with attachments (available from the Building Department)

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
January 19, 2022**

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

**Members Absent:** None

**Others Present:** Tom Trainor, Margaret Powicki, Courtney Ek, Don Bryan, Steve Constantine, Ally Hamilton, Kara McDermott, Sean & Kelly Hogan, Jeff Waldron, Marian Neutra, Monica Williams, Jeanne Guthrie, Kitty Sturgis, and Mark Oram, Agent.

By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Bevers – AYE

This VIRTUAL meeting came to order at 7:03 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) ECDC Nursery School COVID-19 policy updates

(2) 2022 Disposal Works Installer Permit renewal – C. Mayo Excavating (#I22-16)

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

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Bevers – AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

2. **COVID-19 Updates** (see Minutes of 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) –

[Dr. Hunnewell arrived at the meeting during this discussion.]

(A) **Data Review** – Dr. Vitale shared and reviewed his dashboard slides for Dover and Sherborn (treated as a single community) as of 1/13/22. The average daily case rate of 193.2/100,000/day, while still below the State level, is much higher than where Dover/Sherborn has been at any other point in the pandemic. He noted that this data only includes PCR (molecular) testing and does not include any home testing that people are doing, so it is likely an underestimate of the true actual numbers. Testing per capita, % positivity, combined cumulative case count, and daily rate were also reviewed. Dr. Vitale noted that the wastewater data is the most encouraging, showing a sharp downturn. He shows a “vaccine effectiveness” slide, shared with permission from his workplace, which noted the booster provides the most protection – it is the key to protection. The State municipal data reporting shows high vaccine uptake in Sherborn and he



stated that in the age 16-30-year-old group, which showed the lowest numbers boosted, if they are not yet boosted, that vaccine should be prioritized.

**(B) AFC Testing – January** – Dr. Vitale showed a slide of the AFC Urgent Care Drive-up mobile COVID testing unit, noting that it is at Lindquist Commons at the Regional school through the month of January (Tuesdays 3:30pm-5:30pm; Thursdays 3:30pm-5:30pm; and Sundays 10:00am-12:00noon), and is open to employees and residents of Dover and Sherborn as well as school personnel and students. The test offered is the Abbott ID Now, a rapid molecular test, similar to the PCR (not an antigen test). Ms. Campe stated that she was unaware this was offered and asked if it could be publicized, and Dr. Vitale responded that it was publicized to the school community. Since if it is only open to Dover and Sherborn, he did not want it publicized on Next Door or Facebook, but would agree to it being put on the Town web page.

Dr. Vitale stated that to date, the feedback has been positive and it seems to be going well. Dr. Bevers commented that the schools are also offering everyday drive-up testing for symptomatic students only, and he noted that for a couple of days there have been declining cases in the hospital ICU. Dr. Vitale stated that he was hopeful, noting there have also been declining case numbers on the floor.

**(C) ECDC Nursery School COVID protocol** – ECDC Director Ally Hamilton was present. The COVID-19 protocol provided by Ms. Hamilton was reviewed. Dr. Vitale felt the protocol, as provided, meets or exceeds the State requirement, noting that it allows for good testing. He stated that it seems reasonable and prudent, and stated that he is supportive. Ms. Hamilton stated that the State Dept. of Early Education and Care (EEC) released new information today and she will be reviewing it. Dr. Vitale noted that there is a lot of changing guidance on the Department of Elementary and Secondary Education (DESE) side, so there will likely be an evolution of guidance for early education programs over the next few weeks.

Ms. Hamilton stated that she has been utilizing pool testing through EEC, and rapid tests will be offered by the State beginning on 1/31/22. She noted that she has stringent guidelines for the at-home piece, and stated that using both rapid and pool testing has worked for ECDC.

Ms. Campe noted the isolation guidance in New York allows asymptomatic individuals who test negative with an antigen test on Day 5 to return to school. Ms. Hamilton responded that EEC has also changed that guidance to 5-days, but stated that she is keeping the 10-day isolation. She noted that mask wearing by 3-, 4-, and 5-year-olds is difficult, and stated that her main goal is to reduce transmission. Dr. Bevers stated that the issue is masking after Day 5, and he felt remaining out for the 10-days makes sense. He questioned if an antigen test would be enough for symptomatic children who test negative, asking if a PCR test is really needed. Ms. Hamilton responded that EEC has drive-up testing available in Franklin, and she is allowing her students/families to participate in their pool testing. Dr. Bevers noted that the performance of the antigen tests is good. He asked if symptomatic students really need to see their pediatrician for clearance to return to school even if they have a negative test result, stating that this seems a bit burdensome. Dr. Bevers stated that he doesn't understand the need for a doctor visit in most of the situations. Ms. Hamilton responded that they haven't been as stringent with asymptomatic students, and have allowed them to return without seeing their doctor. She stated that she'd probably make the document more lenient as far as testing. Dr. Vitale felt the doctor visit piece is a place where there might be some "wiggle room". To the degree feasible, he felt it makes sense to not require a doctor visit when they have a negative test result. Dr. Bevers noted that if a student is persistently sick, there is a need to have the student seen and evaluated.

Ms. Hamilton noted that the EEC requires that they work with the Board of Health and she stated that Public Health Nurse Alyssa (Kaiser) has been wonderful to work with. Until she receives the rapid tests from the State at the end of the month, she stated that she would be using what they have.



(D) **Request for Vaccine Mandate for Town Employees** (see Minutes of 1/5/22-#2[C]) – The Chair noted that this request was briefly discussed at the previous meeting. She felt this was a complicated request, noting that such action has been challenged at the federal level and hasn't been resolved. Dr. Vitale stated that the utility of vaccination is important, but trying to mandate this could take a lot of time. If the Board chose to work on this, they would be spending a lot of time on something in a community that has already had good uptake. He felt that while it is an important issue, but not an urgent issue, and not something the Board should put front and center at the moment. Dr. Vitale stated that he continues to encourage anybody who is booster eligible to get boosted. Dr. Bevers agreed, stating he wasn't sure the marginal benefit of a mandate makes sense. He would like more clarity from the Federal and State governments regarding if a mandate would be upheld.

Ms. Beardsley noted that the greatest risk is to the unvaccinated, and Ms. Campe commented that there is a mask requirement in town buildings. Dr. Vitale recalled hearing about a town that offered an incentive, possibly from ARPA funds, for people who got vaccinated. He felt that was more appealing than the idea that we'd potentially terminate people (for being unvaccinated) at a time when the job markets are relatively tight. Ms. Campe stated that her company incentivized it, and gave a bonus perk to everyone who uploaded their vaccination affirmation. Dr. Bevers stated that one could argue the incentive for getting vaccinated could be that it keeps you out of the hospital, but he realized that might not be enough. Dr. Vitale stated that he is wildly enthusiastic about the benefits of vaccination and the prudence of getting vaccinated, but this is really thinking about the process and not vaccine appropriateness. Dr. Bevers agreed, saying he is very pro-vaccine and pro-booster, and not in general opposed to mandates, but in the face of the multiple challenges they've faced he is not sure adding another layer onto that is helpful while we wait for the other things to get sorted out. Ms. Beardsley closed the discussion, saying the Board would not be pursuing a vaccine mandate at this time.

3. **74 Washington Street, L&H LLC – Building Application #21-76 / Status of Septic/Well #10-40/41 and Septic Alteration #11-28** (see Minutes of 12/1/21 and 11/17/21) – Prospective buyers Sean and Kelly Hogan were present, as was contractor Don Bryan.

The Agent stated that the previous Building Commissioner had issued a building permit for this property without Board of Health review. He reviewed his 5/13/2013 "status" letter, and noted several items still outstanding on both the septic replacement and well replacement. In addition, both applications must be transferred to the new owner. He informed the Board that they would be setting a precedent if they approved a building application before these outstanding items were satisfied.

Ms. Beardsley stated that a "conditional" certificate of compliance is not used for issues that are controlled by the applicant – it is used for weather-related delays. The Agent stated that the well water quality testing is extremely important, noting that the well has sat unused for 9-years. Ms. Beardsley confirmed that assuring the water quantity and quality is required by housing code before anything else can proceed with home development. Dr. Vitale noted that most of the outstanding issues are not related to seasonality, and the Agent agreed that only the mature vegetation would be difficult to obtain at this time of year.

Prospective buyer Sean Hogan stated that they are working with Northeast Water Wells, and they took a water sample today. He stated that they expect the transfer applications soon. They have contracted with installer Collin Mayo who will have an engineer certify the pump, so everything is in process.

Kelly Hogan stated that when they spoke with Building Commissioner Chris Canney, Mr. Canney said that although the prior Building Commissioner was not supposed to give approval for the prior owner to start work, that prior Building Commissioner did, so Mr. Canney is now asking if the Board can extend that past permit? Contractor Don Bryan stated that he took over the existing building permit, and no one ever said that it was never run by or approved by the Board of Health. He stated that he transferred the permit, paid the fee, and then the question about the basement came up and it became a larger question. He

stated that he hears that the Board of Health is saying that he can't do any work because, even though he thought he had a permit, he technically does not. The Agent agreed. Mr. Bryan asked if there was any way for the Board of Health to work in sync with him while they are working to get the BOH outstanding items done. The Agent responded that is the reason he brought this to the BOH, and stated that he cannot recommend it because it would set a precedent for every future building project. Ms. Beardsley agreed with the Agent, stating that if it were allowed there would be something that looks like a completed project, and yet it is incomplete on either the well or septic fronts, and she felt that could be dangerous for future residents and occupants of the home. Dr. Vitale stated that this was less about this project specifically and more about every other project, where if the Board cannot have their gatekeeper function, the rest of it breaks down. Mr. Bryan asked about the longevity of a building application, and the Agent referred him to the Building Commissioner for that answer. The Agent cautioned that the water analysis results are the most important part at the current time because he noted that if the results do not come back as meeting the Board's requirements, additional testing will be required.

In response to a question about the timeline for inspections from Mr. Hogan, the Agent stated that he would review all information within a day or two of receipt, and he agreed to keep everyone up-to-date.

4. **34 South Main Street, Monica Williams – Building Application #21-83** (see Minutes of 1/5/22) – Ms. Williams was present. The Agent noted there are 3 deed recordings on this home (garbage grinder prohibition; DEP Notice of Alternative System; and 2-bedroom restriction). The floor plans for the house were reviewed:

- 1<sup>st</sup> floor – dining/living area, kitchen (2 rooms)
- 2<sup>nd</sup> floor – 2 bedrooms (2 rooms)
- Basement – unfinished

Ms. Beardsley noted that the state's minimum septic size is now 3-bedrooms. Since this pre-existing property could not support a 3-bedroom system, it is limited by deed restriction to a 2-bedroom house.

- A detached workout room with a ½-bath is proposed.

The Board agreed that this would bring the property up to a total of 5-rooms, which is still considered 2-bedrooms. The Agent reviewed that applications such as these are generally reviewed on a case-by-case basis, and he noted that the Board must ensure that the house floor plan does not change unless the new proposed workout room is removed.

The labelled floor plan for the workout room was reviewed, and the Chair noted that there appeared to be adequate space in the ½-bath in which a shower could be added. The Agent suggested that the owner request revised plans showing the adjacent closet as larger and the ½-bath as smaller, and Ms. Williams agreed. The Agent noted that relocating the wall between the ½-bath and closet would ensure the ½-bath could never be expanded into a ¾- or full-bath. Dr. Vitale stated that he would also be very uncomfortable if the basement were ever to be finished.

The Agent noted that a septic alteration and well plan will be required to be submitted, and the Agent stated that the engineer should reach out to him. [Note: While it was initially thought the engineer doing this work would be CIVILized Solutions, it was later determined that another engineer had been engaged by the applicant.] Ms. Williams noted that the Building Commissioner had advised her that she could get her building permit prior to a Plumbing application being submitted, but Dr. Vitale noted that the Plumbing application and a septic application are two different applications with different plans.

The owner was advised that a revised floor plan showing the change to the wall between the ½-bath and closet in the detached workout area is required, as is a septic alteration plan including the water line.

5. **59 North Main Street, Unit 9 – Building Application #21-89** (see Minutes of 1/5/22) – The Agent stated that information has been submitted since the last meeting that includes the pump details and Total Dynamic Head. He now has no concern about the effluent going too forcefully into the 4" pip and then into



the septic tank. The concern that remains is the room count. This is a deed-recorded 2-bedroom facility.

The room count was reviewed:

- 1<sup>st</sup> floor – master bedroom, kitchen/dining room, family room (3 rooms)
- 2<sup>nd</sup> floor – one bedroom (1 room)
- Basement – proposed playroom and office (2 rooms)

Dr. Vitale stated that this gives him pause. Ms. Beardsley noted that the ZBA permitted the deed restriction to 2-bedrooms because it is a 40B, and she felt the Board should verify with the ZBA that that is separate from room counts.

The Agent stated that the applicant was made aware of this meeting, but is not present.

6. **Potential Part-time Public Health Nurse Position** (see Minutes of 1/5/22, 12/15/21, 11/3/21, and 9/15/21-#16) – Ms. Beardsley stated that the Town of Medfield shared their job description for their newly hired Public Health Nurse, and she felt it could be a good starting point for developing a job description for a similar position in Sherborn. She asked if the BOH Administrator felt this position would be a supplement to or in place of the current contracted VNA, and the Administrator responded that she would expect the position to absorb the VNA contracted services, so it would be a replacement. The Administrator stated that she envisioned this position as a 25-hour/week position and would take on all of the infectious disease contact tracing and case investigation tasks, emergency preparedness work, Flu Clinics, as well as interact with the COA and review the camp health records for the Food-Camp Inspector. The Chair noted that the Town would likely have comments on a benefitted position, but she asked, in general, if the Board members would be agreeable to the concept of having a new Public Health Nurse (PHN) position in town.

Dr. Hunnewell felt the biggest objection would be if it is a benefitted position, and Ms. Beardsley responded that it also could be un-benefitted – it depends on what the responses would be. Dr. Hunnewell asked about the number of hours the VNA has spent in town, and Ms. Beardsley responded that it has been variable due to COVID-19. Dr. Hunnewell stated that we might need that average number in order to present our case to the Advisory Board and the Select Board – it will help support us.

It was noted that the emergency preparedness side of it is very important, noting that planning and maintaining the necessary documentation is very time-consuming. Ms. Beardsley stated that having someone able to stay abreast of that and make sure things are up to date could be useful across a number of departments. Dr. Hunnewell stated that some objective data would help support the decision for whether it is a supported or unsupported position.

Ms. Beardsley stated that she and the BOH Administrator would review specific items this person could do, but she noted that the Medfield job description includes “public health clinics”. She noted the Board has talked in the past about discontinuing the flu clinics, given that it is easy for people to get flu shots at area pharmacies or from their PCPs, but she asked if anyone had thoughts about other public health clinics. Dr. Hunnewell stated that she believes public health clinics, including flu clinics, are good for the community. Ms. Beardsley asked if she felt Sherborn residents don’t have access otherwise, or because it’s a chance for the Board of Health to interact with residents, and Dr. Hunnewell responded that, as a clinician, she feels that in addition to enforcing local regulations, the Board should continue to offer clinical public health and disease prevention projects, including the flu clinic, which are beneficial to the community. Priorities of the Board may vary with different chairs and members. Dr. Vitale was enthusiastic about the possibility of a public health nurse, and he felt collaboration with the COA would be wonderful. In addition, Dr. Vitale stated that a PHN would be helpful with the flu clinic and the sustained response to COVID (stating that he didn’t think we are almost done with it). He felt it is worth recognizing that we are a small Board of Health and it’s different than the Boston Public Health Commission. We should be cautious about scope creep because it is difficult to sustain. He stated that there is a lot of expertise that the BOH Administrator has accrued over the years in a lot of different domains, and the next

person who takes on the position probably won't have the same decades of experience, and supplementing it with a clinical background could be a really nice addition to the Board.

Ms. Campe felt that 24-hours/week seems like a lot for a town the size of Sherborn. She would like to have a better understanding of who would be the users of these possible additional public health clinics – is it primarily the elderly population, and if so, could this be provided more through the COA. Perhaps it could be looked at as a somewhat less hourly commitment to support and augment. She noted that we have a lot of other things going on such as the adequacy and quality of our water supply.

Dr. Hunnewell stated that we should not take away the flu clinic because there is a value to it. Ms. Campe stated that we should look at this with some balance as to where we want to spend our money. Is a 24-hour/week position the best use of our resources or would we want to have the availability of a consultant to look at other things along the lines of the bedrock blasting or updating our regulations. We need to be mindful and selective about where we are choosing to put the resources.

Ms. Beardsley confirmed the sense that we don't have to focus on public health clinics other than perhaps continuing the flu clinic. The Administrator noted that the Board should definitely continue with the flu clinic(s) if they intend to continue to participate in the Department of Public Health Emergency Preparedness Program, noting that the yearly flu clinic satisfies the annual drill requirement for continued funding. She noted that the VNA already does public health clinics, such as blood pressure and other screening clinics, with the COA, so that would just roll into this position.

The Agent noted that after September 11, 2001, the Homeland Security emergency preparedness program began. Each town is expected to be able to respond on its own for the first 48-72 hours after a serious event (such as anthrax, on which all of the plans are based) and we'd need to be able to inoculate all citizens within the first 48-hours. He felt that is why a public health nurse is an important facet, along with making sure the local people are trained to run an inoculation clinic within that time – a conduit to the Medical Reserve Corps. Dr. Hunnewell felt we all agree that the Board of Health will benefit from having a public health nurse, but we need to get the position authorized first, then we can debate the scope of work and what our priorities are. Ms. Beardsley stated that she would go through this Medfield example with the Administrator and determine which things do and do not resonate with us in terms of what we need to include. Ms. Campe again stated that if we have a set budget we must comply with, while emergency preparedness and the flu clinic are important, we must decide what the most important priorities are as a Board, with private water supply and septic the main focus.

Dr. Hunnewell felt we all agree with the idea of having a public health nurse, and Ms. Campe noted that we are waiting on how many hours per week. Dr. Hunnewell stated that we just need to apply and hope we can get support.

Dr. Vitale stated that it is a question of (1) validating the Chair's and Administrator's impression that having a public health nurse would be helpful, and it sounds like we are supportive, and (2) it is a question of scoping and figuring out what the needs of Sherborn are. There are lots of things that our community residents have access to that many other communities in Massachusetts do not. We need to manage the scope and say that we are a small staff but that role should be free standing. Dr. Bevers stated that looking at the work currently being done by the VNA and the Administrator, plus perhaps taking over some work from the Camp Inspector, catching up on what is falling behind, and offloading things from the Administrator might be enough to justify a 25-hour/week position. Dr. Hunnewell felt it would support the argument to authorize a new position if the Board can provide the Advisory Committee and Select Board with objective data demonstrating how much time the Board of Health needed the VNA services over the last few years, including prior to COVID-19.

Ms. Beardsley ended the discussion, stating she would work with the Administrator on a job description with hours attached to it. She noted that she had requested the Board's input on how they felt about some of the topics listed on the Medfield description. She stated this was merely a starting point, especially since it was just received today. The new document will be sent out for review prior to the next



discussion, whatever the timeline (it might not be the next meeting). She noted that she expects this position would initially be paid for using ARPA funds, since these funds are supposed to be used for reinforcing and improving public health services in towns.

7. **Updates to Planning Board Permit Procedure document** (see Minutes of 1/5/22, 11/3/21-#9, 10/20/21, and 9/29/21) – Dr. Vitale stated that he has been unable to work on this revision, and requested it be removed from the agenda until a later date. He will advise when it will be ready for discussion.

8. **PFAS – Natick Landfill (Stantec Report)** – Ms. Campe reviewed a letter from Stantec Consulting Services Inc. addressed to the Town of Natick dated 1/7/2022 regarding the collection and laboratory analysis of PFAS compounds in samples collected at the Natick Landfill. She provided additional documents for review, including a “PFAS Fact Sheet” revised 6/14/2021 and the “Massachusetts Contingency Plan”, 310 CMR 40.000.

Ms. Campe stated that in Massachusetts, there are aquifer classifications, which means that in our state, not all water is considered potable water. In Sherborn, that is the case because we rely primarily on private wells, but in abutting towns such as Natick and others that have a public water supply, there is a “groundwater classification system”, so only water that is part of a delineated Zone 2 for a public water supply or within 500-feet of a private well (as well as a host of other criteria), is considered “GW-1” meaning that it is considered either a current or potentially potable drinking water source. For PFAS, they are not considered particularly volatile as they don’t like to be in a gaseous phase, but prefer to stay in water. The “GW-2” standards do not apply. The other standards that are pertinent are the “GW-3” standards, are intended to be protective of groundwater flowing to surface waters (like streams, wetlands, the ocean – to any surface water bodies) and biota or benthic organisms, such as the fish that live in those surface waters.

Ms. Campe stated that the Natick landfill was regulated under the Massachusetts Solid Waste Regulations, and it was closed out under those regulations. In Massachusetts, if something is being “adequately regulated” under one set of regulations, they are not necessarily also regulated under the State Super Fund Regulations, known as the “Massachusetts Contingency Plan”. She stated that Stantec and DEP is saying that, for the Natick landfill, it was closed under the Solid Waste Regulations, so even though they are required to monitor groundwater and surface water around the closed landfill, they are “adequately regulated” and therefore don’t trigger the standards shown in Table 1 of the MA Contingency Plan, except for certain circumstances such as an imminent danger to public health or the environment.

The site plan included in Stantec’s letter was reviewed, and Ms. Campe explained that Stantec took groundwater samples from around the closed landfill, noting that they have some monitoring wells and looked at the groundwater quality. They also had some surface water sampling points taken from wetlands or streams in the area. She stated that since the water in the immediate proximity of and under the closed landfill is not used for potable purposes, the 20-ppt PFAS6 standard doesn’t technically apply to the groundwater around the landfill, but the GW-3 standards do apply.

Ms. Campe noted that the only point that had any exceedances of those GW-3 standards was TH-8, which had one exceedance. She noted that those GW-3 standards are for protection of ecological receptors, and each of the 6 PFAS constituents are looked at individually. She again reviewed that the only monitoring point in groundwater that had any exceedance for protection of surface water was TH-8, located on the left side of the site plan, and she noted that it wasn’t exceeded by a lot (the standard for PFAS is 500 and it was about 670). Within the surface water samples, there were no exceedances of criteria that are protective of ecological receptors.

Ms. Campe concluded that right now there is nothing around the closed Natick landfill that is significant or of imminent environmental concern. This doesn’t, however, address any closest private wells from which people are drinking. The positive is that Ms. Campe doesn’t think there are any Sherborn

private wells within close proximity to those elevated groundwater concentrations, but because the site plan doesn't show the locations of the private wells, she couldn't extrapolate from the data what might be migrating towards any private wells. Her sense is that the predominant flow direction is towards the wetlands, which would be away from any likely Sherborn private wells. She stated that if this was an MCP regulated site, they'd have to put in additional monitoring points downgradient to the point that they were hitting 20 ppt, but since they are not, we do not have that data.

Ms. Beardsley noted that there are lots of wetlands in the area, including across Rt. 27 to the east and extending to Everett Street, and she stated that we don't have information to know about hydrologic connections to that section of town, for example. Ms. Campe responded by noting that points SFC-4 and SFC-4A both showed no concerning levels. Ms. Beardsley noted that if this was in the overburden groundwater when it meets the bedrock, and if it encounters bedrock fractures, where would it be going? She stated that she wasn't comfortable with the fact that it hasn't exceeded the GW-3 standards. She noted that the levels within Table 1 would have to be multiplied by 1000 to get to compare to drinking water standards, and while she realized it is not yet drinking water, she felt that when you look at something that is 9930 ppt compared to a 20 ppt standard, it is not going to take a lot of it to have an effect. Ms. Campe countered saying that the dominant flow is going to be typically horizontal vs. vertical, and especially in close proximity to wetlands. It could be the majority upwelling into the surface water in the wetlands, so it might not be migrating again. Ms. Campe noted that we do not have answers to those questions.

Ms. Campe stated that she also looked at the data for the 31 private wells that were sampled for PFAS in Sherborn under the voluntary *DEP Private Well Testing Program*, noting that 12 wells had non-detect result, and 19 wells had some level of PFAS detection, with 5 of those 19 wells having exceedances of the 20 ppt. She noted that several wells, when retested, were below the 20 ppt. Ms. Campe felt that nothing was an imminent hazard, noting that the 20 ppt is a very conservative, protective level. Nevertheless, those 5 households probably should put point of entry treatment systems in. She noted, however that the cost of those systems can be \$10,000-\$20,000 and then they'd need to monitor for breakthrough and have a deed recording. There are a lot of costs and repercussions associated with it, and it is unclear if the State will provide any kind of assistance. Ms. Beardsley noted that this is not contamination that is tied to any one individual well; rather, those wells were merely access points to look at regional groundwater conditions. She stated that she hopes residents realize that we are all in this together.

Groundwater Protection Committee Chair Tom Trainor stated that what hasn't come up tonight is the public water supplies in town, and he stated that we have one public water supply (the well serving Town Hall) that has tested very close to 20 ppt and was noticed by DEP to move to monthly sampling. He also stated that the General Chemical site in Framingham also has very large documented pools of PFAS on their site, and he wondered how we protect our residents and how do we communicate this information to our residents. Mr. Trainor shared his screen and spoke about the "watershed divide" and noted that the general flow on the west side of the landfill flows to Course Brook and into Natick. On the opposite side is Indian Brook, and that flows to the Charles River. Ms. Campe noted that she felt the discharge from General Chemical is thought to go to Course Brook, and she stated that the bedrock well cluster closest to Coolidge Street was "non-detect" from General Chemical. Also, the highest level of PFAS at General Chemical is closest to the source area. There is a decreasing gradient with distance from the building and where DEP is having the remediation done. While there were some detects in Course Brook and in very shallow wells, the deeper wells were less impacted. Ms. Campe stated that we have a lot more data and data points for General Chemical, whereas for the landfill, we don't have the benefits of that so there is a lot more uncertainty.

9. **2022 Disposal Works Installer Permit renewals** were reviewed:

(1) **D.J. Morris Contracting** of Sudbury - #122-15, and



**(2) C. Mayo Excavating Inc. of Ashland - #I22-16**

A motion was made to approve the issuance of the above-noted renewal permits, both conditional to a preconstruction conference with the Health Agent prior to any work beginning, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Member Dr. Bevers – AYE

The motion passed and the renewal permits were approved.

**APPROVED 5-0 with condition**

10. **2022 Food Establishment Permit renewal** – The renewal application for “**One Bite Sweet**”, a retail residential kitchen at 183 South Main Street, was reviewed. A motion was made to approve the renewal of this renewal permit with a sodium posting required due to the 21.6 mg/L level of sodium in the water supply, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Member Dr. Bevers – AYE

The motion passed and the renewal permit was approved.

**APPROVED 5-0 with condition**

11. **Natick-Walpole Visiting Nurse Association – December 2021 COVID-19 invoice** – The Board reviewed this invoice in the amount of \$440.00. A motion was made to approve this invoice for payment, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Member Dr. Bevers – AYE

The motion passed and the invoice was approved for payment.

**APPROVED 5-0**

12. **Minutes** – The Board reviewed the 1/5/2022 Minutes, noting that minor edits had been provided to the Administrator. A motion was made to approve these Minutes as amended, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – Abstained

Member Dr. Hunnewell – AYE

Member Dr. Bevers – Abstained

The motion passed and the Minutes were approved as amended.

**APPROVED 3-0 / 2 Abstentions**

Ms. Campe and Dr. Bevers abstained as they did not attend the 1/5/2022 meeting.

13. **Agenda Items – 2/2/2022 Meeting** – The Administrator was instructed to include the following items on the 2/2/2022 agenda:

- COVID-19 Update and data review
- Potential Public Health Nurse position



Dr. Hunnewell asked when the Board would begin to address the regulations, and the Chair suggested that she write out her suggested edits and provide them to the Board with her talking points so the Board would have a starting point, and Dr. Hunnewell agreed.

14. **Adjournment** – A motion was made to adjourn the meeting and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Member Dr. Bevers - AYE

This virtual meeting adjourned at 9:34 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]

M22-0119.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 1/19/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **2022 Disposal Works Installer Permit renewals –**
  - D.J. Morris Contracting of Sudbury – I22-15
  - C. Mayo Excavating of Ashland – I22-16
2. **Minutes –**
  - Board of Health meeting Minutes of 1/5/22
3. **2022 Food Establishment Permit renewal –**
  - One Bite Sweet, 181 South Main Street - #F22-14
4. **34 South Main Street –**
  - Building Application #21-83 with attached plans (available from the Building Department)
  - Basement level labeled floor plan received 1/19/2022, just prior to the meeting
  - BOH meeting Minutes of 1/5/22
5. **59 North Main Street, Unit 9 –**
  - Building Application #21-89 with attached plans (available from the Building Department)
  - 1/17/22 letter from Peter Bemis, Engineering Design Consultants Inc. re: total dynamic head for the P380 Series Liberty Pump System
  - BOH meeting Minutes of 1/5/22
6. **74 Washington Street –**
  - Building Application #21-76 with attached plans (available from the Building Department)
  - 1/5/22 email correspondence from Building Commissioner Christopher Canney to Health Agent
  - 3/5/2013 letter from Health Agent to previous owner re: Septic Replacement/New Well #10-40/41 and Septic Alteration #11-28 (pending letter)
7. **Natick-Walpole Visiting Nurse Association –**
  - December 2021 COVID-19 invoice
8. **Natick landfill PFAS testing –**
  - 1/7/2022 Letter from Stantec Consulting Services, Inc. to the Town of Natick, MA
  - Massachusetts Contingency Plan – 310 CMR 40.000
  - Sherborn Groundwater Protection Committee PFAS Fact Sheet, revised 6/14/2021)
9. **COVID-19 –**
  - Dr. Vitale's PowerPoint showing local data/graphs for Average Daily Rate/100K, % positivity, Daily Rate, etc. as of 1/13/22
  - ECDC Nursery School – COVID-19 Health Care Policy received 1/18/22
10. **Public Health Nurse –**
  - Town of Medfield PHN job description

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
February 2, 2022**

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

**Members Absent:** None

**Others Present:** Courtney Ek, Scott Horsley, Margaret Powicki, Kitty Sturgis, Jeff Waldron, Bob Murchison, Brian Moore, Marian Neutra, Marcia Zais, Christina Killeen, Patti Roberts, Merriann Panarella, “mmp”, George Hunnewell, “Masked”, and Mark Oram, Agent.

By a roll call vote:

Chair Ms. Beardsley – Present

Vice Chair Dr. Vitale – Present

Member Ms. Campe – Present

Member Dr. Hunnewell – Present

Member Dr. Bevers - Present

This VIRTUAL meeting was called 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 reviewed the agenda, and asked if there were any items to be added as not anticipated by the Chair 48-hours in advance of the meeting. Following brief discussion regarding an email received earlier today from Brian Moore regarding the property abutting his, it was agreed that transparency and having the topic posted on an agenda so all interested parties are aware was important. The Administrator was instructed to place a discussion of the email and the concerns it raises on the next agenda.

2. **COVID-19 Updates** (see Minutes of 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) –

(A) **Data Review** – Dr. Vitale shared and reviewed his dashboard slides for Dover and Sherborn (treated as a single community) as of 1/27/22. He stated that there was a peak in the case rate data on 1/20/22, with a downtrend last week, and he expects to continue to see a substantial local and state level downtrend, based on what we’re seeing in other domains. With regards to testing, we are seeing it getting closer to the more typical per capita rates, which are typically in the 12-13% range. We are now at 14.4% and he stated that he suspects it will also continue to downtrend. The %-positivity rate is declining, but it is still substantially higher than our baseline rates and higher than we were for much of last year. Again, Dr. Vitale stated that he expects this will also continue to decline. He stated that the challenge we are doing to see with both case rate and test positivity as measures as we have more and more prevalent antigen based or community-based testing, those metrics won’t be accrued in the same way. That information will get harder to interpret, but that is where the MWRA wastewater information is helpful. The combined case rate was reviewed, and Dr. Vitale noted that in the period between 11/18/21 – 1/27/22 we had the same number of cases as we had between March 2020 – November 18, 2021. This indicates that it was a truly exceptionally

busy time, driven largely by Omicron. The daily rate was reviewed, and Dr. Vitale stated that in general, with the surges we've seen this fall, the differences between communities that we saw in the earlier waves, where one community might be much lower than a neighboring town, we saw less variation between towns overall – we are matching to where the state is running overall. He stated that it is important to recognize that even as we improved dramatically, the case rate last week was twice our previous peak, but he suspects that when he runs the data tomorrow, we will see that we are again much lower. Vaccination rate data was reviewed, and Dr. Vitale stated that using the state reported data, across all age groups in Sherborn, all age groups are about 95% vaccinated. He noted that older adults have pretty good booster uptake, but he would love to see more booster uptake. Overall, we are all above average. The MWRA wastewater data is a helpful data point and shows that even with the testing changes (antigen/PCR), we still have sustained substantial improvement. He noted that what gets difficult is that the y-axis for this graph is forever broken because the whole peak of last winter is still a tiny fraction of our peak now. While we might look great, it is entirely possible we are pretty close to where we were in the thick of it last year, it is just relatively much better. In general, with Omicron and an environment where infections are occurring in a highly vaccinated population, the infection fatality rate is much lower than it was even a year ago. The correlation between cases and hospitalization and deaths is a different ratio. If you are sick enough to get admitted, will you require an ICU, or how likely will your admission end in death – those numbers are also down, which is encouraging. He felt this was all a pretty encouraging pattern overall.

Ms. Campe asked about some states reporting a significant fatality rate because of COVID's prevalence. Dr. Vitale noted that total fatality counts are still significantly above where we were a couple of months ago, but because we have so many more cases, it is a relatively smaller percentage of cases ending in death – we have many, many, many more cases and some more deaths. He noted that some people may pass away due to causes other than COVID, but who also have COVID. As community prevalence rises, the proportion of deaths in people who have incidental COVID could go up, but in general, the percentage of patients requiring the ICU has been noticeably and detectably lower for Omicron than it was for Delta, and that is encouraging. Dr. Vitale stated that we have seen case number improve and we are seeing hospitalizations improve, and he suspects the next step will be that we see deaths improve.

Ms. Campe asked, in terms of the cohorts impacted, if we are seeing that cases are now more skewed toward the younger, less boosted population. Dr. Vitale responded that we don't have an age breakout on the local, Dover-Sherborn side, but stated that on the state side, before December when the 5-11-age group vaccination became available, we saw a distinct skew toward the younger ages, but that is corrected, and now it is back to the general pattern of a skew to the 20-29-year and 30-39-year age group, with hospitalizations continuing to be concentrated on the 80+ age group. We had a juvenile skew which has corrected, and now we are back to our general, more socially fluid 20-40-age group being relatively high per capita.

Dr. Bevers noted the infection fatality rate for Omicron is much lower than we saw for Delta or the initial wave. While the sheer numbers are up, we are at a mortality rate that is 100-200-fold lower, driven by the sheer number of infections. We are detecting better now than at the beginning, there may be less severe disease, and we have many more treatments and vaccines available. Overall, this emphasizes that while the total numbers are up, the fatality rate of infection is low, although still higher than we would expect for a typical seasonal flu, but much lower than we saw in previous waves.

Ms. Beardsley asked about "long-COVID" in both children and adults. Dr. Vitale responded that it's too early to see how Omicron will play out with this, noting that he hasn't heard anything that Omicron is a higher risk. He has not heard that this is a substantial higher risk, but with the much higher rates of cases in general, the patterns of pediatric hospitalizations with COVID have been higher now than any other point in the pandemic, but for total numbers it is modest.

Select Board member Marian Neutra stated that people will be asking about the efficacy of the vaccine for children in the 2-year to 5-year age range, noting that the media is reporting that they are not



showing any antibody response. She asked why there should be a cut-off at the age of 5 with antibody response. Dr. Vitale responded, with the caveat that Alexey, from Dover, who is on the Health and Hygiene Workgroup and is a pediatrician, has indicated that the dose size for the younger children was a significantly lower dose, with an eye towards minimizing side effects. The initial exploration of the EUA for Pfizer had that data and was pre-Omicron. They then started recruiting for the 3-dose regimen to assess the performance of that, and now they've gone back to the EUA in the setting of Omicron with dramatically increased infections to try to get something to market while they continue the 3-dose regimen studies. Dr. Bevers noted they antibody response in the 6-month – 2-year-olds, but they gave basically the same dose from 6-months – 5-years, and he noted that those children are not all the same size. He believes it was a dose effect, and they hope a 3<sup>rd</sup> dose will do it and they want to get that rolled out as quickly as possible since it was safe. So, they can basically start the process of getting the first couple of doses into kids. He stated that it is a 3-mcg dose they are using in this youngest age group, compared to a 10-mcg dose in the 5-year – 11-year group. There is nothing magic about the age of 5 that means 1/3 of the dose was going to work, so that was likely the issue. Those studies need to be extended.

**(B) AFC Testing in January** – Earlier in the discussion about COVID-19, Dr. Vitale noted that the AFC testing at the regional school has wrapped up, and he noted that about 500 community members used this service. The final test session scheduled for January 31<sup>st</sup> was canceled due to the weather. He felt it was a successful program that helped as we came back to school out of the holidays.

**(C) Schools and Regional School Committee** – Dr. Vitale reviewed that the Dover and Sherborn Boards of Health instituted a local mask requirement at the schools in advance of the state. The state the instituted the requirement, and they will no longer be requiring masks in schools beginning February 28<sup>th</sup>. Between the start of the mask mandate and that point, the state had said that districts with an 80% vaccination rate could proceed with unmasking. Dover-Sherborn submitted an attestation that they've met that 80% vaccination threshold, but with 93% at the high school, 86% (plus or minus 3%), Pine Hill is at 83%, and Chickering is at 77%, we haven't met the threshold as a district. With the state rescinding their requirement at the end of February, the Health & Hygiene's recommendation was to say that the Monday after coming back from February vacation, based on the pattern we've seen for other holidays, is probably not the best day to do this. The district has opted to do it on March 7<sup>th</sup> and we will have some additional facilitated testing available. Since we have a large vaccinated population and vaccinated individuals don't qualify for "Test and Stay", the district has chosen to drop "Test and Stay" and go with the program where every student will be provided with 2 at-home antigen test kits every two weeks for surveillance testing. Those tests can also be used for symptomatic testing, but they won't be backfilled by the state. Our testing access will get better for individual households – about 80% of the district has opted-in to that program. Dr. Bevers confirmed this, and stated that the hope is that at that time point (about 4-weeks from now), it will be a reasonable time to move to a mask-optional environment, but he noted that it is driven by what is anticipated will be a continued fall in case rates as well as the fact that this has become a less severe disease, particularly in children and in the vaccinated. Dr. Bevers stated a lot of time was spent discussing vulnerable individuals and he noted that the school is going to make an effort to obtain a supply of high-quality N95 equivalent masks for teachers who request them, and will also work with families with circumstances where they feel that N95 masks would also be warranted for them. We are moving toward a situation in which masks are optional and we want to facilitate high-quality mask access for those who are particularly vulnerable, but as long as case rates continue to decline, this is a step towards "normal" and seems a reasonable step to take. Dr. Vitale noted since we are not at 100% boosting in either teachers or students, this provides adequate lead time for people to implement either vaccination or boosting. Dr. Vitale stated that this will be understandably nerve-wracking, but he believes this is a reasonable step to take at this point, recognizing that we need to be ready to pivot if the data proves otherwise. Dr. Vitale

stated that we may have circumstances that lead us back to masking strategies on a district-level basis or on a microcosm basis, depending on particular patterns of transmission. The number one goal is that we want children in school. It will be prudent to be prepared with strategies that keeps in-person school, and keeps it as normal as possible. Ms. Beardsley asked how the teachers and staff feel about potentially unmasking, and how to avoid the up-and-down swings in rates of infection. Dr. Vitale responded that he thinks we will see some up-and-down swings, and he felt a part of the Chair's question was how do we keep our finger on the pulse of the school to figure out if we need to do something different. He stated that the Health & Hygiene group will continue communicate with the School Nurse Leader anytime there is a concern, and at that point they'll discuss and figure out what makes sense. He noted that the school has worked closely with the public and he thinks we'll stay tuned in to that and we'll continue to know about cases in the schools. As far as the teachers, he stated that a lot of it is figuring out what our life will be like in the next phase of COVID, and noted that the school will continue mitigation measures, including HEPA filtration and access to testing (a key part of our strategy). The school will also likely have discussion/listening sessions with the community and with teachers, as they have in the past.

Ms. Campe stated that she recalls receiving a notice from the school when someone in her child's class had strep, and she asked if that was something we envision for COVID, or would it be like the flu when there is no notification. Dr. Bevers responded that now, families receive notifications of cases at the school level – not the classroom level because of identifiability issues. He guesses that will continue for some time, but he also guesses that in a year or two, no notification would happen anymore (like any other respiratory illness). Dr. Vitale stated that as we move forward, Omicron and BA.2 are really contagious so it makes sense to have strategies to escalate testing if there is a particular high-risk exposure, or if there is anything that feels like an above-average risk. Offering additional surveillance testing, more than what the state is providing, at such times makes a lot of sense. If we are worried about something, having tests so we can really double-down on testing in such a way to make sure we are managing risk in an environment where we've taken away universal masking as a mitigation factor is another piece for us to think about in this next phase. Dr. Bevers noted that we have actually done focused testing before. We have ramped up and tested a classroom, for example, and in doing that we've been able to keep people in school.

[Additional discussion regarding COVID-19 topics took place later in the meeting. Those discussions are listed here to keep all COVID-19 related topics together.]

**(D) Mask Requirement in Municipal Buildings** – Dr. Vitale stated that there should be no change to the indoor mask requirement at this time, but recommended that this be re-evaluated at the February 16<sup>th</sup> meeting. He stated that we are still at a point of higher case levels than the previous surges. Ms. Beardsley agreed that she would not be in favor of pulling back at this point in time.

**(E) Public Health Nurse – potential position** – The Chair requested that discussion be deferred to the next meeting, noting that a proposed job description has not yet been drafted.

**3. Applications for Exemptions from Rabies Vaccinations** – The Board reviewed three applications received, noting that when an exemption is granted, it carries a responsibility for the owner to then manage the pet accordingly, so the owners have been invited to this meeting. Both Marcia Zais and Patti Roberts were present, and both expressed familiarity with the Board's policy since both have had pets with exemptions granted in past years.

Dr. Bevers questioned the status of "Curly's" vaccination, noting that he was last vaccinated in July 2018. Ms. Zais responded that he received a 3-year vaccine in 2018, and he started having health problems a year ago, and he was still vaccinated at that time, so he was up-to-date until the recent issue. Dr. Bevers asked if there is a plan to vaccinate Curley again should they get results from the current treatment, and Ms.



Zais responded affirmatively, stating that Curly has been a hospice therapy dog for 8 years and if/when he is feeling better, she would like to get him re-registered as a therapy dog and continue that work if it is possible.

Dr. Bevers stated that the Board should be careful where exemptions are granted, noting that rabies vaccines are generally recombinant or inactivated, so having cancer or having an immune condition is generally not a contraindication to receiving an inactivated vaccine. He stated that if we have a known condition that is not a contraindication, that is not a reason not to vaccinate. In response to a comment from Dr. Vitale, Dr. Bevers stated that he has seen 2 people with rabies, and he commented that it “doesn’t look good”, noting that neither of them did well.

(A) **“Curly”, owned by Marcia Zais, 22 Perry Street** – A motion was made to approve the exemption from rabies vaccination for “Curly”, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Bevers – AYE

The motion passed and the exemption was approved.

**APPROVED 4-0**

[Note that Dr. Hunnewell had connection problems and could not unmute, so she did not vote.]

Dr. Bevers stated that he hopes “Curly” can get vaccinated again in the future.

(B) **“Sadie”, owned by Patricia Roberts, 117 Bogastow Brook Road** – A motion was made to approve the exemption from rabies vaccination for “Sadie”, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Bevers – NAY

The motion passed and the exemption was approved, with Dr. Bevers opposed.

**APPROVED 3-1**

[Note that Dr. Hunnewell had connection problems and could not unmute, so she did not vote.]

Ms. Roberts stated that she understands the Board’s position, but noted that her dog is 14-years old and is “just hanging on”. She stated that she’s always titered the dog, so it is not just a decision to not vaccination. Her titers were checked to see how active the vaccination was and she stated that this is something that is generally done. Dr. Bevers responded that there are professional veterinary associations that do not recommend the titer as a replacement for vaccination. He stated that he appreciates Ms. Roberts doing it, but it is not generally considered a replacement. Dr. Vitale noted that it is clear that Ms. Roberts loves her dog, but the Board is trying to balance their responsibility – we are not saying that you are not taking good care of your pet. Dr. Bevers noted that he also understands Ms. Roberts’ motivations, but stated that he must vote his conscience, having come from a place where he has personally seen what rabies can do.

(C) **“Gunnar”, owned by Brenda & Bob DeFrancesco, 113 Prospect Street** – Neither Mr. or Mrs. DeFrancesco was in attendance. The Administrator was instructed to again invite Mr. and Mrs. DeFrancesco to the next meeting, at which time this request will be reviewed.

4. (A) **Lot 3 Farm Road (at 55-65 Farm Road), Fenix Partners Farm Road LLC – New Septic/New Well #22-08/09**

(B) **Lot 4 Farm Road (at 65 Farm Road), Fenix Partners Farm Road LLC – New Septic/New Well #22-10/11 –**

It was noted that the Board of Health has not yet received Conservation Commission approval for either of these lots. Dr. Vitale stated that the Board had lots of discussions about Lot 2 (53 Farm Road) previously, partly because things were taken out of sequence, and he stated that he would prefer not to do



that again. He stated that he knows there are people present for this topic and are enthusiastic to discuss it, but he doesn't want to have the same meeting three times. If we don't have the "green light" from Conservation, he stated that we don't know if we have the final plan. Ms. Beardsley noted that these plans were received late last week. There is a queue of work, and the Agent reviews plans in the order in which they were received, to the greatest extent possible. It was noted that the Agent has not yet reviewed these plans. Both Dr. Bevers and Ms. Campe agreed that, while they were happy to have a discussion, they would rather wait for Conservation so we're not coming back and doing this again.

Ms. Beardsley commented that (1) when all of the issues of well and septic and siting of infrastructure, including the house on a property, they are all closely intertwined, and without things being finalized, it is very difficult to evaluate it. For these lots in particular, the space is constrained so relatively small changes can have impacts. Therefore, to try to review these plans at this point wouldn't be a good way to spend time and effort. Ms. Campe clarified that when the plans are listed on the agenda as "for discussion", we are indicating that we will do some listening, but we are not necessarily going to be voting. Dr. Vitale stated that Mr. Murchison had reached out last week and asked about having it on the agenda, and Dr. Vitale responded that he'd be happy to have it on the agenda, but it may not be reviewed if we don't have Conservation approval back yet. Dr. Vitale stated that it doesn't make sense to have the Agent review the plan without Conservation approval because we don't know if that's the final plan. There is plenty of work to do and he'd rather not do it twice. Ms. Beardsley also noted that before all aspects of the plan are precisely designed, the combinations and permutations of speculating is just too great to do much of that right now.

Mr. Murchison stated that he wanted to address process, as well as correct a few misstatements of fact. First, he stated that he submitted plans two weeks ago – not one week ago – so he wanted to correct that misstatement. In response to a question from Dr. Vitale, Mr. Murchison stated that he submitted (by email) the plans two weeks ago tomorrow. The Administrator stated that the hard copy plans were received on Friday, January 21<sup>st</sup>. Second, Mr. Murchison stated that the plan *is* in its final form, stating that he doesn't intend to make any changes to the septic plan – he believes it is fixed and ready for review. Lastly, Mr. Murchison stated that the Conservation Agent told him that she would be signing the administrative approvals today, but they had some other business come up prior to their meeting on Thursday, and she says she'll have those Administrative Approvals ready for him on Friday morning.

Mr. Murchison stated that when he submitted his plans two weeks ago by email and hard copy, he didn't hear anything from the Board. He feels it is good business practice, whether it is government or business or medicine that confirmation of receipt is provided. He suggested the Board think about whether they want to have a policy of confirming receipt of important regulatory submissions. Dr. Vitale thanked Mr. Murchison for his feedback, and stated that while Mr. Murchison might feel that the plans are finalized, he recalled that the *53 Farm Road* plans were finalized – and then they weren't. Dr. Vitale stated that while he hears what Mr. Murchison is saying – that his intent is not to change the plans – his position on the Board remains the same, which is that these plans need to follow the process. It took an inordinate amount of time and energy and need to go back with *53 Farm Road* and do those things sequentially. Dr. Vitale stated that he felt it highlighted the wisdom of the Board's process, which is to say that it needs to be processed in a certain fashion so it can be efficient and timely. Mr. Murchison replied that he is trying to take what everyone learned the last time around, agreeing that it was not an attractive process, but he stated that he is trying to follow the process this time.

Mr. Murchison stated that he heard the Board talk, at the beginning of the meeting tonight, about some documents received from Mr. Moore about Mr. Murchison's property, and he stated that he feels, as a matter of due process, he should ask to see those documents the Board is considering. Dr. Vitale responded that Mr. Murchison can certainly make a public records request, but that those documents will be discussed at a posted public meeting (on February 16<sup>th</sup>). Mr. Murchison then publicly asked Mr. Moore to share the documents he submitted to the Board with him, and Mr. Moore agreed.

Brian Moore stated he wasn't aware there was a full application submitted for these properties (Lots 3 and 4 Farm Road) until just a few days ago, and he stated that it is disconcerting that he found out by watching the agendas on the town's web page. He stated that they've hired an expert, Scott Horsley, who is present tonight. He is reviewing the plans.

Mr. Moore stated that, from his perspective, it is a moving target. He stated that there are a series of ANR plans that have been recorded at the Middlesex Registry of Deeds as of about 2-weeks ago, and the lot lines that are on the applications that Mr. Murchison submitted for Lot 3 and Lot 4 are not the same lot lines that are on the ANR plan that was recorded at the Middlesex County Registry of Deeds. Mr. Moore stated how they can be his final plans if the lots lines don't match the plans recorded. In response to a question from Mr. Moore about allowing Mr. Horsley to speak, Dr. Vitale stated that while it is fine for Mr. Horsley to introduce himself, we are not having a substantive discussion on the plans because we don't have the finalized pieces. Whatever the discussion, Mr. Murchison should be able to have his engineer presenting the plans.

Mr. Horsley introduced himself to the Board, and stated that he has begun reviewing materials that have been provided to him. Mr. Horsley stated that he looks forward to the opportunity to discuss some details as he does have a number of questions and a number of specific comments.

Noting that Mr. Murchison indicated that the Conservation Agent stated that the Administrative Approvals should be signed off by tomorrow, Dr. Vitale suggested that a specific agenda time be reserved on February 16<sup>th</sup> for this discussion so interested parties will know the time now. An appointment was scheduled for 8:00 PM on February 16, 2022. If it is later determined that for some reason the Board is not in a position to review the plans at that time, we will share that. The Agent stated that without having Conservation approval, there is no guarantee the plans will be ready for Board discussion. If Conservation approval is received two days prior to the next meeting, the Agent stated that he cannot guarantee the plans will be ready for that meeting because he cannot start the review until Conservation approval is received for both lots. Dr. Vitale stated that sounds realistic, noting that if that approval is received in the next 2-3 days, it should be fine, but if it doesn't come in for 10-days, it is not. Dr. Vitale stated that we are planning to talk about these lots, and it is our hope that we'll be in a position to do so, based on what Mr. Murchison described.

Ms. Beardsley asked if there were any issues with the property lines based on the comments made by Mr. Moore earlier. Mr. Murchison responded that there are no issues with the property lines. He stated that he has submitted plans with lots that he believes will be created by an ANR plan in the very near future. He stated that the Board wants the final plans when they review, so that is what he did – he submitted the final plans. Mr. Murchison stated that he knows, by his watching of history, that the Board reviews plans prior to the ANR being filed, but everybody knows that if you approve plans on a particular set of property lines, then they are not going to be accepted if those property lines aren't put in place. So, he feels it is fairly typical of the Board's process. Dr. Vitale clarified that what Mr. Murchison is asserting is that when it's ultimately filed at the Registry of Deeds, the property lines that will be reflected will align with those that are present on the plans. Mr. Murchison stated that rather than using currently recorded plans, he provided septic plans and well locations based on final ANR plans which will be filed with the Planning Board and recorded, but he stated that it is typical for the Board of Health to review them in that state. Mr. Murchison stated that the Planning Board had some catastrophic error in their process that delayed his ability to do all of this – they made an error that caused a significant delay in the process. Dr. Vitale asked Mr. Murchison what the expected timeline would be to have the recording that reflects the proper property lines, and Mr. Murchison responded that he guesses it would be about 4-weeks – not likely to be before the next BOH meeting on February 16<sup>th</sup>.

Ms. Beardsley noted that in all her years on the Board, she does not recall the Board approving plans without a finalized ANR – Mr. Murchison interjected that the Board did it in September and Ms.



Beardsley noted that was the one exception. Dr. Vitale again stated that he only wants to talk about the plans once, so if we are not talking about them tonight, we will talk about it when we talk about them.

Brian Moore commented that this moving target has been a problem for all town boards, and it has been draining, exhausting, and emotionally draining for the neighborhood. To have these things move all over the place when we've been asking for one set of plans to come in with one set of plans for this development, there is no doubting that since July this entire project should be considered a development and should be subjected to the procedures for approving a development. He felt this moving target is a slippery slope. He stated that he thinks the applicant should always come in with a single plan, having all ducks in a row. He stated that he doesn't think the BOH should take any action whatsoever on these lots until there is a single plan for this entire development in front of them.

Mr. Murchison stated that he can only follow the law and the rules that the BOH puts in front of him. He cannot do what Brian wants him to. Dr. Vitale noted that while Mr. Murchison certainly isn't required to do it, but the question of whether you can do it is not a question for us to decide tonight. However, the BOH needs to follow the procedures we have and what the rules are. Things that are permissible might not be what we might wish for. Dr. Vitale stated that he doesn't want the BOH or our meeting to be a venue for you guys having mutual concerns to sort out how one or the other should behave. He stated that they are both welcome to comment, but he doesn't want an extended back and forth because he looks forward to discussing the plans when they come in and it is appropriate to do so. Dr. Vitale stated that the Board is all here trying to do their best, and they will continue to do their best. He stated that the members are here because they believe the work is important and it resonates with each of them. He assured both Mr. Murchison and Mr. Moore that the Board is trying to be thoughtful and fair and consistent with everyone involved in the process.

Dr. Hunnewell stated that at the state level there is new legislation that just went into effect on January 1, 2022. It is called the Massachusetts Environmental Policy Act and it requires state agencies to study the environmental consequences of action for proposed projects. She felt that in this particular case, we might have some state support because, as part of the mitigation for global warming, there is a significant interest in examining the environmental impacts of projects in communities, especially when they border wetlands. She felt that there may be some discussion points of relevance which could justify this Board requesting some close attention to some of these issues.

Dr. Vitale, in closing the discussion, stated that the February 16<sup>th</sup> agenda will have two Farm Road topics – one agenda item (*53 Farm Road*) requested by Mr. Moore, but he would prioritize the fixed meeting time of 8:00 PM to begin with the Lot 3 and Lot 4 Farm Road topics. Mr. Murchison was surprised that 53 Farm Road and questioned what was to be discussed, but Dr. Vitale noted that it was a non-posted topic for tonight and could not be discussed tonight. He suggested that Mr. Murchison look for the copy of the communication from Mr. Moore. If Mr. Murchison doesn't receive the information from Mr. Moore, then he can submit a public records request for it, but the Board cannot discuss it now.

5. **ZBA Petitions for Hearings on 2/16/22** – The petitions scheduled for Hearings on 2/16/22 were reviewed and discussed. It was noted that the application for 11 South Main Street was not provided to the BOH. The Administrator was instructed to provide the following comments to the ZBA:

- (1) *11 South Main Street* – A plan showing the sign location should be provided to the Board of Health for review and confirmation that the proposed sign will not be located in the area of the existing well. The Health Agent had knowledge that the septic system was in the back and thus should not be an issue.
- (2) *25 North Main Street* – The Board of Health requests that this application come before the Board of Health prior to ZBA approval so it can be review to ensure there is adequate septic system capacity for the proposed addition.

6. **Minutes** – The BOH meeting Minutes of 1/19/22 were reviewed and discussed. Dr. Hunnewell and Ms. Beardsley both previously provided edits. A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Member Dr. Bevers – AYE

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

7. **Agenda Items – 2/16/2022 Meeting** – The Administrator was instructed to include the following items on the 2/16/2022 agenda:

- COVID-19 Update and data review
- Mask recommendation for municipal buildings – review
- Potential Public Health Nurse position

Ms. Beardsley commented that while she was reviewing previous meeting's Minutes, she reviewed the video and she noted that a comment was made about the Chair setting priorities for the Board of Health. She reminded the Board that she invites all Board members to come to meetings with topics that they would like to discuss at future meetings. She noted that most topics are driven by what is ongoing within the community – such as events, applications, and circumstances such as the pandemic, cyanobacteria at Farm Pond, etc. Ms. Beardsley noted that she is the Chair, and as such has some extra duties, but she believes that everyone weighs in pretty well, and she hopes everyone feels that they can. Dr. Hunnewell stated that her comment was not directed at Ms. Beardsley; rather, she was commenting on the fact that over time, agendas change and different priorities change. Dr. Hunnewell stated that she was merely saying that it's just a phenomenon of different Boards, and she hoped Ms. Beardsley didn't misunderstand if it was her comment that led to this comment by the Chair.

Ms. Campe stated that the Board has talked about revisiting the Well Regulations, taking into account PFAS and other emerging contaminants, upon which the regulations are silent. She felt that was something that is very topical right now and we should revisit. She felt that if DPH interns are available right now, perhaps the Board could guide an intern to help draft some revisions to the current regulations on that topic. Dr. Hunnewell noted that the Chair had asked her if she'd be interested in helping with this topic, and she would. She stated that she has a few things that she might be able to put together for either the next meeting or another future meeting. Ms. Beardsley suggested that Dr. Hunnewell put together what she has for a future meeting, noting that February 16<sup>th</sup> currently looks to be a busy meeting.

The Administrator suggested that the best way to do this would be for the members to draft what they can and then provide it to her. The Administrator would then add it to an agenda and distribute it to the Board members with that meeting's documents.

8. **Adjournment** – A motion was made to adjourn the meeting, and it was seconded. By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Member Dr. Bevers – AYE

This virtual meeting adjourned at 8:31 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 2/2/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **Rabies Vaccination Exemption applications –**
  - “Curly”, owned by Marcia Zais of 22 Perry Street
  - “Sadie”, owned by Patricia Roberts of 117 Bogastow Brook Road
  - “Gunnar”, owned by Brenda DeFrancesco of 113 Prospect Street
2. **Lot 3 Farm Road (at 55-65 Farm Road) –**
  - New Septic/New Well Plan #22-08/09, drawn by Creative Land & Water Engineering LLC, dated 1/20/22 and received 1/21/22
3. **Lot 4 Farm Road (at 65 Farm Road) –**
  - New Septic/New Well Plan #22-10/11, drawn by Creative Land & Water Engineering LLC, dated 1/20/22 and received 1/21/22
4. **ZBA petitions for Hearings on 2/16/22 –**
  - Legal Notice for Hearings scheduled as of 1/28/22
5. **Minutes –**
  - Board of Health meeting Minutes of 1/19/22
6. **COVID-19 –**
  - Dr. Vitale’s PowerPoint showing local data/graphs for Average Daily Rate/100K, % positivity, Daily Rate, etc. as of 1/20/22

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
February 16, 2022**

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

**Members Absent:** None

**Others Present:** Brenda & Bob DeFrancesco, Courtney Ek, “bs”, Susan McPherson, Mary O’Hara Moore, Brian Moore, Brian Millerick, Jeff Waldron, Steven Constantine, Margaret Powicki, James Murphy, Tom Trainor, Peggy Novak, Roger Newton, “Francis”, Christina Killeen, Bob Murchison, Marian Neutra, Desheng Wang, “ED”, “mmp”, “mmp” (twice), “1617....538”, Paul Saulnier, Arthur Fenno, Dan McIntyre, Kitty Sturgis, Scott Horsley, Carol McGarry, Warren Wheelwright, Peter Bemis, David Parrish, Laura Mastrobuono, Anne Robb, “Francis’s iPad”, Joshua Salvin, and Mark Oram, Agent.

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Absent

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

This VIRTUAL meeting came to order at 7:01 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) Saint Theresa Parish, 35 South Main Street – 2022 Food Establishment Permit renewal #F22-16

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Absent

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

[Dr. Hunnewell had connection difficulties and was in attendance at the meeting as of 7:05 PM.]

2. **2022 Application for Exemption from Rabies Vaccination – “Gunnar”** (see Minutes of 2/2/22) – Brenda and Bob DeFrancesco, owners of “Gunnar” were present and noted compliance with the requirements of the vaccine exemption. They noted that “Gunnar” was largely housebound due to advanced age and debility. The Board reviewed the application submitted and reviewed the requirements in the event this request is approved. Dr. Bevers noted that he has taken care of a couple of people with rabies and stated that it is universally fatal. H noted that cancer, in and of itself, is not a contraindication for vaccination, as it is a recombinant vaccine. Dr. Hunnewell noted that it is very serious and a Public



Health issue. The DeFrancescos noted their Vet had recommended not vaccinating “Gunnar” as he is nearing end-of-life.

A motion was made to approve this request for an exemption from rabies vaccination for “Gunnar”, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the exemption was approved.

**APPROVED 5-0**

3. **COVID-19 Updates** (see Minutes of 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) –

(A) **Data Review** – Dr. Vitale presented his dashboard slides as of 2/10/2022, including per capita testing rate, test positivity rate, combined community case count, daily rate, average daily case rate by age, and there was much discussion regarding the decline in numbers.

(B) **Schools** – Dr. Vitale noted that the State has lifted the mask requirement as of 2/28/2022 regardless of vaccination status, but the Dover-Sherborn School District has decided that the mask mandate will end on 3/7/2022 and they will move to “mask optional” status on that date. There will be escalated testing at the schools that first week of March, following the winter vacation, and he would favor having N95 masks made available for high-risk teachers and staff. Dr. Bevers noted a “right to pivot”, stating the schools could move to targeted masking as necessary. Ms. Campe provided a comparison to higher education settings, and stated that we should be mindful that in 6-months we might need to return to more protection. In response to a comment by the Chair about masking in D/S schools appearing to have been effective since spread was not identified as originating in the schools, Dr. Vitale stated the vast majority of cases is due to household transmission.

(C) **Municipal Buildings** – Dr. Vitale stated that he supports lifting the municipal building mask recommendation at this time, but remote work and remote meetings should still be supported. He noted that the Board of Health previously made the recommendation for masking to the Select Board, and he suggested that the Board make a new recommendation to end required masking in municipal buildings to the Select Board.

Select Board member Marian Neutra noted a recent Select Board discussion regarding the venue for Town Meeting, stating that most were in favor of having Town Meeting in the High School auditorium, and she asked for BOH opinion. Dr. Vitale noted that last year’s venue worked, and stated he is not enthusiastic about having 500 people in a large indoor space, but felt older attendees should wear N95 masks. Dr. Hunnewell stated the Board should require masks at Town Meeting, but the remaining Board members countered that the Board cannot do that, per State Law. Dr. Bevers stated that, with the increased access to high-quality masks, people have an opportunity to make individual decisions for themselves.

Conservation Commission member Carol McGarry stated that many older people in town would like a mask mandate, and felt the BOH should provide such guidance, but Dr. Bevers noted that masks cannot be mandated at Town Meeting, per State Law. He stated that we can pivot if new variants are detected and found to be more transmissible or more lethal. He noted that this will be a difficult transition for some, but stated that he is reassured with the low numbers we have, as well as the ability to protect ourselves with high-quality masks. He stated that this will be a difficult transition and we will be uncomfortable no matter when we make that change.



A motion was made to recommend to the Select Board, for the purposes of municipal buildings, that the Massachusetts Department of Public Health Advisory Regarding Face Coverings, updated as of 2/15/2022, be followed, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – NAY

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – NAY

The motion passed by a 3-2 vote with Dr. Hunnewell and Ms. Beardsley opposed.

**AGREED 3-2**

Dr. Hunnewell stated that she agrees with following MDPH guidance, but felt the Board should continue to encourage masking. The BOH Administrator was instructed to forward the DPH guidance to the Interim Town Administrator for discussion at the 2/24/2022 Select Board meeting.

**(4) 30 North Main Street, Steve Constantine – VARIANCE HEARING – Septic Replacement #22-01** (see Minutes of 7/21/2021) – Mr. Constantine was present with his engineer, Daniel McIntyre, P.E. The Administrator reported that the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts (green cards) had been received, and all was in order. The Hearing was opened.

Mr. McIntyre reviewed that this lot is 12,000-sq. feet (+/-). The existing 3-bedroom home was constructed in 1700 and is served by a cesspool with an overflow cesspool. The onsite well is approximately 8-feet from the cesspool, and 2 abutting wells (serving 32-34 North Main and 18 North Main) are within 100-feet of the cesspools. Mr. McIntyre stated that this is a “textbook case” for a tight tank, but noted that before he can request a tight tank, he must exhaust all other possibilities. Mr. Constantine owns and lives at 32-34 North Main, and he purchased 30 North Main, but it is owned by a separate entity (a trust). The abutting property at 32-34 North Main has excess land, and they would like to locate the replacement system for 30 North Main with an easement, as allowed by Title 5. Ms. Campe felt that was a huge problem, noting that the property could change ownership. Dr. Bevers expressed concern about setting precedent, and felt a property transfer, so the deed is adjusted, would be more comfortable for him. Ms. Campe noted the difference between a Utility easement and an easement for a private septic system. Mr. Constantine stated the plan is to have his son and his family move into this house, and he would collect rent. He stated that Realtors have advised he could sell the properties together if he ever were to sell.

Ms. Campe and Dr. Vitale asked if, rather than having an easement, are they willing to move the lot lines to where the easement lines are currently shown. Mr. McIntyre responded that they cannot take any more land from 32-34 North Main, noting that they are proposing to create an easement for 30 North Main and keeping at least 40,000-sq. ft. for 32-34 North Main. Mr. McIntyre stated that he wanted to make sure, before proposing anything for 30 North Main, that they’d have enough space for a 32-34 North Main replacement system. In response to a question from Dr. Vitale regarding how the 8,500-sq. ft. permits an easement, but not a property transfer, Mr. McIntyre stated that Mr. Constantine has a preference for an easement. Dr. Vitale asked if the 8,500-sq. ft., if it were a property transfer, would make any difference for nitrogen loading, and Mr. McIntyre responded that there would be no difference. The Agent stated that a property transfer of this 8,500-sq. ft. would increase the lot size of 30 North Main to 30,000-sq. ft. and thereby allow a 3-bedroom house, but he stated that it *would* require a nitrogen-reduction system. Ms. Beardsley stated that she found something in Title 5 and asked the Agent and engineer if nitrogen-reduction is mandatory for an existing house, and Mr. McIntyre responded that it is at the discretion of the Board of Health. The Agent stated that, in talking with Claire (Golden, of MassDEP), it would be precedent-setting for all other properties in town if a nitrogen-reduction system is not required at this location.

Mr. Constantine shared his screen and showed nitrate water analysis results for the Heritage between 1993-2021 as improving. The Chair stated that she would like to review the latest data since nitrogen was on the rise in the downtown area as of her last review of the data around 2019.

Dr. Vitale asked how a nitrogen-reduction system would change this design, and Mr. McIntyre responded that the leaching area would remain the same. They would likely add a FAST treatment unit to the septic tank. He stated, however, that the bulk of the nitrogen-reduction will happen in the leaching field. The Agent commented that the soils are sandy, permeable soils, and he stated that treatment in sands are not as good as in till. Additionally, he noted that the previous occupant of this house was 1 person, and this house, with 3-bedrooms, could have up to 6 people.

Dr. Vitale stated that the Board, uniformly, would like to see a property transfer of the 8,500-sq. ft. rather than an easement. He stated that he would like to see a nitrogen-reduction system, noting the number of properties in town to which setting a precedent would apply. Ms. Beardsley suggested that a reverse easement could be considered, giving 34-34 access to the land after it is transferred for the septic. She asked the Board to indicate whether property line setback variances would be viewed favorably if the transfer had the same boundaries as the easement. Dr. Bevers and Ms. Campe both stated they would support property line variances, if needed, should a revised plan with revised property lines is submitted.

The Variance Hearing was continued to the 3/2/2022 meeting at 7:30 PM. Comments received from an abutter will be addressed at that time.

- 5.) **(A) Lot 3 Farm Road (at 55-65 Farm Road) – New Septic/New Well #22-08/09 and (B) Lot 4 Farm Road (at 65 Farm Road) – New Septic/New Well #22-10/11 (see Minutes of 2/2/22) And (C) 53 Farm Road (aka Lot 2 at 55 Farm Road) – New Septic/New Well #21-106/107 (See Minutes of 2/2/22, 12/15/21, 12/1/21, 11/17/21, 11/3/21, 10/20/21, 9/29/21, and 9/1/21) – Robert Murchison was present with his attorney, James Murphy, and engineer, Desheng Wang. Several abutters and other interested residents were also present.**

**The Health Agent stated that both plans are still under review, and he expects to be sending deficiency letters for each once the reviews are completed. He noted, however, that 2 of the issues are:**

- **The distance from the proposed wells is <50-feet from a right-of-way (but they are calling it a “common driveway”), and**
- **The pipe at Farm Road is not labeled on the plans. This is up for discussion tonight under Scott Horsley’s review.**

**Mr. Murphy responded and pointed toward Reg. II, Section 6.0(D), noting that it references a “street”. In this circumstance, for Lots 3 and 4, there is a common driveway and the wells are located 20-feet from the driveway. He did not believe Reg. II, Sections 2.6 or 2.7 would apply for these parcels. Dr. Vitale referenced Shared Zoning By-Laws – Common Driveways – Section 4.3.9, and the Open Space Subdivision By-Law. Mr. Murphy noted that if there is a common driveway that serves more than 2 houses, a Special Permit from the Planning Board is required. Dr. Vitale stated that it appears there will be at least 3 properties served by a common driveway, noting the ANR plan.**

**Mr. Murphy stated that his client has ceased his exploration for an Open Space Subdivision. He now plans on constructing 5 single-family homes on these 15-acres. In the future, when they have a 3<sup>rd</sup> unit, they will seek a Special Permit for the driveway. He stated that unless and until they get a septic system and well approved, they don’t have a 3<sup>rd</sup> building.**

**Ms. Neutra stated that the definition of a right-of-way, traveled way, or street applies to both a public and a private road – and it differs from a driveway. Dr. Bevers stated that if the applicant does have a 3<sup>rd</sup> building, and gets a Special Permit for a common driveway, the Board must call it a driveway – it can’t be both a driveway and a road.**

Mr. Murphy stated that the Agent's second deficiency sounds like a technical deficiency, and it should be discussed by the Agent and engineer. He stated that he is aware that Mr. Horsley has been hired by the Town of Sherborn in the past, and he asked if there was a potential conflict of interest.

Mr. Wang stated that from the road/driveway perspective, any road provides frontage, but a driveway does not.

Public Comment:

Brian Moore, 49 Farm Road, made opening comments, restating that he is not opposed to development in town. He stated that he is pleased to hear the developer state that he has demanded that all the rules and regulations be followed, and he provided several quotes from Mr. Murchison stating such. Mr. Moore stated issues regarding **53 Farm Road**, specifically noting segmentation and sequencing. While he is pleased to hear the applicant is not moving forward with an Open Space Subdivision, Mr. Moore stated that he would like to have that in writing.

Mr. Moore stated that he believes the EHIR would still be triggered by segmenting these houses. He noted that the 55-65 Farm Road parcels are connected by hydrogeological features. He stated that the drought conditions of 2021 were unprecedented, noting that the spring of 2021 was the only time that area of his property dried up, and he stated that is when the applicant did his soil testing. Mr. Moore introduced his consultant, Scott Horsley.

Scott Horsley, Water Resources Consultant for Mr. Moore, introduced himself and shared his screen, providing his qualifications and experience, as well as his comments on the proposed plan. Noting Section 10.2 of the Board of Health regulations (Minimum Distances), he highlighted the section that requires "125-feet from an open surface drain or any watercourse". Mr. Horsley stated that this feature on the property is an "open surface drain", stating that it "transmits and conveys water from one point to another". Mr. Horsley noted that the septic system design plan for **53 Farm Road** (approved 11/3/2021) included the open surface drain, stating that it was labeled as a "swale". The 2022 septic system design plans submitted for Lot 4 does not include the open surface drain, but it noted that it is 107-feet from that open surface drain. Mr. Horsley stated that he believes there is a credible connection.

Mr. Horsley reviewed the Board's Regulation III, Section 3.1, stating that the intent of this regulation appears to be that, for some higher density projects, the septic systems could have cumulative impacts (i.e., if you put 2000-gpd or more systems in close proximity to each other, there could be cumulative impacts.) He noted that this is a single owner with multiple septic system proposals, so he believes the regulation calls for an "Area of Impact Analysis". Mr. Horsley noted that the exact shape of the proposed septic systems has been altered somewhat from previous plans, but the locations of those systems have not changed, so he believes the results are valid.

[Dr. Vitale asked if Ms. Neutra or Mr. Waldron could identify if there is or is not a conflict of interest, and Mr. Horsley responded that he has not been under contract with the Town of Sherborn for a number of years, and he does not believe there is any conflict.]

Ms. Campe asked how this regulation interacts with the Conservation Commission or wetlands, and Mr. Horsley responded that while the regulation does have some reference to wetlands (watercourses), it also includes the specific term "open surface drain". He does not believe there is any necessity to call it a wetland – it is an open surface drain. He noted that the intent is that we don't want septic effluent to break out into an area (open surface drain) that has Public Health impact.

Ms. Beardsley noted that when she spoke with Claire Golden of MassDEP to review how watercourses are defined, and she stated that there was a lot of deference to Conservation Commissions' evaluations. Ms. Beardsley stated that although MassDEP didn't express a concern with an open surface drain, it is in our regulation. Mr. Horsley agreed, stating that this is a local Board of Health regulation. He

noted that the Board has the authority to go beyond Title 5, and he felt that any comparisons to whether or not this is in Title 5 is irrelevant. This is what the regulation says.

Ms. Campe asked, if the setback required in the local regulations is not met, with climate change, is there going to be any direct contact with sewage, stating that is a Public Health concern. She felt there is the enhanced possibility of dermal contact, and stated that is a distinct Public Health concern the Board should keep in mind.

*Desheng Wang, P.E.* informed the Board that he has more than 30-years of practice as a professional engineer designing septic systems following local and State environmental codes. Mr. Wang stated that a “drain” must have a channel and water flow. He stated that the summer of 2021 was the wettest summer on record, and he noted the high-water table was higher than sometimes in the spring. Mr. Wang stated that groundwater changes point-to-point, and a septic system design requires deep test holes, and he stated that he follows the regulations. Mr. Wang that the State Code must be followed unless you have local regulations, and he didn’t believe there was open surface drainage at this location as he did not observe any flowing water there. He stated that there is “speculation” that the septic system will discharge to this area, but that is just speculation – a “theory”. Dr. Vitale responded that the open drain is a key issue, but he didn’t want an extended back-and-forth discussion tonight. Mr. Wang stated that he would provide a revised plan after receiving the Agent’s deficiency letter. He stated that he treated the driveway as a “common driveway” rather than as a “roadway”, and suggested the Board clarify this with Town Counsel.

Dr. Hunnewell stated that she drove by the parcel this past weekend, and commented that it did not take a highly trained engineer to see the water flowing through the area. She stated that neither the abutters nor the future residents of these properties will have protection of their water supplies, and she noted that these requirements are in the existing regulations.

*Brian Moore* reiterated that Mr. Murchison has stated that he is following all the rules, and that he will. Mr. Moore noted that the Board has been provided with videos showing the water flowing, and he stated that the setback from an open surface drain should be enforced. Mr. Moore believes the evidence provided should be sufficient. With regard to 53 Farm Road (Lot 2) which was previously approved on 11/3/2021, Mr. Moore stated that he read the “Guidelines for Private Wells” from MassDEP, and he feels this plan should not have been approved in the first place. He asked if the Board will allow the soil absorption system to be built and allow a building permit to be issued for this property knowing this additional information.

Ms. Beardsley noted that the Board has made a decision, but has now received new information, and she felt the Board should get Town Counsel guidance about revising a past decision or looking ahead to future decisions. Dr. Vitale agreed it would be worth getting advice from Town Counsel. He noted that there is an appeal process, but the Board has been through that already and he wasn’t sure they could go back.

*Attorney James Murphy* commented that another issue is whether or not this is an “open surface drain”, and stated that Desheng will provide additional information on this issue after he receives the Agent’s deficiency letter. Mr. Murphy reviewed Regulation III, Section 3.1, pointing out that in his opinion it deals with 4 possible projects, but Ms. Beardsley disagreed. Discussion regarding semantics in this section of the regulation followed, with Mr. Murphy stating that the second “or” results in the 2,000-gpd modifying the commercial or industrial development, but Ms. Beardsley believing each “or” is a dividing point, indicating a new category. Mr. Murphy stated that there is a process for appealing prior projects, and he noted that we’ve already gone through that process. He stated that he cannot imagine any Board would go back and change their mind. He stated the Board should move forward on this. Ms. Campe stated that the setback from the “open surface drain” is in the regulations and could have a material difference in the outcome.

*Josh Salvin* commented that he has lived across the street from this property for 9 years, and stated that this year has been unusual. He stated that the property couldn’t be mowed because it was so wet.

*Arthur Fenno* stated that if new information comes to light, he hopes the Board will consider it. He stated that many of the neighbors share Mr. Moore's concerns and he wants the Board to consider that it is not just Mr. Moore who is concerned.

*Consultant Scott Horsley* commented that he has been on the site and has seen the drain. He stated that the impact begins to appear around the level of 2,000-gpd.

Dr. Vitale asked if Mr. Murchison wished to make any comments, but Mr. Murchison declined.

Dr. Vitale reviewed that the main issues as:

- (1) The "open surface drain, and
- (2) Regulation II, Section 2.6 ("Right-of-Way") regarding the common driveway.

Dr. Hunnewell reiterated that regardless of the Board's short-term issues, there are long-term considerations here, including property values.

6. **176 Lake Street (Lot 69F), Merriann Panarella – Revision to a Previously Approved Plan #22-12** (see Minute of 3/3/21, 3/6/19, 3/1/17, 2/1/17-#11, 7/20/16-#9, 5/18/16, 3/4/15, 2/11/15-#2 and #10, 12/17/14, 11/5/14-#14(1), 10/20/14, 4/30/14-#4, #13, and #14, and 4/16/14) – The Agent noted that this revised plan is for a changed house footprint and relocated driveway. He stated that he did not review the previously approved plan, noting that it had been reviewed by an alternate Agent.

It was noted that the previously approved plan, renewed in March 2021, was renewed conditional to an H-20 distribution box as required by the regulations, but this plan still shows an H-10 distribution box. A motion was made to approve this revision conditional to the H-20 d-box, and it was seconded for discussion.

Mr. Murchison questioned if the basement floor must be 2-feet above high groundwater, and the Agent confirmed. Mr. Murchison referenced that both the basement floor and high groundwater are shown at elevation 213. The Agent asked the designer, Peter Bemis, to comment. Mr. Bemis stated that if Mr. Murchison picked up something that he missed, approval of this revised plan can be deferred to a later meeting, noting that they might need another test pit at the house location. The Agent stated that he also missed this item and he agreed with Mr. Murchison. The motion to approve was withdrawn.

7. **59 North Main Street, Unit 9 – Building Application #21-89** (see Minutes of 1/19/22 and 1/5/22) – Peter Bemis was present. This building application is for 2 additional rooms in the basement, and these rooms were not included when the ZBA approved the development, but the unit is restricted to 2-bedrooms. Ms. Beardsley noted that the ZBA indicated that there was a fixed set of floor plans that went along with their approval. Claire Golden at MassDEP stated that it is up to the applicant to prove that the room(s) cannot be used as bedroom(s). It was also noted that the Condo Association typically reviews all requests for changes to the floor plans.

Ms. Beardsley stated that she views the second room in the basement (labeled "office") as being able to be used as a bedroom, noting that it has egress to the outside. It is also an issue for the ZBA in that the applicant should go back and get ZBA approval for any changes to the original plans. Dr. Vitale stated that a room that is not a bedroom would not need to go back to the ZBA, but a room that could be a bedroom would need to be reviewed by the ZBA. Ms. Beardsley stated that the proposed "office" could be a bedroom, noting that if the Board was looking at any other house in town, they would look at it as being able to be a bedroom. Ms. Beardsley felt the egress opens this up to a caretaker or in-law suite, and she felt it should go back to the ZBA for their review.

Ms. Campe noted that these were over-55 units and wouldn't be adding to the school. When she sees a playroom and office, she felt it doesn't match what was agreed to. Dr. Vitale stated that because it is a 40B, it goes back to the ZBA, given this pattern of use – a closed-off room with egress.



Peter Bemis noted there is a deed restriction to 2-bedrooms, and he stated that there is no ulterior motive for a bedroom. The buyer of this unit wants to have a private office. He stated that there are only small, sliding windows, and that the egress is through a windowless fire door and bulkhead – not a regular walk-out door.

Dr. Bevers commented that the bulkhead and sliding windows sounds like an office, noting that there is not a  $\frac{3}{4}$ -bath and the room is not on the second floor. Ms. Beardsley agreed, stating that the bulkhead does change it for her, but stated that it still must go to the ZBA because it is a change to the number of rooms. She stated that the Board doesn't use the presence of a closet as necessary for a room to be considered a bedroom. Dr. Vitale stated that he thinks this is OK, noting that it feels "basement-y", but he noted that it should go to the Zoning Enforcement Officer who would escalate it to the ZBA if necessary.

The Agent asked if the Condo Association has seen this request, and if so, how have they responded to it. Mr. Bemis responded that since they are still in active construction, Vin Gately is still in charge.

Ms. Beardsley stated that she would email the ZBA and advise that it is clearly an additional room, but that the Board of Health does not consider it a bedroom.

**8. Saint Theresa of Lisieux Parish, 35 South Main Street – 2022 Food Establishment Permit Renewal #F22-16** – The renewal application was reviewed. It was noted that the level of sodium in the water is 93-mg/L, requiring the posting of a notice. The Food Inspector has reviewed the application and recommended approval. A motion was made to approve this renewal permit, conditional to a sodium posting, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

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

**9. Sunshine Farm, 41 Kendall Avenue – 2022 Food Establishment Permit Renewal #F22-15** – The renewal application was reviewed. It was noted that this establishment is connected to the City of Framingham water supply. The Food Inspector has reviewed the application and recommended approval. A motion was made to approve this renewal permit as presented and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the renewal was approved.

**APPROVED 5-0**

**10. Wild Robbins Farm, 42 Everett Street – 2022 Food Establishment Permit Renewal #F22-11** – The renewal application was reviewed. It was noted that the level of sodium in the water is 46.2-mg/L and will require a sodium posting. The Food Inspector has reviewed the application and recommended approval. A motion was made to approve this renewal permit, conditional to a sodium posting, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE



Chair Ms. Beardsley – AYE

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

11. **Natick-Walpole Visiting Nurse Association – January 2020 COVID-19 invoice** – The Board reviewed this invoice in the amount of \$2,158.75, noting the Chair had already approved it for timely payment. A motion was made to ratify the Chair's previous approval, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Chair's previous approval was ratified. **RATIFIED 5-0**

12. **Planning Board Draft Guidelines for Multi-family Dwellings** – Due to the late hour, review and discussion of this topic was deferred to the 3/2/2022 meeting.

13. **Minutes** – The Minute of 2/2/2022 were reviewed. Ms. Beardsley and Dr. Bevers had both provided minor edits. A motion was made to approve these Minutes as amended, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

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

14. **Potential Part-time Public Health Nurse Position** (see Minutes of 2/2/22, 1/19/22, 1/5/22, 12/15/21, 11/3/21, and 9/15/21-#16) – Due to the late hour, review and discussion of this topic was deferred to the 3/2/2022 meeting.

15. **Adjournment** – A motion was made to adjourn the meeting and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

This virtual meeting adjourned at 10:58 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 2/16/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **30 North Main Street –**
  - Septic Replacement plan #22-01, drawn by McIntyre Engineering and Septic Services, dated 12/27/2021
  - Variance request letter dated 1/3/2022 from Daniel McIntyre, P.E.
  - Copy of Section 15.404 (Maximum Feasible Compliance) of Title 5 (310 CMR 15.000)
  - Photo/diagram of Public Well Zone 1 areas
  - Photo/diagram of IWPA Public Wells
  - Nitrogen test results for Heritage and Town Offices
  - ETR Laboratories 8/17/2021 water analysis report for 30 North Main Street
  - ETR Laboratories 5/23/2017 water analysis report for 30 North Main Street
  - Application for Local Upgrade Approval, Form 9A
  - Certified list of abutters from the Assessor's office, dated 12/29/2021
  - Copy of abutter notification letter dated 1/15/2022 from Daniel McIntyre, P.E.
  - Certified mail return receipts (green cards) and/or usps.com tracking and/or unopened returned envelopes
  - BOH meeting Minutes of 7/21/2021
  - Floor plan of 30 North Main Street, submitted by Daniel McIntyre, P.E. on 2/15/2022
2. **Application for Exemption from Rabies Vaccination –**
  - “Gunnar”, owned by Brenda DeFrancesco of 113 Prospect Street
3. **2022 Food Establishment Permit Renewals –**
  - Sunshine Farm, 41 Kendall Avenue – F22-15
  - Wild Robbins Farm, 42 Everett Street – F22-11
  - Saint Theresa Parish, 35 South Main Street – F22-16
4. **Lot 3 Farm Road (at 55-65 Farm Road) –**
  - New Septic/New Well Plan #22-08/09, drawn by Creative Land & Water Engineering LLC, dated 1/20/22 and received 1/21/22
  - Email received 2/16/2022 from Building Commissioner Chris Canney, subject: “53 Farm Rd, updates”
5. **Lot 4 Farm Road (at 65 Farm Road) –**
  - New Septic/New Well Plan #22-10/11, drawn by Creative Land & Water Engineering LLC, dated 1/20/22 and received 1/21/22
6. **53 Farm Road (aka Lot 2 at 55 Farm Road) –**
  - New Septic/New Well #21-106/107 plan, designed by Creative Land and Water Engineering, approved 11/3/2021
7. **Email from Brian Moore –**
  - Email received 2/2/2022 from Brian Moore re: “Plans for 65 and 55 (Farm Road) Lots”, with attached “observations”
  - Email received 2/12/2022 from Brian Moore re: “RE: checking in on agenda for next Wed.”, including 2 videos
8. **Email from Scott Horsley –**
  - Email received 2/14/2022 from Scott Horsley, Water Resources Consultant, subject: “Comment Letter 55/65 Farm Road, Sherborn
  - PowerPoint presentation given at 2/16/2022 meeting

9. **COVID-19 –**
  - Dr. Vitale’s PowerPoint presentation showing local data/graphs for Average Daily Rate/100K, % positivity, Daily Rate, etc. as of 2/11/2022
10. **59 North Main Street, Unit 9 –**
  - Building Application #21-89 with attached plans (available from Building Department)
  - Email string received from ZBA Chair Richard Novak dated 2/16/22 – 2/14/22, including Building Commissioner Chris Canney and BOH Chair Daryl Beardsley, subject: “59 North Main and the Fields – and Bedrooms”
11. **176 Lake Street (Lot 69F) –**
  - Revision to a Previously Approved Plan #22-12, drawn by Engineering Design Consultants Inc. dated 5/27/14 and last revised 12/22/21
12. **Natick-Walpole Visiting Nurse Association –**
  - January 2022 COVID-19 invoice
13. **Draft Guidelines for multifamily zoning in MBTA communities –**
  - 2/9/22 memorandum from Town Planner Gino Carlucci, with attachments
14. **Minutes –**
  - 2/2/2022 Board of Health meeting Minutes



**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
March 2, 2022**

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

**Members Absent:** None

**Others Present:** Margaret Powicki, “bs”, Jeff Waldron, Sean Killeen, Kathy Horigan-Dye, Steve Constantine, “da”, Mary O’Hara Moore, Brian Moore, Charlie Blaney, Tom Trainor, Kitty Sturgis, Desheng Wang, Bob Murchison, Daniel McIntyre, Joshua Salvin, and Mark Oram, Agent.

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

This VIRTUAL meeting came to order at 7:01 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) Woodhaven Community Room

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

The motion passed, and the agenda was amended.

**APPROVED 5-0**

2. **COVID-19 Updates** (see Minutes of 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) –

(A) **Data Review** – Dr. Vitale stated that updated dashboard slides were not available this week, but he noted that all trends we’ve seen continue to go down. There is a reduced rate of testing which is likely due to increased antigen testing which doesn’t come out in the State reports, as well as a changing pattern of disease and transmission. He stated that the positivity rate is down to about the 2% range.

(B) **Schools** – Dr. Vital reported that the Superintendent updated the School Committees that the masking requirement for school will lift as of March 7, 2022. The CDC and the State have removed the mask requirement on buses. He noted, however, that there will still be some scenarios when masks will still be

required, such as if someone has been positive for COVID-19, after day 5 if they are no longer symptomatic, they may return to school on day 6 and must wear a mask on days 6-10. Also, masks are still required in the Nurse's rooms, which are considered health care facilities. Dr. Vitale stated these are all encouraging, but COVID-19 is not gone and there will be waxing and waning of disease levels. We are in a period where COVID levels are lower and acknowledging and reacting to that is appropriate.

Dr. Bevers stated that the school is doing a lot of work to make sure there is a culture of acceptance for whether people choose to wear a mask or not and supporting people's individual choices, and he felt that is good. He stated that the CDC is moving towards looking at hospital capacity as a measure of severity of disease as the other measures become less reliable, and commented that at Brigham & Women's, we are at ICU levels lower than we've seen since last summer. There has been a dramatic drop-off in severe disease in the hospitals, which is encouraging.

Ms. Campe asked if the school nurses have antigen tests in stock, and Dr. Vitale responded that they have ample tests. He noted that every student receives a test every week in a 2-week cycle, and that we also received some test kits through an ARPA request to try to provide more resilience.

Dr. Vitale stated that the schools are also now pulling in activities that are traditionally done, such as drama, and he commented that the District has done a really nice job.

Ms. Beardsley asked about testing and immediately getting an anti-viral pill. Dr. Vitale responded that Paxlovid is not for schools, and he felt that there will need to be some clinical input. At the schools, they might have an aggressive cycle of active testing. Ms. Beardsley noted that some studies have shown the vaccine provides reduced protection in children. Dr. Bevers responded that, while he hasn't reviewed the primary data, one of the large studies out of New York state showed that, while the vaccine showed good efficacy during the trials (primarily dealing with Delta and earlier variants), with Omicron there was relatively low efficacy to prevent infection, but somewhat better efficacy for preventing severe disease or hospitalization. A separate study showed a drop-off in efficacy after a few months, and Dr. Bevers suggested that a couple things might come of this, including promotion of boosters for teenagers and possibly changes to the doses for 5 to 11-year-old individuals. He noted that this is proving that "kids aren't just small adults". Because we know the kids are producing antibodies, theoretically they should have less severe disease, and theoretically they should be transmitting less, but we don't have the data to show that yet. Dr. Bevers stated that it was discouraging to hear the results showing the vaccine has less efficacy in younger children, but he felt that having some antibodies is better than having none.

Regarding "Long COVID", there does seem to be a significant reduction in the global inflammatory syndrome that has been seen and is rare, and vaccination does seem to significantly reduce the risk of that as well. Dr. Bevers stated that "Long COVID" continues to be difficult because there aren't standardized criteria for that and it has been difficult to study.

**(C) Woodhaven Community Room** – The Chair stated that Kitty Sturgis contacted her about the possibility of reopening the Community Room, but with a requirement to maintain masking and continuing to operate the ventilation system, and she asked if the Board had any thoughts on this. Dr. Bevers responded that he felt it should be to their discretion. He felt the conditions stated may not be strictly necessary at this time, but it was a reasonable choice to make. Dr. Bevers stated that he doesn't want the Board to mandate or micromanage, but he would support whatever the Woodhaven community feels is necessary for their residents. It is a reasonable choice to make, particularly when you're dealing with a population that is at higher risk.

3. **Potential Part-time Public Health Nurse position** (see Minutes of 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 11/3/21, and 9/15/21-#16) – Discussion was deferred to the next meeting.

4. **Silverwood Farm complaint** – Ms. Beardsley reported that a complaint had been received from a neighbor to this property who was concerned about flooding that might be related to Silverwood Farm. She noted that the Town has been working on this, largely with the Conservation Commission and DPW. A consultant has been hired to study the issue, and those results have not yet been received. Ms. Beardsley stated that there was not enough information to discuss at this time.

5. **Eversource Energy – Right-of-Way Vegetation Management Plan, Yearly Operational Plan** - The 2022 Yearly Operational Plan for the 2018-2022 5-Year Vegetation Management Plan was received from Eversource on February 23, 2022. Ms. Beardsley reviewed that the plan indicates they will be doing herbicide application along their right-of-way. Noting that she has worked with utilities for decades, that there has been back-and-forth over the years over is mechanical better, or is chemical better, or is something else better. She noted that the arguments against mechanical are if they don't do it at the right times they might disturb animals' nests or miss various species or other issues, and depending on how it is done, it can create a lot of disturbance in the environment. There is no clear answer for how to manage this, but Eversource has submitted a plan, and they are planning herbicide application. The plan shows what they are going to do, but you need to visit the website to find out what chemicals are going to be applied, and when. Ms. Beardsley stated that she would like to involve the Groundwater Protection Committee in terms of if there are wetlands near there or any wells of concern within the area.

Dr. Hunnewell asked how herbicides or pesticides would be safer for the risk of disturbing nests and birds than mechanical. Ms. Beardsley responded that is part of the reason utilities around the country have often flip-flopped back and forth between these methods – it's not an easy problem to solve. Dr. Hunnewell felt, in a town that relies on private drinking water wells, there might be a benefit to encourage the mechanical method. Ms. Beardsley responded that we can certainly submit comments, but she suggested that Dr. Hunnewell review the website they provided and research how and what they are using.

Groundwater Protection Committee Chair Tom Trainor requested that a copy of the notice received from Eversource be forwarded to him, so it can be discussed at the GWPC meeting next week. Mr. Trainor noted that the lines cross some Conservation properties, and he asked if the Conservation Commission has received this, and it was confirmed that they have received it.

Ms. Beardsley stated she has wondered if there are other ways to manage this, such as establishing growth that do not interfere with the utility lines, but she has noticed that a lot of what is growing there are invasive species. Ms. Campe commended that would become a restoration project and the utilities would have to pass those costs on. It is a cost-benefit analysis, but she did believe it was worth looking into and bringing forward, certainly if there is any issue about the protection of private, potable wells or wetlands.

5. **Minutes** – The Minutes of 2/16/22 were reviewed, and it was noted that some minor edits had been provided. A motion was made to approve these Minutes as amended, and it was seconded. By roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

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

6. **30 North Main Street, Steve Constantine – VARIANCE HEARING Continuation – Septic Replacement #22-01** (see Minutes of 2/16/22 and 7/21/21) – Mr. Constantine was present with his engineer, Daniel McIntyre. It was noted that this is a continuation of the Hearing originally opened on 2/16/22, and that a revised variance request letter has been submitted.



Mr. McIntyre stated that he and the owner have proposed to subdivide the 32-34 North Main Street property, and grant 8,400-square-feet to 30 North Main Street. Mr. McIntyre stated that even with the addition of 8,400-sq. ft., they don't have enough square footage for nitrogen loading, but he stated that they are not increasing flow – it is a 3-bedroom house and it will remain a 3-bedroom house. Mr. McIntyre stated that this is allowed by MassDEP. The nitrogen test results for public water supply wells in the downtown area have been provided, and no nitrogen issues were found in any well. Mr. McIntyre stated that he does not believe the improvements they are proposing will create any nitrogen issues.

Dr. Vitale noted that we are starting from a state of 18<sup>th</sup>-century non-compliance, and he asked if a cesspool is worse at nitrogen-reduction than a soil absorption system. Mr. McIntyre responded that a cesspool is worse at nitrogen-reduction, and he stated that there is nitrogen-reduction happening in the septic tank and also in the 5-feet to groundwater in the soil absorption system, so it is a vast improvement.

The Agent agreed that it would be an improvement to the current cesspool. He stated that he called MassDEP and spoke with Claire Golden, who advised that whatever the Board does in this case, they will be setting a precedent for future reviews that might be for a small lot with a need to replace the system with acreage that doesn't meet Title 5 requirements.

Dr. Hunnewell asked if the homeowner were to put in a nitrogen-reducing, modern system, would that meet Title 5, and the Agent responded that it would, referencing page 3 of the DEP policy. Dr. Bevers stated that the fact we are not seeing high nitrogen in neighboring wells makes him feel a little more comfortable.

Ms. Campe noted that no variances to well setbacks were requested. Dr. Hunnewell noted that this is a sensitive area, noting there is a history of problems in the downtown area, and she felt a nitrogen-reducing system would make the most sense. Ms. Beardsley stated that, working with wastewater treatment plants in the past, she has learned that nitrogen reducing treatment dynamics can be difficult to maintain – people must be careful about what chemicals they use in the home because the nitrogen reducing bacteria can be affected. Soils may also filter out nitrogen compounds but, once the soil filtering sites are filled up, the soil may not capture it any further.

Ms. Beardsley was unsure why the nitrogen is going down in the downtown area, although she stated there have been some nitrogen-reducing systems that have been installed in the area. She wondered if it could be due to changes in activity due to COVID-19. She stated that this is a very complicated topic. She fully appreciates this is a huge improvement over the cesspools already there, but she asked what the Board would say to other similarly constrained properties in the future to avoid an unintended consequence from which the Board cannot deviate. Ms. Campe responded that the Board needs to say that it is science and fact based, and noted that the Board has the right and opportunity to weigh the facts at the time they make decisions. The Board can assess the facts at the time we see a proposal. Ms. Beardsley stated that there is up and down with the nitrogen levels in the water, and Ms. Campe responded that it is a steady trend.

Dr. Vitale reviewed the circumstances currently before the Board noting there is no increase in design flow, a replacement for a failed system, and the proposed replacement is way better than the baseline, and this must be applied only to a sufficiently small lot.

Ms. Beardsley noted that modifications could be made in the septic tank at some point in the future (to add nitrogen reducing treatment) if nitrogen levels started to go up or some problem was identified, and Mr. McIntyre responded that could be done. Mr. Constantine noted that declining nitrogen levels might be attributed to no fertilization having been done at Jameson Fields since 2017.

Dr. Hunnewell stated that if the State advises the Board, then the Board should go along with what the State recommends. She stated that she is leaning toward following State guidance.

Dr. Vitale asked about the cost of a nitrogen-reduction system, and Mr. McIntyre responded that a FAST nitrogen-reducing technology is installed in the septic tank. He noted that the effluent leaving the

tank is still above drinking water standards (going from 25mg/L down to 19mg/L), and the unit costs \$8,000.00.

The requested variances were reviewed:

(1) Section 10.2 – to allow the proposed soil absorption system to be installed 10-feet from the property line with 32-34 North Main Street 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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(2) Section 13.0(1) – to allow the proposed septic tank to be installed 91-feet from the building it serves rather than the required 50-feet or less. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

Dr. Vitale noted that Mr. McIntyre sent a letter addressing the abutter's concerns.

The Hearing was closed.

The Agent stated that the plans are ready for approval, but noted that some minor modifications are necessary on the plan so revised plans must be submitted. In addition, all other department approvals are required, including an ANR plan from the Planning Board, and proof of filing of that approved ANR plan at the Middlesex South Registry of Deeds (showing the change in lot line between 30 North Main Street and 32-34 North Main Street). Such a motion was made and seconded.

Dr. Hunnewell asked if approving this would allow approval of the plan without a nitrogen-reduction system being added, and she was advised that is correct. Dr. Vitale noted that there is no change in design flow, and this plan is a substantial improvement to what has existed for the past 200-years. Dr. Hunnewell responded that she understands that, but stated she would go with what the State recommends, commenting that she is talking about long-term value.

Ms. Beardsley asked the Agent what the driver has been for nitrogen-reduction systems being added for other properties in town, and Mr. Oram responded that it has usually been tied to an increase in design flow / increasing the bedroom count. Ms. Beardsley noted that nitrate isn't the only contaminant of concern, and she encouraged the owner consider what goes into the septic system in the future. It was noted that what is proposed represents an improvement in the nitrogen load, and everything we've seen tonight shows a dramatic improvement from the status quo.

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – NAY

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with conditions, with Dr. Hunnewell opposed.

**APPROVED 4-1 with conditions**



7. (A) **Lot 3 Farm Road (at 55-65 Farm Road) – New Septic / New Well #22-08/09 and**  
(B) **Lot 4 Farm Road (at 65 Farm Road) – New Septic / New Well #22-10/11** (see Minutes of 2/16/22, and 2/2/22) – Robert Murchison was present with his engineer Desheng Wang. Abutters Brian and Mary Moore were present, as was Joshua Salvin.

Dr. Vitale noted that, with the timing of when the deficiencies on the submitted plans were provided to the applicant and his engineer, they need more time to revise the plans and resubmit. He stated that his goal for tonight is to have an Open Meeting Law compliant discussion for the Board to ask any follow-up questions that came up since the last meeting. However, rather than having a broad discussion now and then another discussion when the Board considers the revised plans, he would like to save the bulk of the discussion for when Desheng has been able to revise the plans and respond to those pieces, and then consider it in totality. Dr. Vitale stated that he could provide some brief updates and the Board can ask follow-up questions, but he expected the plans would be on the March 16<sup>th</sup> agenda for full discussion and review.

Dr. Vitale stated that, without discussing the technical details of the plans, the major issues brought up at the last meeting were (1) the question of the open surface drain, and (2) vehicular access and recorded ANR lots. He stated that the recorded ANR plan for Lot 4 appears to show 3 homes on the common driveway. Dr. Vitale stated that these two topics would be the main focus of the discussion on March 16<sup>th</sup>. In response to a question from Dr. Hunnewell, Dr. Vitale stated that he suspects a large number of people will weigh in, with a wide variety of opinions. He stated that a lot more discussion is to come, and he felt the Board would be best served by having that conversation once.

For agenda planning, Dr. Vitale asked engineer Desheng Wang what he thought would be a reasonable timeline, asking if the plans would be ready for the March 16<sup>th</sup> or April 6<sup>th</sup> agenda. Mr. Wang responded that if the two above-noted critical issues aren't resolved, it won't be worth it to move forward with the plans, so he stated that he'd like to focus on the open surface drain issue and present it to the Board on March 16<sup>th</sup>. Mr. Wang stated that his understanding of Regulation I, Section 10.2 is totally different from the Board's, and he noted that there is no definition of an open surface drain in the regulations. Following a request for more clarification regarding his timeline, Mr. Wang stated that he'd like to focus on the open surface drain issue on March 16<sup>th</sup>, with the plan reviews on April 6<sup>th</sup>. Ms. Beardsley commented that it is difficult to divide up a project into little pieces, however, she agreed that the topic for March 16<sup>th</sup> should be the "open surface drain" issue only. Ms. Campe asked if, when we say "open surface drain", are we encompassing the "watercourses" in that, and Dr. Vitale responded that he felt, in either case, it's the information that would be necessary for Desheng to be able to help inform the rest of the plans or alterations to the plans.

Ms. Campe requested that the materials to be presented or discussed on March 16<sup>th</sup> should be provided to the Board from all the experts *in advance* so everyone understands what is being presented. Both Ms. Beardsley and Dr. Vitale agreed that the documents must be received no later than Friday, March 11<sup>th</sup> in order to provide the Board with adequate time to review prior to the March 16<sup>th</sup> meeting. Mr. Moore stated that he would instruct his expert and Counsel to provide information prior to the next meeting.

Mr. Moore suggested that the Agent and Desheng visit the site and take monitor pipe readings from the site, and Mr. Murchison responded that there is a defined process regarding how the town reads maximum high groundwater, and that process has been followed. He stated that they will not change that process.

Mr. Murchison stated that nobody from the Board of Health or abutters have ever been on the ground and observed what is going on at this site. He stated that Desheng is a licensed engineer and he has repeatedly stated that this is not an open surface drain. Mr. Murchison stated that he would love for the Board members and Agent to come to the site and observe this "open surface drain", and he again noted that Desheng has said it is not an "open drain". Dr. Vitale asked, if members of the Board were interested in visiting the site to observe this area, how would that work.



Mr. Murchison stated that this is an illicit discharge – it is a pipe that is coming onto his property from two culverts. He stated that he is instructing the town to remove that drain, and he stated that doing so would make this issue go away. Dr. Hunnewell stated that she visited the site 2 weeks ago, and stated that she saw it from the street, and she requested that Mr. Murchison please not make an inaccurate comment.

Dr. Vitale noted that this will be a rich discussion, with experts and lawyers, on March 16<sup>th</sup>. Mr. Murchison noted that the discussion will also include engineers.

Mr. Murchison asked if we have a plan for the Board members and/or Agent to visit the site, noting that if they let him know a date and time, he will meet them on the property and they can walk it together. Mr. Moore commented that he thinks the Board should take Mr. Murchison up on his offer.

Mr. Wang commented that he will submit his report to the Board by March 11<sup>th</sup> in order to have it on the agenda for March 16<sup>th</sup>. Dr. Vitale stated that he looks forward to the discussion, and he closed the current discussion.

Ms. Beardsley asked if Mr. Moore still wanted to add another agenda item regarding another property near this site for March 16<sup>th</sup>. After a lengthy discussion, Dr. Vitale stated that at the request of the abutter, *53 Farm Road well pumping* would be a posted agenda topic, noting that Mr. Moore had requested to discuss it at the last meeting, but was unable to since it was not posted. He requested that Mr. Moore and his consultants provide any specific information to the Board and Mr. Murchison and Desheng ahead of time so everyone comes prepared for the conversation.

Timing on the March 16<sup>th</sup> agenda was discussed. The Administrator noted there is an 8:00 PM variance hearing already scheduled, and after some discussion, she was instructed to place the topic of 55-65 Farm and the open surface drain on at 7:05PM. If needed, further discussion will take place after the scheduled variance hearing – likely at approximately 8:20 PM.

**8. 36 Ash Lane, Carter Ward – Building Applications - #20-67 (new 5-bedroom house), #21-39 (new pool house and screened porch), and #21-50 (remodel barn into lounge, office, and full bath, garage)** (see Minutes of 11/17/21, 7/21/21, and 10/3/12) – The Agent stated he had invited the general contractor and Building Inspector to attend this meeting, but neither were present. Ms. Beardsley stated that it is very difficult for the Board to make sense of the 2<sup>nd</sup> floor floorplan, noting that it doesn't match up with what the Building Inspector had indicated and the plan's notations are not typical. The Agent suggested that they need to be more definitive about the proposed loft area.

Dr. Vitale stated that the design is different from a lot of designs the Board has reviewed, and having the contractor here to respond to the Board's questions would be helpful. He stated that he is struggling more with the other room rather than the loft area. The Agent stated the Board has allowed "parent retreat" rooms off the master bedroom, but this proposal is different than anything we've seen before. Ms. Beardsley noted that the only access to the loft area is from the room below, and stated that the Board has counted similar configurations as only one room before, like a bedroom suite.

It was noted that the Board also needs to see floor plans for the 2<sup>nd</sup> building, which also has a bedroom in it, as it needs to be counted for the total room count. Dr. Bevers asked if there was any way we could get photographs of the unfinished landing space, and Dr. Vitale felt that renderings of the space would also be helpful.

The Agent was instructed to advise that more information, better plans, photos, renderings, etc. are needed, and that the contractor should attend the next meeting for discussion.

**9. New Draft Guidelines for Multifamily Zoning in MBTA Communities** (see Minutes of 2/16/22) – Ms. Beardsley reviewed that there is new legislation seeking to provide more multifamily housing in communities close to public transportation, and she noted that the documents provided indicate a minimum gross density of 15-units per acre. She stated that this would be a regulatory conflict to have this kind of density in Sherborn, due to Title 5 limitations on nitrogen loading, for example. Ms. Beardsley provided a

short addition to the Town Planner's draft response, and it was reviewed. Dr. Vitale noted that the Town Planner's draft response seems on point, but stated that he also likes Ms. Beardsley's proposed addition. Ms. Beardsley stated that she would relay to the Town Planner her proposed addition/comment that getting a substantial water supply from bedrock would be a challenge.

10. **3/16/22 Agenda Items – 3/16/22 meeting** – The Administrator was instructed to include the following items on the next agenda:

- 7:05pm – Discussion regarding Lots 3 and 4 Farm Road / open surface drain, and well pumping at 53 Farm Road
- 8:00pm – Variance Hearing
- 8:20 pm – Additional discussion of Lots 3 and 4 Farm Road, if needed
- Proposed public health nurse position

11. **Possible Additional April Meeting** – Ms. Beardsley noted that there is only 1 meeting scheduled in the month of April, and she asked if the Board members could be available for an additional meeting, if needed. The Administrator noted that due to the timing of receipt of plan submittals, it is possible that due to the school vacation week (and no BOH meeting that week), the 45-day review period could be exceeded if another meeting isn't scheduled.

Following additional discussion, it was agreed that a special meeting – for variance hearings *only* – could be scheduled if needed. The Administrator will report at the next meeting if this additional meeting has been scheduled.

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

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

This virtual meeting adjourned at 9:16 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]

M22-0302.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 3/2/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **30 North Main Street –**
  - Septic Replacement plan #22-01, drawn by McIntyre Engineering and Septic Services, dated 12/27/2021 and revised 2/22/22
  - Revised Variance request letter dated 2/22/2022 from Daniel McIntyre, P.E.
  - Nitrogen test results for downtown area establishments
2. **Lot 3 at 55-65 Farm Road –**
  - New Septic/New Well plan #22-08/09, drawn by Creative Land and Water Engineering, dated 1/20/22
  - 55-65 Farm Road recorded ANR plan, dated 1/24/22
3. **Lot 4 at 65 Farm Road –**
  - New Septic/New Well plan #22-10/11, drawn by Creative Land and Water Engineering, dated 1/20/22
  - Historical documents, including (1) drawing of drain pipe and gravel with 2 cisterns from 64 Farm Road to a proposed dry well, (2) 12/1/1977 letter from Dudley Willis to abutters re: 23.7 acres, Farm Road, Sherborn, and (3) 11/28/1977 memorandum from Gilbert Mudge to Dudley Willis re: Drainage on Farm Road, Sherborn
4. **36 Ash Lane –**
  - 7/21/21 and 11/17/21 Board of Health Minutes
  - Building Inspector email dated 2/13/22
  - Revision to a Previously Approved Plan #21-70, revised 7/20/21 and approved 7/21/21
  - Floor plans for 1<sup>st</sup> and 2<sup>nd</sup> floors, drawn by Tanner White Architects, LLC, dated 2/11/22
5. **Draft Guidelines for multifamily zoning in MBTA communities –**
  - Memorandum and information received from Town Planner on 2/9/22
6. **Eversource Energy –**
  - Correspondence received 2/23/22 regarding the 2018-2022 Five-year Vegetation Management Plan (VMP) and the 2022 Yearly Operation Plan
7. **Silverwood Farm –**
  - 2/18/22 email from Mike Flanagan of 27 Dopping Brook Road, forwarded to BOH Administrator on 2/22/22 from the BOH Chair, subject: "Silverwood Farm"

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
March 16, 2022**

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

**Members Absent:** Lisa Campe

**Others Present:** Courtney Ek, Brian Moore, Mary O'Hara Moore, Scott Horsley, Arthur Fenno, Susan McPherson, "617-308-1961", James Murphy, Gene Katz, Marian Neutra, Dennis Murphy, Desheng Wang, Tom Trainor, Jeff Waldron, Carol McGarry, John Garrison, Allan & Jane Rosengard, Kyle Devenish, Peter Bemis, Nathan Dishington, Merriann Panarella, Eric Johnson, and Mark Oram, Agent.

By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – Absent

Member Dr. Bevers – AYE

This VIRTUAL meeting came to order at 7:01 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) 36 Ash Lane, Carter Ward - Building Application

(2) Natick-Walpole Visiting Nurse Association February 2022 COVID-19 invoice

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

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Dr. Hunnewell – Absent

Member Dr. Bevers – AYE

The motion passed, and the agenda was amended.

**APPROVED 3-0**

2. **Natick-Walpole Visiting Nurse Association – February 2022 COVID-19 invoice** – The Board of Health reviewed this invoice in the amount of \$852.50, noting the Chair had already approved it for timely payment. A motion was made to ratify the Chair's previous approval and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Dr. Hunnewell – Absent

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Chair's previous approval was ratified. **RATIFIED 3-0**

3. **Nomination of Animal Inspector** – It was noted that nomination papers for the Animal Inspector were received from the Commonwealth of Massachusetts, Department of Agricultural Resources. The Administrator reported that she spoke with Kim Morrow, who has agreed to serve another term as Animal



Inspector. A motion was made to again nominate *Kimberly Morrow* as Animal Inspector, and the motion was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Dr. Hunnewell – Absent

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed.

### AGREED 3-0

The Administrator will provide the necessary paperwork to Ms. Morrow, who will then sign it, have it notarized, and submit it back to the State. The State will officially appoint the Animal Inspector.

[Dr. Hunnewell arrived at approximately 7:06PM.]

4. (A) **Lot 3 Farm Road (at 55-65 Farm Road) – New Septic/New Well #22-08/09 and**  
(B) **Lot 4 Farm Road (at 65 Farm Road) – New Septic/New Well #22-10/11** (see Minutes of 3/2/22, 2/16/22, and 2/2/22) – The applicant's attorney, James Murphy, was present, with engineer, Desheng Wang. Dr. Vitale stated the Board received correspondence from Mr. Murphy this afternoon requesting that these applications be withdrawn. Dr. Vitale stated that discussion of the watercourse/open drain is now moot because of this, and he noted that these applications could be resubmitted in the future if the setbacks are met in any such future submittals. Mr. Murphy agreed that these matters should not be discussed.

Dr. Vitale noted that Mr. Murphy made some assertions in the correspondence, and he stated that silence by the Board on this topic does not assert agreement. The Vice-Chair noted that Brian Moore, an interested abutter, was present with his attorney, Dennis Murphy. Mr. Moore stated that he, the abutters, and their legal counsel and consultants were comfortable with not discussing these properties until the applicant prepares something that conforms.

5. **53 Farm Road (aka Lot 2 Farm Road) – New Septic/New Well #21-106/107** (see Minutes of 2/16/22, 2/2/22, 12/15/21, 12/1/21, 11/17/21, 11/3/21, 10/20/21, 9/29/21, and 9/1/21) – The Vice-Chair noted that the Board also received correspondence from Mr. Murchison's attorney, James Murphy, requesting that this not be discussed, and he stated that he does not agree with Mr. J. Murphy. Dr. Vitale felt it is within the purview of abutters to raise and address concerns and he felt it appropriate for the Board to hear and understand those issues and concerns. Dr. Vitale stated that he believes it is an appropriate use of a public forum to allow communication to the full Board at an open meeting, and he asked if any other Board members had concerns with that approach, but there were none.

Dr. Vitale, noting that Brian Moore, as the concerned party, had reached out to have this topic on the agenda, requested that Mr. Moore frame and introduce the topic.

Atty. J. Murphy interjected that, before Mr. Moore or anyone who represents him is given the opportunity to speak, they should be aware that the applicant has objected to this discussion since there is nothing pending before the Board of Health for this property. Particularly, since this property is for sale, anything they say that they are seeking to cloud the properties marketability is a risk they run. Mr. J. Murphy stated that he and Mr. Murchison object to them saying anything about the property to cloud its marketability and to interfere with the advantageous contract rights they have based on the permits that have already been rendered. Mr. J. Murphy stated that while he appreciates that the Board has seen that document, he wanted to state it because the abutters may not have seen it. Dr. Vitale asked if Mr. Murchison or Mr. J. Murphy had provided that letter to the abutters, and Mr. J. Murphy stated that they did not – because they do not believe there is a hearing process before the Board. Mr. J. Murphy stated that he doesn't believe a resident should have the right to just say they want to talk about someone else's property without there being an application before the Board. Dr. Vitale responded that, such a situation has

actually come up for the Board on multiple occasions, for example with manure when someone comes to the Board and says they have concerns about their neighbor's handling of a manure pile as it relates to their well. Dr. Vitale felt there are other venues where an abutter can be an interested party and that there is a forum to raise that concern.

Dr. Vitale advised Mr. J. Murphy that he appreciates his position raised in his "complaint letter" regarding this property, but from an open meeting standpoint, he left it to Mr. Moore and his attorney about what he chooses to raise. Dr. Vitale stated that he doesn't know that the act of discussing an abutter's concern in a public forum represents a defamatory action or that the Board to hear concerns raised is in any way jeopardizing the property. He felt it is the Board saying if someone has a concern, and there is a venue for it, it is appropriate for Mr. Moore to be able to raise his concern, although there might not be a specific action for the Board to take. Mr. J. Murphy stated that this is not a situation in which someone has not sought to appeal the prior actions of the Board, noting that the Board did hear an appeal – which was denied. He felt it is not appropriate to again raise something that has been the subject of an appeal and denied, noting there is nothing in the regulations that expressly permit that. He stated that the abutter, if he didn't agree with the action taken by the Board of Health as a result of the appeal, they had the rights to bring it to another forum but they chose not to do that. They should not have the right to raise this again and again before the Board of Health. Rather, Mr. J. Murphy stated that they should sue the Board of Health, but they should not adversely affect his client's property.

Dr. Vitale stated that his recollection from the outreach from the abutter previously, was related to the management of the well upon drilling, which he wouldn't have had any ability to raise prior to the permit being granted, and couldn't have been within the purview of the appeal process. Dr. Vitale transitioned to Mr. Moore to raise any concerns he wished to bring to the Board.

Mr. Moore thanked Dr. Vitale for recognizing the concerns that he raised after the well was drilled are not the same concerns, or genre of concerns, that he talked about at the time the well was being proposed for installation. Mr. Moore stated that he is present with his attorney, Dennis Murphy, and other abutters.

Mr. Moore stated that this same type development, in another area of town, has resulted in people losing their water supplies and losing potable water because of the development strategies when multiple houses are done in a sequencing method. Dr. Bevers stated that this discussion should be limited to the discussion of well pumping at 53 Farm Road because that is the issue posted on the agenda. Dr. Vitale agreed and noted that the Board does not have applications for other parcels, so there is no basis to say we've had "X, Y, or Z" for triggering an EHIR or something else. He requested that Mr. Moore limit his comments to the 53 Farm Road well installation.

Mr. Moore stated that he resides at 49 Farm Road, and he noted that he is a registered professional geologist licenses in multiple states, has a MA licensed site professional certification, and has been a practicing professional in the field of chasing, finding, locating, and cleaning up contamination for 30+ years. In addition, he has previously served on the Sherborn Groundwater Protection Committee, as well as a Water Commissioner. He stated that he believes these experiences makes him uniquely qualified as he is aware of superficial and hydrological connections at these properties.

Mr. Moore shared his screen and showed a cross-section diagram, noting that the Slavin's (at 64 Farm Road) water well elevation is within the bedrock, as is the Moore's (at 49 farm road) well. He stated that the elevation of the 53 Farm Road well shows that this well was not properly installed, as the water for this well is coming from the overburden and is subject to the three septic systems that aren't pictured on the South side of Farm Road. This is because, although the well was installed into rock, the seal that is supposed to prevent overburden groundwater from entering the well is not working correctly. Mr. Moore stated that, when a well is installed incorrectly into the bedrock, a conduit for bacteria and nitrates to enter is provided. Mr. Moore stated that the applicant pumping this well for 4-weeks or longer during the period of December 2021-January 2022 essentially drew all of the nitrates and bacteria from 55 Farm Road septic



down into the rock, and he stated it is only a matter of time before it appears in his own well. He will then need to litigate and spend more money on attorneys and testing. In addition, it will also threaten the three (3) wells that aren't depicted on this cross-section diagram on the South side of Farm Road.

Mr. Moore stated that the Town of Sherborn has specific requirements related to overburden wells that require them to be treated separately and permitted separately than a bedrock well, and he stated that he would like the Board of Health to consider getting this well properly abandoned by a MA licensed well driller and get a new well installed in a location that won't endanger his drinking water well. Mr. Moore offered to take any questions related to his presentation.

Dr. Vitale asked engineer Desheng Wang or attorney James Murphy if 55 Farm Road was currently occupied, and Mr. J. Murphy responded that a family is living in that house. Dr. Vitale stated that he believes an overburden well would more likely be an historical well, and is not sure if a well not being properly drilled changes a bedrock well into an overburden well. Ms. Beardsley asked if this could be a phenomenon associated with artesian wells, and Mr. Moore responded that there are "big artesian" and "little artesian" wells, and neither of those would apply here – he stated that it doesn't make sense, as a geologist, that surrounding wells do not have the same conditions.

Dr. Vitale stated that, independent of the merits of Mr. Moore's presentation, it is difficult to determine if the Board can be in a position to condemn the well at 53 Farm Road and require it to be redrilled. He stated that he doesn't recall any mechanism available to the Board to say we must do anything other than the well quality issues.

The Agent stated that, if there is a question of the seal of the well, a camera can be used to check if the seal is appropriate. Dr. Vitale responded that he doesn't see any mechanism for the Board to require a well owner to do anything with their well at the request of an abutter. The Agent then suggested that abutters have their wells tested to get a baseline water analysis.

Dr. Vitale asked if there was any role for getting advice on this from MassDEP, noting that we are facing a novel situation. He stated that the abutter's concerns feel appropriate, and he also recommended that the abutters have their wells tested. From a performance standard, water quality and quantity must be demonstrated. The Agent noted that there is no regulation requiring that the integrity of a well seal should be tested, and he stated that typically, when someone is having issues with their well, a recommendation would be made to use a camera to check the integrity of the seal.

Attorney Dennis Murphy of Hill Law, noted that Section 5.0 of Regulation II (Domestic Water Supply) states that you cannot drill into the overburden, and that the well must be sealed. He suggested that these things should be checked because we are talking about public health. He stated that before there is a debatable condition, there is a regulation stating the well must be properly drilled 5-feet into the bedrock. The Agent checked the drill log and reported that it indicates the casing was put in at 38-feet and ledge was found at 17-feet, so he stated that there is 21-feet of casing. This indicates that it appears it was properly drilled.

Abutter Arthur Fenno stated that he feels when there is something in the Board's purview, and with Mr. Moore's presentation, it would be better for the Board of Health to get out ahead of it since the Board is charged with protecting the public health.

Brian Moore stated that there are ways to properly seal a well. He stated that, if this well is not properly sealed from the overburden, the true irony is, with the densely built ANR lots with potential wells and septic systems, this is why they have raised the issue of the EHIR.

Mr. Murchison's attorney, James Murphy, stated that the well *was* properly installed. It is speculative that there will be damage to Mr. Moore's well or drinking water. The well driller submitted the required forms. He stated that this is castings aspersions against one well that happens to be located next to Mr. Moore's property. Mr. J. Murphy stated that there is nothing in the BOH regulations that allows them to say that way down below ground, the well might not be proper. He stated that the abutters have had an opportunity to test their own wells, but he noted that the BOH has no authority within their well regulations

to take any actions such as those the abutters have requested. Mr. J. Murphy stated that his objections to this discussion is now even more warranted.

Dr. Vitale stated that the Board cannot apply a standard to this other than what they typically do for a new well. He felt the standards regarding testing and suitability for a well have been followed, so the Board of Health cannot take any action. Ms. Beardsley, noting the Board hasn't encountered this type of situation before, stated that she'd like to check with MassDEP to see whether they check the boring logs for differences in bedrock depth and water level and if they have any suggestions. She noted that when people are purging their wells following detection of suspected introduced contaminants, it usually takes <1-day (a typical pump test last 4-hours), but this well was pumped for a long time (up to several weeks) and maybe that was tied to this issue. Dr. Hunnewell felt it is important the Board follow the advice of the experts in the room, stating the impact of these decisions will affect more than 1 or 2 people.

Dr. Vitale suggested the Agent reach out to MassDEP, and stated that he appreciates the abutters' concerns. However, the well that has been drilled has satisfied the regulations and appears to be compliant, but he stated that the Board will do their best to follow-up. He stated that the Board wants to take raised concerns seriously and follow-up on them thoughtfully, including with State guidance, but he stated that doing so does not represent a tacit or implicit assertion that the 53 Farm Road well is improperly installed or performing incorrectly.

Ms. Beardsley stated that it is an unusual circumstance for the water to be at this level, and she recommended that the property owner speak with their well driller for confirmation of what might be going on and whether it explains the prolonged period of pumping.

Mr. Moore stated that the applicant sent a letter that they would "rip out" the open surface drain within 30-days of his letter, which was dated 2/18/2022. Mr. J. Murphy stated that the Town indicated, by a letter dated 3/15/2022, that they would cap off the pipe in the next 2-3 weeks. Dr. Vitale stated that there are currently no pending plans to discuss the open drain because the applicant withdrew his applications, and he noted that the Open Meeting Law is clear that it can't be discussed.

Dr. Hunnewell asked whose responsibility it was if the drainage issue overlaps with the local BOH regulations. Ms. Beardsley noted that this could be added to the 4/6/22 agenda to generally discuss.

**6. 100 Maple Street, Emmanuel Daphnis – DAPZ, LLC – Septie Replacement #22-02 –** The Administrator noted that a copy of the abutter notification letter, a copy of the certified list of abutters, and the certified mail return receipts (green cards) and/or the usps.com printouts had been received and all was in order. The Hearing was opened.

Kyle Devenish from Outback Engineering was present, as were abutters Allan and Jane Rosengard. Mr. Devenish stated that the existing system serving this 3-bedroom house is in failure. He stated that the well serving this property is located in the basement of the existing home. Site constraints, including well setbacks and wetlands were noted. The replacement system is an innovative/alternative system – the Eljen GSF Quick-4 system in trench configuration.

Mr. and Mrs. Rosengard stated that they want to be sure no changes in water runoff will make their property any wetter than its current state. Mr. Devenish responded that the patterns of flow should follow the southeasterly to northwesterly direction. He noted the topography is also heading toward the wetlands – both sides of the abutter's property are heading toward the wetlands. Mr. Devenish stated that they do not expect the grading changes for the replacement septic system to change that.

The requested variances were reviewed and discussed:

(1) Section 10.2 – to allow the proposed soil absorption system to be installed 11-feet from the side 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:

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE



Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(2) Section 10.2 – to allow the proposed soil absorption system to be installed 103-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:

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

The Hearing was closed.

The Agent stated that an additional variance is needed from Section 8.0(2), but since it was not included in the variance request letter to the Board or in the abutter notification letter, an additional variance hearing is required, so the plans are not yet ready for approval. The Administrator reported that this 2<sup>nd</sup> Variance Hearing has been scheduled for the April 6, 2022 meeting at 8:50 PM.

7. **COVID-19 Update** (see Minutes of 3/2/22, 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20-#6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) – Dr. Vitale, noting that he did not have a presentation tonight, stated that “no news is good news”. He stated that decreased case rates appear to be hitting a plateau. He noted that with the increased use of antigen tests, which results are not reported to the State, result in skewed per capita testing rates. Dr. Vitale stated that the “mask optional” transition at the D/S Regional School District is going well.

Ms. Beardsley noted that Europe is beginning to see an increase in cases and we often lag that. Dr. Vitale agreed, and stated that we are not done with COVID-19, and the pandemic is not over yet. He felt that as the use of oral antiviral medications become more and more available, and as people get their 2<sup>nd</sup> or 3<sup>rd</sup> COVID infection or their 3<sup>rd</sup> or 4<sup>th</sup> vaccination, what a “case” means may continue to evolve.

8. **176 Lake Street, Merriann Panarella – Revision to a Previously Approved Plan #22-12** (see Minute of 2/16/22, 3/3/21, 3/6/19, 3/1/17, 2/1/17-#11, 7/20/16-#9, 5/18/16, 3/4/15, 2/11/15-#2 and #10, 12/17/14, 11/5/14-#14(1), 10/20/14, 4/30/14-#4, #13, and #14, and 4/16/14) – Ms. Panarella was present with her septic system designer, Peter Bemis. Realtor Sue McPherson was also present. The Agent reported that the plan has been revised to correct the deficiency regarding the depth to groundwater at the house foundation. He noted that the existing well is 24.9-feet from the driveway and 37.9-feet from the property line – both meeting the regulations. The Agent recommended approval of the plan as submitted, conditional to the garbage grinder prohibition deed recording. The Administrator stated that she believed this deed recording has already been provided. A motion was made to approve the plan as presented, subject to confirmation that the required deed recording has already been provided, and it was seconded.

By a roll call vote:

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with condition.

**APPROVED 4-0 with condition**

[Note – The following day, the Administrator confirmed receipt of the required garbage grinder prohibition deed recording for this property in 2017.]

9. **59 North Main Street, Unit 3 – Building Application #22-09** – Current unit owner Gene Katz was present. The Agent stated a basement finish is proposed, including a full bath as well as an area with cabinets, refrigerator, freezer, and utility sink. Mr. Katz clarified that the cabinets are plastic shelving.

Ms. Beardsley noted when a full bath is directly off a room, that room is considered a bedroom, but she stated that this is a little different in that it appears there is a hallway because another room leads off it. Mr. Katz stated that the space where there is a “sump” shown on the ground, it is an area where the builder provided a hole in the ground in the event a sump pump is ever needed. He stated that the finished space will be used as exercise space and it is not intended for use as a bedroom. Dr. Bevers noted that the Board needs to review for a future use. Dr. Vitale felt this application should be reviewed by the ZBA because it meets the definition of a bedroom since there is a full bathroom. He felt the Board must apply the same standards to all applications. Now that the room with freezers has been described as a storage room, Ms. Beardsley agreed, noting there is a room with direct access to a full bath. She stated the Board will forward this application to the ZBA indicating the bedroom determination but, if Mr. Katz chooses to remove the shower it would probably be a different conclusion. Dr. Vitale advised Mr. Katz that if the plan is updated showing the shower removed (changing to a ½-bath), the Board of Health would likely be able to approve it. Mr. Katz was advised that the Board will forward this request to the ZBA. Ms. Beardsley stated that she would reach out to the ZBA Chair.

[Dr. Bevers stepped away from the meeting briefly at 8:39PM and returned at 8:42PM.]

10. **36 Ash Lane, Carter Ward – Building Application** (see Minutes of 7/21/21, 8/19/20, 9/18/19, 6/11/19, and 10/3/12) – Contractor Nathan Dishington was present. A revision to the previously approved 5-bedroom septic system plan was approved in 2021. Floor plans and photographs were reviewed, and the Board counted the number of rooms in all buildings:

- Pool House – Mr. Dishington noted that this is an open veranda, with a ½-bath. The Board was in agreement that there are 0 rooms.
- Main House – The Board counted a living room, family room, kitchen, and 4 bedrooms. Mr. Dishington stated that there is no basement, and there was discussion regarding storage space with a clipped door. A finished loft is attached by a straight staircase to the 3<sup>rd</sup> bedroom. A total of 7 rooms, including 4 bedrooms was determined.
- Barn/Garage – The Agent noted there is 1 bedroom (with a full bath) on the second floor, and 1 other room, for a total of 2-rooms/1 bedroom.

The total room count was determined as 9 rooms with 5 bedrooms. The Agent will sign-off on the Building Application.

11. **Presentation of Citizen Petition – Warrant #31 by Rebecca Hunnewell, M.D.** – Ms. Beardsley stated that even though Dr. Hunnewell is a Board of Health member, she will be presenting this warrant article to the Board tonight as a citizen. The Town Clerk has advised that Dr. Hunnewell will need to recuse herself from any Board discussion and vote following her presentation.

Ms. Beardsley stated that she asked Dr. Hunnewell to focus her presentation on the specifics in the proposed warrant article and the specific changes to the Open Space Subdivision By-Law that are proposed. Dr. Hunnewell asked if she could share her screen for the presentation, and while she was changing to a second computer, Ms. Beardsley commented on the current Board of Health regulations.

Ms. Beardsley noted that the Board has regulations for both domestic water supply and sewage disposal, as well as other topics. The State regulations for sewage disposal, Title 5, are minimum

requirements that apply across the entire State, including to municipalities that are mostly sewerred and also have a public water supply, but also have a few septic systems in remote areas. In Sherborn, the Board has additional regulations that are more stringent than Title 5 to account for well and septic being co-located on most properties in Town. On the water supply side, the State explicitly regulates “public water supplies”. Ms. Beardsley noted that as well as a public water supply serving an entire town, there are also public water supplies that are for commercial establishments, such as an office building, that are located somewhere where there isn’t a municipal public water supply, and they are considered privately owned public water supplies. Ms. Beardsley stated that each municipality in the State evaluates their situation and regulates accordingly.

Ms. Beardsley noted that, in Sherborn, most properties fall below the thresholds that trigger the “public water supply” regulations. The State explicitly passed on the authority for regulating small scale water supply to the municipalities, and they provided “model” regulations for private wells that towns could use. Sherborn’s domestic water supply regulations are largely based on those model regulations, but also include some additional, more stringent requirements such as zero tolerance for volatile organic compounds, other quality and quantity requirements, and setbacks. She noted that in recent years, developers have looked at both water supply and septic being something they could design just under the requirements of what MassDEP has for larger systems. She noted that in some ways, the Board’s current regulations are more stringent than some of the public water supply requirements (such as a larger protective radius around our wells).

Dr. Hunnewell began her presentation, stating there is a Citizen Petition that has been submitted which proposes two amendments to the recently adopted Open Space Subdivision By-Law, Section 4.5 of the Zoning By-Laws. She stated that these amendments fall into two categories – one is for drinking water standards to comply with the “Safe Drinking Water Act”. This would only apply in a circumstance where a subdivision does not meet the standards by the State definition of a public water supply. She stated that these are intended to allow a subdivision to comply with the “Safe Drinking Water Act” and the “Fresh Water Act”, which are two laws which basically say that every person has a right to safe drinking water. The second amendment specifically pertains to the timing of the Environmental Health Impact Report, which the Board of Health already requires within our regulations, in order to ensure our regulations are not deficient.

Dr. Hunnewell stated that the issues arises because Sherborn has 100% private drinking water, and noted that the Sherborn regulations deal with most standard development scenarios which is one house with one well. This means that, in a subdivision, it will not always be able to meet wetland and other setbacks. She stated that the requirements in this proposed by-law change are not inconsistent with the standards required in the 98% of towns in Massachusetts that are regulated by DEP as public water supplies. It is simply that we do not have protections because of Sherborn’s private wells, which, in a subdivision, will be shared resources. She stated that environmental health impact reporting at the stage of permitting is already required, but she noted that when done in advance – at the very beginning of a project, as is standard procedure at the State level – it will avoid conflicts and will make it easier for the Board of Health to enforce its regulations. Dr. Hunnewell felt that this will avoid unintended consequences, reduce liability for the Town of Sherborn, and will decrease costs for the town and for all those involved.

Dr. Hunnewell stated that the second section of the proposed amendment is a little more vague in order to allow the Board of Health to create a blanket regulation that applies to every single subdivision or whether it will be deemed more appropriate to look at each subdivision on an individual, case-by-case basis. She noted that a private water supply does not require testing, monitoring, or reporting, and she felt a subdivision that doesn’t meet the BOH setback requirements puts the Board into a situation where it is difficult to enforce the existing regulations and she felt it may potentially endanger public health.

Dr. Hunnewell closed her presentation by saying that, obviously, the Board of Health has existing regulations. She stated that a lot of thoughtful consideration was put into this proposed by-law change.



She noted that it is short notice, and felt that is because she is not familiar with the procedures, but she stated that this should be put in place before it is too late. She stated she hopes these changes can be considered, noting they weren't intended to be controversial.

Dr. Vitale stated, for him, it is a philosophical process question. He reviewed that when the Board changed their regulation regarding cesspools, the Board drafted a regulation they felt was good, thoughtful, and appropriate in addressing an important issue. Public feedback was received through the Public Hearings, and he felt the Board benefited from that feedback, and modified the regulation. He stated that he did not disagree with Dr. Hunnewell, saying this is an important issue, but he stated that his preference would be to follow the same thoughtful process. He noted the time Marian Neutra spent with the Board discussing the Open Space Subdivision By-Law when the Planning Board was working on it. He felt that this feels like we are by-passing that process. He stated that this feels like this is something that is important and should get procedural due process. Ms. Beardsley stated that is also the feedback provided by the Advisory Committee and Planning Board.

Ms. Beardsley felt that this proposal could potentially open up things that we don't want to happen to have happen. For example, in one section it says "subdivisions with more than one residential unit which cannot meet local setback requirements for existing Sherborn Board of Health regulations ...". Ms. Beardsley stated that this could be interpreted as saying that maybe they won't have to meet local setbacks requirements, whereas variances to setback requirements are currently not permitted for new construction. She felt it important to be very clear by what actions are required, noting that anything vague is subject to misinterpretation. She highlighted that requiring an applicant to "develop protections such as" opens it up to interpretation about whether it is some or all of the requirements.

Dr. Bevers stated that he thinks the goals this is trying to achieve is good, but he felt we could get into trouble with the imprecise language that could lead to things we do not want. Dr. Vitale stated that he could foresee someone saying that if you don't meet the setbacks, they could still do it as long as they did something else, and he stated that he would feel better if this had more public input.

Dr. Hunnewell commented that the wording of this article was chosen after review by a municipal lawyer. She stated that by the way the current by-law was written, it allows the setbacks to not be met. Dr. Vitale disagreed, stated that he doesn't recall the Open Space Subdivision By-Law, other than the layout of the lots, allowing anyone to by-pass the Sherborn Board of Health regulations. Dr. Hunnewell stated that, by definition and per State law, it doesn't require testing or monitoring of the water supply, but Ms. Beardsley noted that the State has given the Board of Health the authority to regulate private water supplies.

Dr. Vitale stated he was uncomfortable with the proposal as written, but Dr. Hunnewell again stated that before she submitted the article, it was reviewed by a municipal attorney and an environmental lawyer.

Dr. Vitale asked if the Board was in a position to say they endorse this proposed by-law change, and commented that he is worried this by-law won't succeed in filling in the regulatory gaps. Dr. Bevers felt the output should be whether the Board endorses the article as written or the general concept. Ms. Beardsley reviewed the typical process when someone has a warrant article (citizen petition or board-to-board).

#### Public Comment:

*Courtney Ek* stated that she thought this would be something the Board of Health would be looking to regulate. She is not sure adding it to the Zoning By-Laws is the way to do it legitimately.

*Carol McGarry* noted that at the Select Board meeting, Paul DeRensis stated that this could be amended at Town Meeting. She suggested that the Board have Town Counsel weigh-in to get some questions cleared up. She believes one of the things this does is give the Board a principle to look to – it will support the Board of Health if it is in the Zoning By-Laws. Ms. McGarry stated that she believes the



Open Space By-Law was put in place 2-years ago, but she stated that the Board of Health hasn't done anything about this. She applauded Dr. Hunnewell for coming up with this proposal.

Dr. Vitale responded that for the past 2-years, the Board of Health has been dealing with COVID-19. He stated that collaboration between the Planning Board, Board of Health, and Conservation Commission would be the most appropriate way to handle this. Ms. Beardsley agreed, stating that is exactly why the Board of Health has an EHIR requirement already, and she noted that about 2½-years ago, the Board amended the EHIR to begin to address some of the gaps. She noted that the EHIR requirement already exists. She stated that she is worried about abuse due to the vague language.

*Brian Moore* stated that he is aware of situations in town where Boards have been pitted against each other – one situation being when ANR lots were approved and circumvented the requirements, and he stated if that is how an EHIR works, then it is not being implemented properly. In addition, he stated that wells are being drilled that cause problems to others. Mr. Moore stated that Sherborn wasn't ready for the Open Space Subdivision By-Law, and he stated that if the only lifeline he has to protect his water is to sign on to a Zoning By-Law amendment, then "so be it". He stated that there hasn't been any change to the regulations to slow the development of the open space in town, and he felt that people are going to exploit it. Mr. Moore stated that he understands this warrant article will get "zero" support from this Board, but he hopes the Board members recognize there is a gap.

Dr. Vitale responded by saying that he has spent hundreds of hours on COVID, and that he hears Mr. Moore's frustration, but he feels the expectations the public has about what a volunteer Board can do, simultaneously, particularly one that was heavily impacted by COVID is in no way a reflection of the importance of what we do. Dr. Vitale referenced ledge disruption, and stated the Board has demonstrated a track record of thinking this is important. Since 2020, the Board has been working on things that have been tough, and they have been doing their best. He noted that he has had days where he got up at 4:00AM to do work so he could be up until 10:00PM to have these conversations. Dr. Vitale suggested using a collaborative approach such that this can be presented to other Boards and that we work together over the course of the summer with the goal of getting to the 2023 Annual Town Meeting. He stated that this isn't about the importance of the issue, rather, it is about how do you do this so it will withstand legal scrutiny and how do you do it so it works for other Boards and it is going to be successful. He stated that he does think this is important, but we should work really hard to ensure the things we do are successful and effective. Dr. Vitale stated that if we do something that doesn't meet that standard, the likelihood of having adverse outcomes compared to what he suspects are widely shared common goals is pretty high.

Dr. Vitale stated that he believes that more community engagement earlier would have helped this process work better. He made a motion to approve the language of the Citizen Petition, Article #31, as provided for endorsement by the Board of Health. He noted that a "yes" vote would give approval of the language as provided. The motion was seconded.

Ms. Beardsley commented that the Board has had many more complex projects coming along than they've had in a very long time, and she noted that the number of applications has doubled, so the workload has been staggering. However, this Board is so committed to water and groundwater quality that it spends most of its time on that or COVID. There is absolutely no lack of dedication or interest in this from the Board, but regulations are incredibly difficult to write. But there are not total gaps in our regulations – we have some very good, strong regulations that we enforce to the best of our ability.

Dr. Bevers stated that while he hasn't lived through a regulatory cycle on this Board, he has lived through enough production of guidance to have experienced sometimes unintentionally getting it wrong, and find that in the end, we can do more harm than good – so he wants to get this right. The underlying issues are important, the EHIR is an important tool, but what is proposed doesn't go far enough in defining when we can apply that and it leaves more gaps. He would like to get to a place where we are able to more clearly apply these things to regulate better.

By a roll call vote:

Member Dr. Bevers – NAY

Vice Chair Dr. Vitale – NAY

Chair Ms. Beardsley – NAY

The motion failed and the Board did not endorse the Citizen Petition **FAILED 3-0**

Dr. Hunnewell did not vote.

Dr. Vitale stated that Marian Neutra did an incredible amount of work on this Zoning By-Law several years ago, and he likes the idea of working collaboratively, as this is an important issue for all of us right now. Since the Town Planner and Planning Board were amendable to working collaboratively, this should be co-developed with them.

Dr. Hunnewell stated that while the Board needs to update their regulations, we need to do something because the Zoning By-Law is already in effect. She felt we should *not* wait a full year – we still might have time to do something soon.

12. **Potential Part-time Public Health Nurse position** (see Minutes of 3/2/22, 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 11/3/21, and 9/15/21-#16) – Ms. Beardsley reported that she has reviewed and modified the job description provided by the Medfield Board of Health. She stated that the Dover Board of Health had an assessment of their department done, and one recommendation was that we could share a public health nurse (since we already share a school district). She stated that she received a telephone call from the MDPH Office of Local and Regional Health (Sam Wong) who are working on shared services for small towns, and they want to help us get more shared services grants. She will continue to work on this.

13. **Minutes** – The Minutes of 3/2/22 were reviewed and minor amendments provided. A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 4-0 as amended**

14. **Open Meeting Law Complaint** (see Minutes of 12/1/21 and 11/17/21) – Dr. Vitale noted that correspondence has been received from the Attorney General's office stating that the Board did *not* violate the Open Meeting Law as alleged in the complaint filed last fall.

15. **4/6/2022 Agenda Items** were discussed. The Administrator stated that 5 variance hearings are scheduled.

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

By a roll call vote:

Member Dr. Bevers – AYE

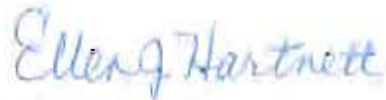
Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

This virtual meeting adjourned at 10:24 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]

M22-0316.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 3/16/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **53 Farm Road (aka Lot 2 at 55 Farm Road) –  
Lot 3 (at 55-65) Farm Road –  
Lot 4 (at 65) Farm Road –**
  - 53 Farm Road, aka Lot 2 at 55 Farm Road – New Septic/New Well Plan, drawn by Creative Land and Water Engineering, 3<sup>rd</sup> revision #21-106/207 (approved 11/3/2021)
  - Plan and Diagram provided by Brian Moore on 3/11/2022 “Basic Geologic Transect for Watercourse on 55-65 Farm Road Parcel”
  - 3/16/22 letter from Attorney James Murphy withdrawing septic system and well applications for Lots 3 and 4 Farm Road
  - 3/16/22 letter from Attorney James Murphy re: 53 Farm Road
2. **100 Maple Street –**
  - Septic Replacement plan #22-02, drawn by Outback Engineering, and dated 9/10/21
  - Variance request letter dated 2/10/22 from Jason Youngquist, P.E.
  - Certified list of abutters from the Assessor’s office, dated 2/24/22
  - Copy of abutter notification letter dated February 24, 2022 from Jason Youngquist, P.E.
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
3. **59 North Main Street, Unit 3 –**
  - Building Application #22-09, including floor plan of proposed finished basement area with full bath
4. **176 Lake Street –**
  - Revision to a Previously Approved Plan #22-12, drawn by Engineering Design Consultants, Inc., last revised
5. **Minutes –**
  - Board of Health meeting Minutes of 3/2/22
6. **Public Health Nurse –**
  - Medfield job description
7. **Animal Inspector –**
  - 3/7/22 letter from Massachusetts Department of Agricultural Resources (MDAR) re: “Nomination of Animal Inspector”



**8. Citizens Petition, Article 31 –**

- Top sheet of “Petition to place an Article on Warrant for 2022 Sherborn Annual Town Meeting”, provided by Rebecca Hunnewell, MD on 3/10/2022
- Email dated 3/10/2022 from Town Planner, subject “Citizen’s petition, Article 31”
- Copy of current 2021 Zoning By-Laws of the Town of Sherborn
- PowerPoint presentation by Dr. Hunnewell

**9. 36 Ash Lane –**

- 1<sup>st</sup> floor main house floorplan drawn by Tanner White Architects, submitted via email on 3/14/2022
- 2<sup>nd</sup> floor main house floorplan drawn by Tanner White Architects, submitted via email on 3/14/2022
- Pool house floorplan and elevations drawn by Tanner White Architects, submitted via email on 3/14/2022
- Barn foundation and 1<sup>st</sup> floor floorplan drawn by Tanner White Architects, submitted via email on 3/14/2022
- Photographs numbered 1-4 of partially constructed areas

**10. Natick-Walpole Visiting Nurse Association –**

- February 2022 COVID-19 Invoice

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
April 6, 2022**

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

**Members Absent:** None

**Others Present:** Robert Vey, David & Phoebe MacLaren, Jeff Waldron, “Is”, Margaret Powicki, “src”, Sean Killeen, Tom Trainor, Daniel McIntyre, Courtney Ek, Elaine Bonoma, Jennifer Robertson, Marian Neutra, “Susan”, Gene Katz, Charles Breckling, Sean Cutting, Cristina Killeen, Paul Bletzer, “Karen’s iPhone”, Eric Dickinson, “Barbara”, Steven Tsai, Addie Mae Weiss, Jason Youngquist, Jackie Morris, Mary Wolff, John Conte, Monica Williams, and Mark Oram, Agent.

By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Absent

Member Dr. Bevers - AYE

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. Ms. Beardsley stated that Dr. Hunnewell is expected to join the meeting later.

1. The Chair reviewed the agenda, noting the following item not anticipated by the Chair 48-hours in advance of the meeting, requesting that they be added to the agenda:

(1) ARPA funding request to digitize Board of Health records

(2) Ms. Beardsley stated that she could update the Board on a conversation she had with MassDEP regarding well installation logs and who oversees them, but she felt this topic might be better discussed when it can be a formally posted agenda item, and the Board members present agreed to defer that update to the next meeting.

A motion was made to amend the agenda to add item #1 only, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

2. **31 South Main Street, Michael Hanlon – Septic Tank and Distribution Box Replacement**

**#22-26** - Robert Vey of B.I.G. Excavation was present. The Agent recommended approval of this plan, conditional to a clean-out at the pipe change in direction. Dr. Vitale asked about the motivation for this proposal, and the Agent responded that the Title 5 inspector indicated that the septic tank was leaking. He stated that it was a direct replacement of the 2,000-gallon, 2-compartment tank. A motion was made to approve this plan with the condition noted, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with condition.

**APPROVED 4-0 with condition**

3. **Town Hall well water quality** – DPW Director Sean Killeen and Groundwater Protection Committee Chair Tom Trainor were present. Ms. Beardsley stated that she, Mr. Killeen, and Mr. Trainor would be attending the next Select Board meeting to discuss this topic.

Mr. Trainor shared his screen and noted PFAS concerns, and stated that the problem is that now PFAS contamination is showing up in groundwater and wells in town. Ms. Beardsley stated that if it were her client, she would recommend that it be treated before it reaches the limit, because it is close and the levels are fluctuating. Ms. Campe stated that she has put in point-of-entry treatment systems (“POETS”) for residences and smaller systems, and stated they could be fairly economical systems. She noted this would be considered a voluntary action at this juncture, so the town probably wouldn’t need an LSP. She agreed that she’d want to get it treated before the level reaches 20ppt. Mr. Trainor stated that it is a real concern that the Town Hall well has reached 18ppt several times in the past few months. Ms. Campe stated that it makes sense to be proactive rather than reactive, and hoped the Select Board will concur.

Select Board member Jeff Waldron stated that there is bottled water available in Town Hall now, and Ms. Beardsley stated that she would love to eliminate the bottled water from a sustainability perspective.

DPW Director Sean Killeen stated that the information he received from WhiteWater was an estimate of \$20,000 to \$60,000, and they thought it would take one to three years to get a permit, but Ms. Campe stated that timing is not accurate. Mr. Killeen noted that the town has not cleared out the “cease-and-desist” order with the library – we have not had a sanitary site survey completed, approved, and sign-off on yet. Ms. Campe suggested he work with Town Counsel, stating that no one at MassDEP would want to inhibit a treatment system. They should figure out a way to segregate the cease-and-desist from the treatment system.

4. **183 South Main Street, Sergio Sole-Robertson – VARIANCE HEARING – Septic Replacement/Expansion #22-17** (see Minutes of 12/15/21) – Jennifer Robertson was present with engineer Daniel McIntyre, P.E. The Administrator reported that the certified mail return receipts (green cards) had been provided, and all was in order. The Hearing was opened.

Mr. McIntyre stated that the home was purchased a few months ago, and the new homeowners wanted to renovate more than 50% of the existing home (including adding one bedroom), so that triggered the requirement for a septic system replacement. Dr. Vitale stated that this is a replacement of a non-failed system and adding flow, and he stated that is “out of the norm”. The Agent noted that the Board would not allow it if any abutters had concerns. A lengthy discussion followed regarding a voluntary upgrade with variances for an addition/additional flow. In response to a question from Dr. Vitale, the Administrator stated she was unsure if this specific situation had come up before. Ms. Beardsley felt the existing pit with a trench off of it and a tank before it is unconventional. Mr. McIntyre noted that the Board allowed something similar last year for 92 *Lake Street*. He stated that they conducted soil testing and the existing system was found to *not* be in failure, and the Board allowed the “plus one”, but he conceded that there were no variances necessary.

Noting that another Hearing was scheduled, this discussion was continued to later in the evening.  
Discussion continued at 8:05 PM.

Ms. Robertson stated that they are not adding anything right now – there will be no change to the square footage, but Dr. Vitale noted that there is a proposed change to the design flow for the future barn. Ms. Beardsley stated that this is a leaching pit, so it is failed in her perspective. Regarding the question of

precedent, Dr. Vitale felt the functionally, the current system is more like a cesspool than a septic system. Dr. Bevers stated that he would be fine with allowing this proposal, given what it is replacing. Ms. Campe stated that even though the current system passed a Title 5 inspection, the Board is considering it a failure, based on what it is, and she felt that is the key point.

The Agent, in response to a question from the Chair, stated that he has reviewed the floor plans in the past, and stated that the owners know they cannot do any work until:

- (1) This septic replacement/expansion plan is approved;
- (2) They have a licensed well driller install a well casing up to 18-inches above grade and install a well apron;
- (3) A preconstruction conference between the Agent, septic system installer, and design engineer is held; and
- (4) Construction of the replacement system is started.

Once those have been completed, the building application will be approved up to rough electrical.

Dr. Vitale noted that this replacement system was designed to accommodate a garbage grinder, and he strongly advised Ms. Robertson not to install one. Ms. Beardsley noted that a garbage grinder compromises the integrity of a septic system.

The floor plans were discussed. Ms. Beardsley noted that it is currently a 3-bedroom, 8-room house. Mr. McIntyre agreed and noted that once it goes over 8 rooms, the bedroom count is determined by the total room count method. He stated that with a 4-bedroom septic system, they will be limited to 9 total rooms. He noted that while the plans were designed for a garbage grinder, one is not recommended.

The requested variances were reviewed and discussed:

1. Reg. I, Section 10.1(B)(C) – to allow the proposed soil absorption system to be located 150-feet from the downgradient well rather than the required 175-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

2. Reg. I, Section 10.2 – to allow the proposed soil absorption system to be installed 10-feet from the property line with 187 South Main Street, and 17-feet from 15 Snow Street 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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

3. Reg. II, Section 6.0(E) – to allow the front porch expansion to be 9-feet from the existing onsite well rather than the 10-foot offset required, conditional to a licensed well driller bringing the well casing to 18-inches above grade and installing a well apron, per the regulations, and also conditional to the Agent reviewing the pier locations for the porch relative to the well to ensure proper access to the well, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved with conditions. **APPROVED 4-0 with conditions**

The Hearing was closed.



The Agent recommended approval of the plan as submitted, and recommended that a garbage grinder not be installed. Ms. Beardsley noted that no additional expansion of this house is possible, and no additional flow shall be allowed at any time in the future even if the garbage grinder is not installed, per MassDEP guidance. The motion was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved.

**APPROVED 4-0**

5. **34 South Main Street, John Conte & Monica Williams – VARIANCE HEARING – Septic Alteration #22-15** (see Minutes of 1/19/22, 1/5/22, and 11/2/16) – Eric Dickinson of CIVILized Solutions was present with John Conte and Monica Williams. Abutter Charles Breckling was also present. The Administrator reported that the certified mail return receipts (green cards) from the abutter notification letters had been provided, and all was in order. The Hearing was opened.

Mr. Dickinson stated that a 2-bedroom septic system was designed and installed in 2016-2017. It is deed restricted to 2-bedrooms due to the lot size and site constraints. He stated that there are currently two sheds in the backyard and the owners would like to raze those sheds and build one large barn with a ½-bath and connect it to the existing soil absorption system. The requested variance was reviewed and discussed: 1. Section 13.0(1) – to allow the septic tank to be located 60-feet from the structure it serves rather than the required 50-feet or less. Mr. Dickinson noted that a cleanout is proposed about halfway along the pipe. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

The Hearing was closed.

The Agent recommended approval of the plan as presented, and such a motion was made and seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved.

**APPROVED 4-0**

6. **COVID-19 Update** (see Minutes of 3/16/22, 3/2/22, 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20-#6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) – Dr. Vitale reported that there is a definite uptick with the local number of cases, but he felt it was due to transmission related to extra-curricular activities at the school. He stated that he has not heard of wild transmission outside of family members. Ms. Campe stated that she knows several adults impacted by the school, stating they all did hair and make-up of the performing students.

Dr. Vitale noted the migration of testing to antigen tests, and noted that the local wastewater data is trending up, but stated there were no big substantial changes. He hopes that tomorrow's data released by the State will show down-trending.

7. **Guidance for Town Meeting** – Ms. Beardsley stated that concerns have been expressed by some people who would be planning on attending Town Meeting, and they are tying it together somewhat with the event that took place in the same venue that seems to have precipitated a number of cases. Dr. Vitale responded that he didn't know that the pattern of exposure was specific to this as a congregate performance event versus inside activities outside of the event itself. He has not heard about wild transmission within the audience or community outside of household members, so the patterns of transmission, he suspects, was lots of one-on-one time outside of the performance itself. Dr. Bevers agreed that it was related to the specific interaction specific to this event rather than something related to the space.

Ms. Beardsley asked if the Board would want to recommend masks be worn at Town Meeting? Ms. Campe responded that people are always able to make their own decision to wear a mask. Dr. Bevers agreed with Ms. Campe, stating that if someone feels they are at risk, they should wear a mask. Dr. Vitale commented that the Board does not need to impose mask-wearing as a requirement of the Board – he would prefer to leave it to town meeting organizers, but he would support having masks available onsite. Ms. Beardsley asked if we should check with the schools to ensure the ventilation system will be operating that evening, and Dr. Vitale agreed, stating that he would also recommend they have extra freestanding HEPA filters available, if possible, to add layers of protection.

Select Board member Jeff Waldron stated that tomorrow night the Select Board will be discussing lowering the quorum for Town Meeting. Dr. Vitale reviewed that the Board recommends the availability of surgical masks for those who arrive at Town Meeting, confirmation with the facilities team at the district that the ventilation system will be functioning, and to determine if additional supplementary ventilation can be put in place.

8. **21-23 South Main Street, Sherborn Fuel LLC – VARIANCE HEARING – Septic Replacement #22-14** (see Minutes of 6/16/21, 1/6/21, 12/18/19, 12/4/17, and 7/21/10) – Neither the engineer nor the owner was present. The Administrator reported that the engineer advised that abutter notification letters were not sent out. No Hearing took place.

9. **53 Eliot Street, Arkady Kamenetsky – VARIANCE HEARING – Septic Replacement/Expansion # 22-18 110** (see Minutes of 10/20/04, 7/21/04, 7/7/04, 1/5/00, and 12/15/99) – Daniel McIntyre, P.E. was present, as was abutter Barbara Ambos. The Administrator reported that the certified mail return receipts (green cards) and/or usps.com printouts had been received and all was in order. The Hearing was opened.

Mr. McIntyre stated that the house is currently served by a cesspool. Site constraints, including topography, wetlands, sandy soils, and existing well location were noted. The proposed replacement system is located in the front yard, with the septic tank located in the area of the existing cesspool. Mr. McIntyre stated that the system has been designed to accommodate a garbage grinder, although one is not recommended. There is an old second well on the property, and it will be properly abandoned.

Abutter Barbara Ambos stated that her well is upgradient from the proposed septic system, and she asked what that means. Mr. McIntyre responded that, per the scaled plan, Mrs. Ambos' well is 185-feet away from the proposed soil absorption system, noting that the State requirement is 100-feet.

The requested variances were reviewed and discussed:

1. Section 10.1(B)(C) – to allow the proposed soil absorption system to be located 102-feet from the onsite, downhill well rather than the required 175-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

2. Section 10.2 – to allow the proposed soil absorption system to be located 14-feet from the 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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

3. Section 10.2 – to allow the proposed soil absorption system to be located 100-feet from 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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

The Hearing was closed.

The Agent recommended approval of this plan as presented, conditional to proper abandonment of the old well near the proposed septic system location by a licensed well driller, and with the recommendation that a garbage grinder not be installed. A motion was made to approve this plan, with the above-noted condition and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with condition.

**APPROVED 4-0 with condition**

[Dr. Hunnewell joined the meeting.]

10. **14 Brook Street, Vlad Mangyem – Septic Renewal #22-32** (see Minutes of 4/22/2020 and 11/20/13) – The Agent noted that in 2020, a septic replacement plan was approved with variances, due to the existing system being in failure. The Agent noted that construction is to start a maximum of 2-years from the time of the failure. He stated that he spoke with Claire Golden at MassDEP, who stated that the Board should “Order” that this installation be started by a certain date and installation completed by a certain date.

Engineer Daniel McIntyre stated that this system was a redesign of a failed system. It was originally a pump dose system based on usage, and in 2020 was redesigned to a timed pump system. He stated that they have been monitoring the system for 18-months and the trenches are not leaching the way they should. The breakout was stopped, but the trenches do not dry out.

Mr. McIntyre stated that they have hired Scott Septic, and they hope to start the construction sometime in June 2022. They are hoping for a completion date of August 1, 2022 to give them wiggle room and leeway for construction delays. Dr. Vitale noted that it has been 2-years already, so there should be a sense of urgency to get this taken care of.

A motion was made to approve the renewal plan as presented, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE



Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the renewal plan was approved.

**APPROVED 5-0**

A motion was made to ORDER the start of date for the installation of the replacement system no later than August 1, 2022 and a completion date of no later than September 1, 2022, and it was seconded.

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the construction of the replacement system was ordered to start by 8/1/22 and be completed by 9/1/22.

**AGREED 5-0**

**11. 100 Maple Street, Emmanuel Daphnis, DAPZ LLC – 2<sup>nd</sup> VARIANCE HEARING – Septic Replacement #22-02** (See minutes of 3/16/22) – Jason Youngquist, P.E. was present. The Administrator reported that the certified mail return receipts (green cards) had been received, and all was in order. The Hearing was opened.

It was noted that variances to the property line setback and wetlands setback were granted at the previous meeting, but the Agent had pointed out that they also needed a variance from Section 8.0(2) to allow the system to be located in an area where the maximum groundwater level is less than 5-feet below the natural surface grade.

The requested variance was reviewed and discussed:

1. Section 8.0(2) – to allow the proposed soil absorption system to be located in an area where maximum high groundwater is less than 5-feet below natural surface grade. In the proposed septic location, groundwater is at 54-inches below grade. It was noted that estimated seasonally adjusted groundwater was determined by mottles. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – 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 such a motion was made and seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plans was approved with condition.

**APPROVED 5-0 with condition**

**12. 59 North Main Street, Unit 3 – HP Sherborn LLC – Building Application #22-09** (see Minutes of 3/16/22) – Owner Gene Katz was present. The Agent stated that a revised plan had been received,



changing the full bathroom in the basement to a ½-bathroom with a cedar closet. It was noted that all of the units in this complex have deed recordings limiting them to 2-bedrooms.

A motion was made to authorize the Agent to approve the building application based on these revised plans and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Abstained

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Board was in agreement. **AGREED 4-0-1 with Dr. Hunnewell abstaining**

13. **137 Western Avenue, Antonia & Et Halstead – Building Application #22-14** (see Minutes of 7/1/98, 6/17/98, 5/6/98, 7/2/97, 6/18/97, 5/7/97, 3/5/97, 1/15/97, and 12/18/96-#13) – Builder Sean Cutting was present. The Agent stated that this house had a 6-bedroom septic system installed about 15-years ago, and there are currently 12-rooms in the house (6 on the second floor and 6 on the first floor). The proposal is to add two (2) additional rooms in the basement, bringing the total room count to 14. The owner would like to have the basement rooms deed recorded. The 450-square-foot basement expansion is for a theatre room and gym.

Dr. Hunnewell stated that this is a slippery slope and she cautioned that the Board should be careful with this kind of request. She stated that she has a general concern regarding the use of a deed recording for room count. Dr. Vitale responded that this is a precedent of many years and is consistent with past votes of the Board. Ms. Campe asked if the Board has found any violations in the past, and felt it is a procedure that is working. Dr. Vitale noted that an applicant could appeal and say that the Board has approved 12 previous similar applications and ask why this one won't be approved.

Mr. Cutting stated that no bathrooms were proposed in the basement level. The Agent noted that they initially wanted to add a third-floor room, but they understand they cannot do that as it would be considered a 7<sup>th</sup> bedroom. Dr. Hunnewell again commented that she thinks this is a slippery slope. She stated that she understands it is difficult, and she supports the intent, but she thinks the Board should be careful about this sort of thing, noting that the Board is allowing it quite often. Dr. Vitale agreed that the precedent carries forward, and he asked if Dr. Hunnewell was suggesting there was something different about this project than the ones previously approved or if it is a general concern with having a deed recording for room count. Dr. Hunnewell responded that her concern is about the general approach of using deed recordings to reduce room count. A lengthy discussion followed regarding precedent, how and if the Board could ever know if the deed recording process was working. Ms. Beardsley felt an example of how the Board would know the process is not working would be if the theatre is changed to a bedroom and bathroom and earth is removed to make the room a walk-out. She noted that, as long as the Board keeps to the criteria, there will be additional instances of allowing deed recordings for basement rooms.

A motion was made to authorize the Agent to approve the basement plans only, conditional to receipt of a deed recording for the basement rooms stating that neither can be used as a bedroom, and one basement room will not be counted in the total room count, and it was seconded. The house cannot be further expanded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Abstained

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Board was in agreement. **AGREED 4-0-1 with Dr. Hunnewell abstaining**

14. **39 Nason Hill Road, David MacLaren – Building Application #22-16** – David and Phoebe MacLaren were present with their builder, Paul Bletzer. The Agent stated that the Building Commissioner was contacted regarding a kitchen addition, and unfortunately some foundation issues were found. They now need to demolish an entire wing of the house in order to repair it. Prior owners had set up a room over the garage as a playroom, and there are no records of that work being allowed. The Agent stated that it, being a second-floor room, would be a 6<sup>th</sup> bedroom (on the existing 5-bedroom septic system) if it is accessible through the other second floor rooms.

Noting that the owners would like to keep that finished room over the garage, Mr. Bletzer reviewed that they are not changing anything when they rebuild – they would like to rebuild exactly what was there. Three different proposals were reviewed. It was noted that the Board has previously allowed a room (such as a craft room) above the garage, with the only access by a stairway in the garage. They could not recall allowing a 2<sup>nd</sup> floor room and not counting it as a bedroom. Mr. MacLaren stated that the room above the garage had been there for 20-30 years, but Dr. Vitale noted that it is possible it has been noncompliant for years, but he noted that now that it is being rebuilt, he was unsure how to handle it. He suggested looking back at the septic plan to see if that room was considered.

Mr. MacLaren noted that they have an active construction site without a kitchen and asked if the Board could conditionally approve it and revisit the space above the garage at a later date, but Dr. Vitale felt that is tough because since there are multiple plans it would be difficult to know exactly what it is the Board would be approving. He felt that one strategy might be to do “plan 3” and leave that space above the garage unfinished. This would allow them to finish everything else, and then that space can be re-adjudicated at a later time. Ms. Beardsley wondered, however, if that is what happened before and then it just turned into a finished playroom. She noted that was outside the Board’s control. She noted the “lovely” window in that room and stated she can’t imagine the space remaining unfinished. Mr. Bletzer felt the architect just left that window in the plan by mistake.

Ms. Campe stated that this Board has been pretty strict that applicants need to present the proposal that they are actually proposing, in its final form so they can vote on something specific. She was uncomfortable being presented with 3 different choices and saying that this could be changed or that could be changed. She felt that the Board needs something tangible and presented in its final form.

Ms. Beardsley stated that an option is for the “bonus” space to be closed off from the second floor and only be accessible from the first floor. She also stated that the “hallway” looks like a room but, if the adjacent bedroom and hallway were a single space, the house might meet the room count provided the “bonus” space is only accessible from the first floor and does not include a bathroom.

The applicant was instructed to submit a revised plan that meets the room/bedroom count restrictions (such as no garage with a room above) for later review. If the foundation only plan is submitted separately, it could be approved, and that work could continue.

15. **15 Spywood Road, Christopher Martin – Septic Tank Replacement #22-27** – The Agent stated that this plan is for a direct replacement of a leaking septic tank, and he recommended approval. A motion was made to approve this application as submitted, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved.

**APPROVED 5-0**

16. **156 Nason Hill Road, Estate of Barry McMaster – Revision to a Previously Approved Plan #22-30** (see Minutes of 9/15/21, 1/6/21, and 12/16/20) – Elaine Bonoma was present. The Agent noted that

a revised plan was submitted to update the proposed house footprint, and he recommended approval of this revised plan as submitted. It was noted that the required garbage grinder prohibition deed restriction has already been submitted. A motion was made to approve this plan as submitted, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved.

**APPROVED 5-0**

17. **160 Nason Hill Road, Estate of Barry McMaster – Revision to a Previously Approved Plan #22-31** (see Minutes of 9/15/21, 1/6/21, and 12/16/20) – Elaine Bonoma was present. The Agent noted that a revised plan was submitted to update the proposed house footprint. He stated that the existing well needs to be abandoned by a licensed well driller. The required garbage grinder prohibition deed recording has already been received. The Agent recommended approval of this revised plan as submitted, conditional to the abandonment of the existing well (by a licensed well driller) prior to installation of the new well, and such a motion was made and seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with condition.

**APPROVED 5-0 with condition**

18. **New 2022 Disposal Works Installer Permit Application** – An application was received from **David Babcock, Vegas Builders** from Berlin, MA (#122-17), and it was reviewed. The Agent stated that he has worked with this Installer previously, and noted that he follows instructions. The references have been checked and a recommendation has been received from another town. A motion was made to approve the issuance of this permit, conditional to a pre-construction conference with the Health Agent prior to any work being conducted, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the permit was approved with condition.

**APPROVED 5-0 with condition**

19. **Massachusetts Association of Health Boards (MAHB) Certificate Program** – Dr. Hunnewell expressed interest in attending the Saturday, May 14<sup>th</sup> session in Marlborough, and Ms. Beardsley stated that she would attend the Saturday, June 11<sup>th</sup> session in Holyoke. The Administrator will process the registrations and payments.

20. **Review of Board of Health Regulations – Preliminary Discussion** – Ms. Beardsley stated that the Board has received some preliminary edits to the regulations that have been drafted by Town Counsel – to codify some of our well-established procedures. She stated that she has already started to make some edits for other pieces of the regulations, including more guidance around well installation and disinfection, as well as some administrative tweaks to other sections. The Agent suggested the Board address cesspools

that have had a leaching line added to it, noting that while they become “conventional” systems in Title 5, they are still old cesspools.

Dr. Vitale suggested the Board think about how to divide up the scope and work, and he asked to share his screen. Based on the discussion, he drafted a list of topics within the regulations to be addressed as follows:

- 1) Well installation, including
  - Flushing
  - Disinfection
- 2) Ledge disruption, including
  - Creation of an application form
  - System of notification of abutters
- 3) Administrative adjustments (developed with Town Counsel)
  - Formalizing the established policy as it relates to a complete application
  - EHIR punctuation/clarification
- 4) Drinking water potability standards
- 5) Planning Board engagement, including
  - Segmentation
  - Open Space Subdivision
  - Shared septic systems (rules of management)
  - Lot configuration

Dr. Vitale suggested that Board members advise the Administrator the 2-3 topics that interest them. The Administrator will then track which Board members could together do the “pre-work” of regulations changes and then ultimately bring it back to the full Board for vetting and discussion.

Dr. Hunnewell stated that she is also interested in having a BOH meeting, attended by a quorum of members, that is a working session, with no public input allowed. She noted that the Select Board has held such meetings in the past. Dr. Vitale responded that the goal would be to have a subset of Board members work together on the meat of the proposed regulations change, and then bringing it back to the full Board as a “pre-packaged” proposal. The Board will not collectively be working on all of the proposed changes, but there should be a clear responsibility to say which member(s) are going to move a topic up to the point of being considered by the full Board.

Select Board member Jeff Waldron noted that Open Space Subdivision and lot configuration could take a considerable time and he suggested the town consider setting aside funds for an outside consultant to do the legwork. He stated that it is not realistic to not have some external experts do legwork with the Board’s direction. The Board could then do more “visioning and deciding”. Ms. Beardsley felt it would be better to have two separate waves of regulation updates, with some being easier to do than others. She stated that she would like to have a consultant research what other towns or states have already come up with that this Board could use. Ms. Beardsley stated that she envisions the first wave of changes being quicker or more urgent. Dr. Vitale stated that whoever looks at the regulations should look at them holistically and integrate with other town regulations to make sure they mesh sensibly.

21. **ARPA Funds for digitization of BOH files** – Ms. Beardsley stated that she notified the Select Board office of a request for ARPA funds for this purpose, but the DPW put in an estimate as well. She stated that it is important to have the scanning of the files done carefully, by someone who can pay close attention to the content of what is being scanned, and with the ability to label it appropriately. She stated that a lot of things we have that will be scanned are not going to be searchable files, noting the old hand sketches, something that was printed out crooked or fuzzy, etc. She stated that the volume of the files is



ever expanding and consuming a lot of space that we don't have, but digitization will address this to some degree.

22. **5/4/2022 Agenda items** were noted. There are two variance hearings scheduled. The Administrator was instructed to include a "well update from DEP" by the Chair, as well as a possible updated Building Application from 39 Nason Hill Road.

[Dr. Hunnewell recused herself from the following discussion, and spoke only as a private citizen.]

23. **Minutes** – The Minutes of 3/16/22 were reviewed and discussed. Ms. Beardsley noted that the Administrator received a public records request for those Minutes, and therefore requested any edits from Board members prior to this meeting. After the draft Minutes were sent to the petitioner, Dr. Hunnewell submitted a request for edits to the section that was part of her citizen's petition.

Guidance was received from the Town Clerk stating that since Dr. Hunnewell was not participating in the discussion of the citizen's petition as a member of the Board (she was participating as a member of the public), the Chair expressed concern about accepting edits for the Minutes from someone who is not officially on the Board. Dr. Vitale agreed, noting that the Minutes are supposed to be a summary of the meeting, and not a verbatim production of the meeting. Ms. Beardsley noted that with Zoom meetings, there is a recording that exists and is posted and accessible through DSCTV and YouTube websites. Ms. Campe agreed that allowing residents to edit Minutes is inappropriate.

Dr. Bevers stated that this discussion doesn't have to do with whether specific comments were made, or whether they were reflected in the record, but it does have to do with the fact that the Board is ultimately responsible for the Minutes, and those Minutes are not meant to be a verbatim record. Inviting public comment on the Minutes is an endless problem the Board faces, so he thinks it is great that we have an actual verbatim record (recording) if someone wants to go to that. But the Board should not be inviting public comment on the Minutes.

Ms. Beardsley stated that when she read the Minutes, she felt they adequately captured the basics of the discussion, and she noted that after checking the transcript against what was recorded, she still felt the Minutes were consistent with the recording. For technical corrections offered from outside the Board, she shared the established procedure referenced by the Administrator whereby subsequent minutes may include revised information.

Public citizen Rebecca Hunnewell stated that she agreed with the Board that it is dangerous to allow public input in the Minutes, but stated that there are two places in these Minutes where she believes there are substantive errors, and she detailed them as follows:

- First, she stated she was trying acknowledge that the authors of the Open Space By-Law worked very hard on writing a very good by-law, but the Minutes said the thoughtful consideration was having to do with the amendments, but that wasn't what she was saying.
- Second, Dr. Hunnewell stated that she does not believe the regulations are deficient, and the Minutes say that she said they are. She stated that she doesn't think this is a new problem that is introduced by the recent by-law change – it's not that the by-laws are deficient. Rather it is that we have new work that needs to be done to accommodate this change.

Dr. Hunnewell stated that she acknowledges that she is very detail-oriented and that some of her comments were very specific and probably irrelevant. She stated that she just wants people to understand and have the Minutes accurately represent what she had said and since a couple of things were flipped, she wanted to straighten that misunderstanding out.

A motion was made to approve the 3/16/2022 Minutes with the edits as amended initially and submitted to the Administrator, and it was seconded. Dr. Vitale requested that Dr. Hunnewell's two

comments on the 3/16/22 Minutes be reflected in the Minutes for this meeting, and it was agreed. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – Abstained (since she was absent from the 3/16/22 meeting)

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 3-0-1 as amended**

Ms. Campe abstained from the vote and Dr. Hunnewell had recused herself from this discussion and did not vote.

[Dr. Hunnewell returned to her position on the Board.]

22. **Adjournment** – A motion was made to adjourn the meeting, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

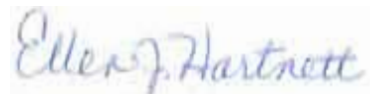
Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

This virtual meeting adjourned at 10:29 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]

M22-0406.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 4/6/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **183 South Main Street –**
  - Septic Replacement/Expansion plan #22-17, drawn by McIntyre Engineering, dated 2/21/22 and revised 2/25/22
  - Variance request letter dated 2/22/22 from Daniel McIntyre, P.E.
  - Certified list of abutters from Assessor's office dated 2/22/2022
  - Copy of abutter notification letter from Daniel McIntyre, P.E. dated 3/2/2022
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
2. **34 South Main Street –**
  - Septic Alteration plan #22-15, drawn by CIVILized Solutions and dated 2/7/22
  - Variance request letter dated 2/8/22 from Eric Dickinson, R.S.
  - Certified list of abutters from Assessor's office dated 2/10/2022
  - Copy of abutter notification letter from Monica Williams dated 3/1/2022
  - Certified mail return receipts (green cards) and/or original returned, unopened envelopes
3. **21-23 South Main Street –**
  - Septic Replacement plan #22-14, drawn by Bohler Engineering, noted as "revision 3" and dated 1/27/2022
  - Application for Local Upgrade, Form 9A
  - Variance request letter last revised 3/2/22
4. **53 Eliot Street –**
  - Septic Replacement/Expansion plan #22-18, drawn by McIntyre Engineering and dated 1/22/22 and signed 2/18/22
  - Variance request letter from Daniel McIntyre, P.E. dated 2/24/2022
  - Certified list of abutters from Assessor's office dated 2/22/2022
  - Copy of abutter notification letter from Daniel McIntyre, P.E., dated 3/11/2022
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
5. **100 Maple Street –**
  - Septic Replacement plan #22-02, drawn by Outback Engineering, dated 9/10/21 and revised 3/23/22 and received in the Board of Health office on 3/30/22
  - 2<sup>nd</sup> variance request letter dated 3/16/22 from Jason Youngquist, P.E.
  - Certified list of abutters from the Assessor's office dated 2/24/22
  - Copy of abutter notification letter dated 3/16/22 from Jason Youngquist, P.E.
  - Certified mail return receipts (green cards) or usps.com printouts from abutter notification letters
6. **59 North Main Street, Unit 3 –**
  - Building Application #22-09, including updated basement floor plan (available from Building Department)
7. **137 Western Avenue –**
  - Building Application #22-14, including updated floor plans (available from Building Department)
  - 3/23/22 letter from Antonia and Elliot Halstead re: Building Application 22-14 and room count
8. **Minutes –**
  - 3/16/2022 Board of Health meeting Minutes
  - Requested edits from Rebecca Hunnewell, MD (private citizen) in 3/29/22 email, subject: "Re: FW: Completed 3-16-2022 Minutes"
9. **39 Nason Hill Road –**
  - Building Application #22-16 including 3 proposed floor plans (available from the Building Department)
  - 5/4/18 letter detailing variances granted for Septic Replacement #18-15
10. **31 South Main Street –**
  - Septic Tank and Distribution Box Replacement plan #22-26, drawn by Norfolk Engineering, dated 3/22/22

11. **14 Brook Street –**
  - Septic Replacement plan #22-32, renewal of #20-23, drawn by McIntyre Engineering, dated 4/3/2020 and previously approved on 4/22/2020
  - BOH Meeting Minutes of 4/22/2020
  - 11/21/2013 Variance Hearing letter detailing variances granted at 11/20/2013 Hearing
12. **53 Spywood Road –**
  - Septic tank replacement plan #22-27, drawn by GLM Engineering, dated 3/24/22
13. **156 Nason Hill Road (Lot 2) –**
  - Revision to a Previously Approved Plan #22-30, drawn by GLM Engineering, dated 3/9/22
14. **160 Nason Hill Road (Lot 1) –**
  - Revision to a Previously Approved Plan #22-31, drawn by GLM Engineering, dated 3/9/22
15. **New Disposal Works Installer Permit Application –**
  - David Babcock, Vegas Builders of Berlin, MA - #122-17
16. **Town Hall well water quality –**
  - PowerPoint presentation by Tom Trainor “PFAS – Emerging Contaminants of Concern in Massachusetts Public and Private Water Supplies”



**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
May 4, 2022**

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

**Members Absent:** None

**Others Present:** Margo Powicki, Sean Killeen, Courtney Ek, Tom Trainor, Jeff Waldron, David MacClaren, "iPhone", Anne Schuette, Daniel McIntyre, P.E., Brett Piercy, Paul Saulnier, Carol McGarry, Thomas Bletzer, Bill Bernard, and Mark Oram, Agent.

By a roll call vote:

Chair Ms. Beardsley – AYE

Vice Chair Dr. Vitale – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Member Dr. Bevers - AYE

This VIRTUAL meeting came to order at 7:01 PM via Zoom. It was noted that all votes shall be taken via roll call vote.

1. The Chair reviewed the agenda, noting the following item not anticipated by the Chair 48-hours in advance of the meeting, requesting that they be added to the agenda:

(1) New 2022 Disposal Works Installer Permit Application – Robert Despres d/b/a Despres Landscape & Excavation of Westminster - #I22-19

(2) Natick-Walpole VNA – April 2022 COVID-19 invoice – for approval

(3) Sustainability letter of support

A motion was made to amend the agenda to add the items noted above to the agenda, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell - AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed, and the agenda was amended.

**APPROVED 5-0**

2. **COVID-19 Update** (see Minutes of 4/6/22, 3/16/22, 3/2/22, 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) – Dr. Vitale stated that he while he has not done a data refresh recently, he hopes to get one out later this week or early next week. He noted that the overall case rates nationally are steady, although a bit higher in the Northeast, with a gradual overall uptick. He stated that there is a lower percentage of patients who are hospitalized in the ICU, and a general impression that there is a mix of primary COVID and incidental COVID (where

patients are admitted for another reason). He stated that he has not checked the wastewater data recently. Dr. Vitale felt that he felt we are in a relatively steady state with ample access to Paxlovid, but the current level of social behaviors doesn't appear to be driving a sustained spiking of cases, with the caveat that since we are not looking at antigen testing and cases, which is increasingly a part of how people are getting tested, the reported cases may well be an underestimate, to some extent, but at least appear to be relatively steady, though elevated. At the request of the Chair, the Administrator reported on the recent increase in the number of reported cases (PCR testing), noting that there has been a noticeable increase in the past couple of weeks. Dr. Vitale stated that he would run the local (Sherborn specific) data, but noted that the school dashboard showed only a modest bump-up after the April vacation, which was encouraging.

3. **Well Update from MassDEP** (see Minutes of 3/16/22-#5) – Ms. Beardsley reported that she had a long conversation with someone at MassDEP after she called about a question the Board had regarding one of the wells on Farm Road where the static water level was above the bedrock. There was a question around if that could be indicating a leaking casing or something else. The DEP person's perspective is that is not an uncommon phenomenon in Massachusetts. They did not feel this would be a cause for alarm, in their opinion, as they have observed this phenomenon in a significant percentage of wells they have observed. It could warrant some further investigation, but that is usually a homeowner's choice, especially for a private well. MassDEP relies heavily on the fact that the well drillers are licensed, and if they indicate the casing has been secured into the bedrock, DEP is not necessarily questioning it, along the lines of how they use LSPs in the State to oversee remediation of contamination incidents. Also, DEP does not review all of the boring logs they receive; rather they are put into a database and filed – there is no special review of them.

Ms. Beardsley felt that we might want to keep an eye on well logs when we have access to them and let property owners know that they might want to investigate by further scoping or some other means to identify whether there could be something where the well is not sealed sufficiently through the overburden but otherwise there is not anything that MassDEP does about this sort of situation. She noted that, if the Board so chose, they could write something into the regulations to deal with this issue, but that could be discussed in the future.

Ms. Campe noted that there are SOPs (Standard Operating Procedures) for sealing a well, and Ms. Beardsley noted that the well guidelines issued by the State are also a good source of information about that, so it could be a discussion for the future. Ms. Campe felt it could be a reference in the regulations to the DEP well installation information so if the State information changes, we don't have to change the regulations.

4. **Sustainability letter of support** – Ms. Beardsley referenced a request received from the Sustainability Coordinator requesting a letter of support. She stated that there is a prior letter the Board provided for a similar grant application, and she stated that she could update that letter and send it (by tonight's 8:45pm deadline) if no one objected. Ms. Campe noted that there was nothing objectionable in the request. Dr. Vitale felt only the title and date had to be updated.

A motion was made to authorize the Chair to amend and resubmit a letter of support to the sustainability coordinator from the Board of Health, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Chair was authorized to amend and send the letter as noted above.

**AGREED 5-0**

The Administrator stated that she was unaware of this request, noting that she had not received an email from the sustainability coordinator. Dr. Vitale forwarded his email to the Administrator for the Board of Health records.

**5. 2022 Library Arts & Crafts Fair – Temporary 1-Day Food Establishment Permit #TF22-18 –** The Administrator reported that Food-Camp Inspector Tom Curran had emailed her recommending approval of this 1-day permit (for Saturday, May 7, 2022), conditional to all food vendors operating in compliance with all applicable laws. There are 7 food vendors being permitted under this blanket permit. DPW Director Sean Killeen asked if a fee is charged for this permit and the Administrator responded that they are charged a reduced fee of \$150.00 for the 7 vendors rather than \$50.00 per vendor. Each vendor submits their application to the Friends of the Library, and they submit all of the applications together with the “coordinator’s checklist” and the total fee.

A motion was made to approve the issuance of this permit as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed, and the permit was approved.

**APPROVED 5-0 with condition**

**6. C.A. Dowse and Son Inc. – 2022 Seasonal Food Establishment Permit #F22-19 –** The Administrator reported that the application is complete except for the water analysis, which is missing the required Heterotrophic Plate Count (HPC) analysis. The applicant submitted an E.coli test result instead of the required HPC. The Food Inspector has recommended approval of this seasonal permit conditional to receipt of an acceptable HPC water analysis report. The Administrator reported that she spoke with Jon Dowse and advised of this requirement, and he is having it done.

The Chair asked if the Food Inspector is aware of the ETR Laboratories issue (being de-certified by MassDEP), and the Administrator responded that she believes he is, but noted that the Health Agent reviews the water analysis results for all food establishments. The Administrator noted that the water analysis results received already for this application were from Analytical Balance, so the HPC analysis will likely be done by them as well.

A motion was made to approve this permit with the condition that an acceptable HPC analysis result is received before the permit is issued, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the permit was approved with condition.

**APPROVED 5-0 with condition**

**7. Natick-Walpole Visiting Nurse Association – March 2022 COVID-19 Invoice –** The Board reviewed this invoice in the amount of \$192.50, noting the Chair had already approved it for timely payment. A motion was made to ratify the Chair’s previous approval, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE



Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the Chair's previous approval was ratified. **RATIFIED 5-0**

8. **Natick-Walpole Visiting Nurse Association – April 2022 COVID-19 Invoice** – The Board reviewed this invoice in the amount of \$811.25. The Chair noted that while the Board has a standard contract with the VNA, COVID-19 has been consuming many more hours. The Board pays for those additional hours using ARPA funds.

A motion was made to approve this invoice for payment and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Campe – AYE

The motion passed and the invoice was approved for payment. **APPROVED 5-0**

The Administrator reported that, although the Chair mentioned ARPA funds, we did receive a grant from DPH through the Massachusetts Health Officer's Association in the amount of \$8,502.00, that can only be used to pay for FY22 COVID testing, vaccinations, or contact tracing and case investigation. That grant will pay for most of the cost to the town for these extra VNA COVID-19 invoices, so those funds will go back into the town's ARPA money.

9. **New 2022 Disposal Works Installer Permit Application – Robert Despres d/b/a Despres Landscape & Excavation #122-18** – The Administrator reported that references were checked. Mr. Despres stated that he was only licensed in two towns – Sutton and Westminster. Sutton advised that he is currently licensed and is OK. Westminster advised that he started to become licensed just 2 years ago and felt he took a long time installing his first system, but felt that could have been because he was new. They recommended that the Agent "keep a close eye on him". The Agent commented that he usually works very closely with any new installer.

A motion was made to approve the issuance of this new installer permit, conditional to a pre-construction conference with the Health Agent prior to any work commencing, and close oversight by the Agent, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

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

10. **Emergency 10-Day Beaver Permit Application – Town of Sherborn, Goulding St. East and South Main Street - #B2022-01** – The permit to use conibear or box or cage-type traps for the taking of the beavers was approved by the Agent on 5/3/2022, and it was reviewed for ratification by the Board. Following receipt of an Emergency Certification from the Conservation Commission, the Agent can approve the breaching of the dams and installation of non-lethal management or water-flow devices with any Conservation Commission conditions.

Dr. Bevers noted that the application was received due to potential roadway flooding. The Agent recommended that the town look at some type of beaver management for this area. Dr. Hunnewell suggested that the Board just look into management and give the permit later, if it is needed, but Dr. Bevers noted that the permit has already been issued and the Board is just ratifying it. The Agent stated that we



can't allow the roadway to be undermined while we are looking at it, but he agreed that the town should look at a water lowering control device through the culvert that crosses over on Goulding East before the railroad tracks. He stated that we can't keep the beavers out of this area – they will just come back.

Ms. Beardsley stated that she happened to walk by the area last week, and only once before has she seen the water as high as it was. She noted that it is the perfect spot for a “beaver deceiver” where you let the beavers build their dams, but then you run a pipe that basically punctures through and its inlet and outlet are far away from where their dam is located so they don't hear any flowing water.

Dr. Hunnewell noted that the Board has talked about this on and off for several years, and she asked what is missing for the Board to proceed with investigating what the different options are, but Dr. Vitale recalled that she was going to follow-up on that. Dr. Hunnewell stated that she is definitely interested in this, but noted that it is not her area of expertise, and she felt that the Agent is more knowledgeable on this or perhaps Sean Killeen.

Mr. Killeen noted that this problem is actually on Town property, and he stated there is an earthen dam that was created. This is a very good beaver habitat, and it's easy for the beaver to build in this area. He stated that, in the future, once the water level goes down (if the groundwater goes down a bit which it didn't last year) we can look at that extensively with the Conservation Commission. He stated that this is actually a difficult place to put a pipe in, but he is willing to look at it. Ms. Beardsley disagreed, stating that she could share photographs of a client site where they installed such a device on a historic mill dam, and stated that it works fine.

Dr. Bevers suggested the Board ratify the Agent's previous approval of this permit, noting that there is a potential issue with the roadway, and then suggest that Mr. Killeen investigate the options going forward.

Dr. Hunnewell asked what the normal procedure is, stating that it comes to the Board of Health when there is an emergency or when there is flooding, but it isn't really a Board of Health issue until that point, so she was curious where it usually is done, feeling that it is probably with the Highway Dept. Mr. Killeen responded that it has to come to the Board of Health first because Highway cannot manage the beaver while they are actively there. He stated that, legally, the beaver must be removed, and then Highway can handle it. He noted that it has to become a problem before it is a problem. Mr. Killeen stated that this one must be handled, but the dam cannot be breached until they trap the beaver, and then he will have consultants come in to come up with something. It is not supposed to be a pond there, but it is a pond right now.

The Administrator clarified that this is an “emergency” permit, but that does *not* mean that there is an emergency situation present. It means that the permit will be issued quickly, so the situation does not become an emergency. This permit was issued on May 3<sup>rd</sup> and it is valid for only 10-days – expiring on May 13<sup>th</sup>. She also noted that on the Conservation Commission sponsored program with the Central Massachusetts Mosquito Control Project (CMMCP) in February, they noted that they will install beaver deceivers for free and all you need to do is call them. She stated that she would provide the name of the CMMCP contact person.

The Chair stated that the opportunity might exist within the 10-days to at least obtain a quick assessment from CMMCP and spend less or perhaps no money for a beaver deceiver. The Administrator noted that they only have a permit to take the beaver at this point. We are waiting for Conservation approval, by an Emergency Certification. Once we receive that, the Agent can sign the reverse-side of the existing permit, which gives approval for breaching the dam and/or installing a water control lowering device.

The Agent stated that he never saw a beaver dam, but he did see the water dropping off from one side to the other through the culvert. Mr. Killeen responded that town personnel sent the Agent to the wrong place, stating that the dam is just upstream on Sewall Brook Road. He stated that the water is flowing high under South Main Street, but there already is a beaver deceiver in that location.

A motion was made to ratify the Agent's previous approval, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the previous approval was ratified.

**RATIFIED 5-0**

**11. 97 Washington Street, Thomas Trainor – VARIANCE HEARING – Septic**

**Replacement/Expansion #22-28** – Daniel McIntyre, P.E. was present with owner Tom Trainor. The Administrator reported the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts (green cards) had been received, and all was in order. The Hearing was opened.

Mr. McIntyre stated that the existing 3-bedroom home is located on a hill. They have determined the best place to replace the system is in its existing area. The percolation rate is 30-minutes/inch. An innovative/alternative system (Eljen) is proposed because it provides better treatment, and also allows a smaller footprint. No Title 5 local upgrades or waivers are needed. The requested local waiver was reviewed and discussed.

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

The Hearing was closed.

The Agent stated that, because they are planning one additional bedroom, a conventional septic system is also shown on the plan as required. He recommended approval of the plan as presented, conditional to the garbage grinder prohibition deed recording and the DEP Notice of Alternative System deed recording. Such a motion was made and seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with conditions.

**APPROVED 5-0 with conditions**

**12. Massachusetts Coastal Railroad (MCRR) 2022 Vegetation Control Program – 2022 Yearly**

**Operational Plan** – The Board noted receipt of a copy of this document, sent to the Conservation Commission. Ms. Campe commented on the name of the railroad, saying it seems unusual that it is the MA “Coastal” Railroad, since she doesn’t think of Sherborn as a “coastal” community. Conservation Commission member Carol McGarry stated that the ConsComm reviews some of these, noting that they are not allowed to spray outside of the right-of-way. Commissioner Courtney Ek stated that in the past someone actually went on the rails to confirm all of the on and off places with railroad personnel. Ms. Campe stated that the Board of Health wants them to minimize the use of herbicides and take care to stay away from water bodies.



Groundwater Protection Committee Chair stated that the GWPC is working on mapping all local residential wells in town, stating it is an ongoing 2-year project. The biggest limitation is that less than half of the files have any well information in them.

13. **9 Kendall Avenue, Kendall Avenue Limited Partnership – VARIANCE HEARING – Septic Replacement #22-16** – Paul Saulnier, P.E. was present with Bill Bernard, representing the owner. The Administrator stated that the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts, original returned envelopes, or usps.com printouts had been received, and all was in order. The Hearing was opened.

Mr. Saulnier stated that the existing 3-bedroom house is currently served by a cesspool. An innovative/alternative system (Eljen In-drain) is proposed, and no increase in design flow is requested or allowed. Mr. Saulnier noted that while they hit “refusal” in deep hole #4, the replacement system is proposed for an area where there was no refusal. The Agent stated that there is a stockpile area for soil shown on the plan. The requested variances were reviewed and discussed:

(1) Section 8.0(1) – to allow the proposed soil absorption system to be installed 2-feet above seasonal high groundwater rather than the required 5-feet, with the use of an Eljen 42 GSF system, per MassDEP’s “Remedial Use Approval”, last revised 9/3/21. No additional design flow is allowed. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(3) Section 10.2 – to allow the proposed soil absorption system to be located 75.6-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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(4) Title 5 Local Upgrade 310 CMR 15.405(1)(h) – to allow the proposed soil absorption system to be installed 2-feet above seasonal high groundwater rather than the required 4-feet, in soils with a recorded percolation rate of >2-minutes/inch, provided the existing system is failed, there is no increase in design

flow, and there is no reduction in setbacks from private wells. A motion was made to grant this Local Upgrade as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the local upgrade was approved.

**APPROVED 5-0**

Mr. Saulnier stated that the Eljen in-drains are considered extra treatment, and he felt they are as good as having a 4-foot offset to groundwater. He stated that the Board should not have to worry about the groundwater or wetlands at this site. 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. Such a motion was made and seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the plans was approved with conditions.

**APPROVED 5-0 with conditions**

14. **58 Oldfield Drive, Brett Piercy – request for soil testing application for new construction to be allowed after the April 1<sup>st</sup> deadline** (see Minutes of 12/2/2020) – Ms. Piercy was present. The Agent reviewed the request, noting that the septic system serving the property is no in failure. He stated that if this is allowed for this applicant, he knows of others who would have submitted applications after April 1<sup>st</sup>. The Agent stated that Ms. Piercy's letter is self-explanatory, but her engineer did not apply for soil testing for new construction prior to the April 1<sup>st</sup> application deadline. He stated that this is new construction because they want to add a bedroom. The Agent stated that the testing season for new construction opens again on November 1<sup>st</sup>.

Ms. Beardsley asked the Agent to verify that the only time the Board has ever allowed out-of-season testing is when it is an emergency repair or if the existing system is in failure or a cesspool, and the Agent confirmed that, stating that it has never been allowed for new construction. When asked, the Administrator also agreed with that statement, and stated that she explained it to the engineer two weeks ago. Ms. Beardsley asked if they could submit an application *now* for November testing, and the Administrator responded affirmatively, stating she advised the engineer of that as well, but recommended that they come back and submit in October for testing in November.

Dr. Vitale stated that Section 5.1(B) of the regulations on pages 6 and 7 that lists this requirement. Having that regulation, he felt that an exception for a failed system makes sense. If we have that regulation and this applicant doesn't adhere to it, then he didn't know if it provides a benefit. Managing that testing season is important to ensure that groundwater levels are accurate and it is reliable testing. He stated that he realizes Ms. Piercy believes we are close to the application deadline, but we are past it and adjudicating whether it is close enough to do it could vary by the year and can vary by a number of factors, so this makes him uncomfortable.

DPW Director Sean Killeen commented that tested out-of-season at 52 *Hunting Lane* "in a former life" for the house he built. The testing was done out-of-season, and it was a failed system, but it was built as a new system. Ms. Campe responded that he had a system in failure there, noting that was the trigger. She noted that there is no failed system here, and that is the issue.



Dr. Vitale stated that the deviation from the testing application deadline and testing season schedule is based on the urgency of a failed system. Mr. Killeen felt it was exactly opposite the Board's testing season because they weren't going to allow him to build a new 5-bedroom system until the existing 3-bedroom system was failed. Ms. Beardsley noted the Board was told about the desire to address the failed system and then proceeded to a new system. The Administrator noted that he was allowed to go from 3-5 bedrooms because no variances were needed.

Ms. Campe stated that it starts to get fuzzy when we try to compare and contrast different situations, but we felt the Board always has empathy in these situations, but if the Board says "yes" to something outside of the regulations, the floodgates are open and it is suddenly a precedent. Ms. Beardsley felt there are reasons why the seasonal testing is here, stating it works better for all involved.

In response to a question from Ms. Piercy, the Agent stated that in December 2020 the Board considered a preliminary building application as showing a request for an additional bedroom and advised Ms. Piercy to either determine that the existing septic system could be added on to or a new system installed. The Administrator stated that just having the soil testing conducted does not mean the extra bedroom is guaranteed. Ms. Piercy stated that variances would definitely be needed, so she asked what she could do under the current circumstances. She stated that she just needs to know what she can put over her parents' heads.

The Minutes of December 2, 2020 were reviewed, and Dr. Vitale felt it would be difficult for him to see a septic system modification as a solution to what this applicant wants to do. The option of changing the existing 2<sup>nd</sup> floor to only 4 bedrooms was discussed in 2020, with an associated 2-room accessory apartment, and providing a deed recording for the two existing basement rooms. Dr. Vitale felt that, with everything Ms. Piercy has described, it is difficult for him to see a septic system-based solution to this challenge, stating that it is probably a building plan-based solution. He stated that Ms. Piercy's best next step would be to check with the Agent and work with an architect to come up with plans that would meet the Board of Health requirements, noting that she should review those 2020 Minutes.

Ms. Piercy stated that, as an urban planner, she doesn't like the idea of a deed restriction because it's not very flexible in the future if there are changes in technology. Ms. Campe responded that it would run with the Title of the land. If someone were to demolish the existing house and build a new house on the property, there could be a situation where the deed recording might be able to be terminated. She stated that it is not that a deed recording has to last forever, it has to last for as long as the conditions remain as they are. Ms. Campe stated that, with legal counsel and in conversations with town boards, etc., she might be able to change things down the road and potentially terminate the deed restriction, but it would have to be in compliance with whatever regulations are in existence at that point in time.

A motion was made to extend the soil testing application and testing season date to allow the requested soil testing at 58 Oldfield Drive, and it was seconded. By a roll call vote:

Member Dr. Bevers – NAY

Member Ms. Campe – NAY

Member Dr. Hunnewell – NAY

Vice Chair Dr. Vitale – NAY

Chair Ms. Beardsley – NAY

The motion failed and the request was unanimously denied.

**DENIED 5-0**

15. **39 Nason Hill Road, David MacLaren – Building Application #22-16** (See Minutes of 4/6/2022) – Mr. MacLaren was present with contractor Thomas Bletzer. Mr. MacLaren stated that new plans had been submitted to the Building Commissioner on April 28<sup>th</sup>, and the contractor stated that those plans were updated to fit the guidelines the Board suggested at the last meeting, but the Administrator had not uploaded them into the Board's file. Mr. MacLaren shared his screen to allow the Board to view the plans.

Mr. MacLaren reviewed that the updated plans show the bonus room with no access to the second floor, and the staircase has a banister to clear up any question about an abutting space being a hallway, so the room is now just one open room with no 2<sup>nd</sup> floor access. The full floor plans for the entire house were reviewed, and room counts were reviewed. The Board agreed that the original house had a total of 7 rooms and 4-bedrooms. The proposed plans showed a 5<sup>th</sup> bedroom and the bonus room (which Dr. Vitale likened to the craft room at the *Bullard Street* project the Board reviewed approximately 1½-years ago) where it is a 2nd floor space accessible only via the garage. Mr. MacLaren stated the basement is completely unfinished, noting that it floods. Following brief discussion, the Board agreed that the final room count was 10-rooms and 5-bedrooms. Mr. MacLaren noted that he has a 5-bedroom septic, which allows 11-rooms total, so he should be within code.

Ms. Beardsley felt that, for this garage in particular, it is a little different because it is still integrated into the house, but with the way the bonus room has been walled off and separated from the rest of the second floor meets the Board's regulations. The Chair cautioned that if a bathroom ever goes into that bonus room, or if the hall is broken through to connect it to the second floor, that room will be turned into a bedroom, and the owner understood.

A motion was made to authorize the Agent to approve the building application, provided the plans are consistent with what has been discussed tonight, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the building application can be approved with condition.

**APPROVED 5-0 with condition**

16. **Open Meeting Law** – This Agenda topic was requested by Dr. Hunnewell, and the Administrator sent a request for more specificity for posting. However, Dr. Hunnewell did not respond to that request. Ms. Beardsley stated that the Open Meeting Law requires a more detailed description, and she stated that depending on what Dr. Hunnewell wants to talk about, that will determine whether the Board can actually do that tonight. She stated that if it is an administrative question, discussion could take place, but if it is something more substantive, it will have to be put on the next agenda. The Chair then asked Dr. Hunnewell to describe what she would like to discuss.

Dr. Hunnewell stated that on March 16, 2022 she gave a presentation to the Board of Health about the Citizen's Petition 23 [sic], and the minutes came out and were voted on at the April 6, 2022 meeting. She noted that at the April 6<sup>th</sup> meeting, the Board voted not to accept her corrections to the Minutes, but she stated that in the recording and transcript of that meeting, her 12 corrections were documented. As a result, she stated that she consulted with the Attorney General's office to find out what the rules are, and she agreed that the meeting Minutes do not have to contain everything verbatim, but the material in the Minutes needs to be factually accurate. Therefore, she is requesting that the Board reconsider accepting her proposed corrections because the approved 3/16/22 Minutes are not factually accurate. She noted that Dr. Vitale had allowed 2 corrections to be written into the Minutes of April 6<sup>th</sup>, but she stated that the Open Meeting Law specifically states that the corrections need to be made on the Minutes themselves. She believes it would be a violation of the Open Meeting Law if the Board doesn't correct those March 16<sup>th</sup> Minutes.

Dr. Vitale stated that the matter discussed on April 6<sup>th</sup> was that the Board doesn't allow public comment on how the Minutes should read, noting that he felt that would be a slippery slope. He noted just as Dr. Hunnewell, when wearing the "community member" hat, there may be many people who would like



to edit the Minutes, which are not intended to be a verbatim summary. He favored this discussion tonight being limited in scope, noting the extended discussion on April 6<sup>th</sup>.

Ms. Beardsley felt that if the Board is going to consider discussing this at all, it couldn't be tonight, noting this is a big question that Dr. Hunnewell is asking. Ms. Beardsley did say that she did go through the 12 comments regarding the March 16<sup>th</sup> Minutes that Dr. Hunnewell had submitted, and she carefully reviewed the recording, compared the two, and did not feel there was significant variation. She noted that not every single thing Dr. Hunnewell said was in the Minutes, but it was a lot and not all was necessary for the Minutes. However, she did not believe the review Dr. Hunnewell is requesting could be done tonight. Dr. Vitale agreed and stated that if the Board wouldn't be ready to allow public comment on the Minutes (for everyone), which he felt the Board wouldn't, he stated that he doesn't believe the Board can allow it for Dr. Hunnewell, noting that in a community member role it is different than a Board member role. Dr. Hunnewell responded that the difference is that we are talking about accuracy, and her requested corrections are clearly in the transcript and the recording. Dr. Bevers stated that the Board members who voted to approve those Minutes all felt the Minutes accurately reflected the meeting. Dr. Hunnewell asked if the Board members had listened to the recording and read the Minutes, and Dr. Bevers stated that he had, and he felt the Minutes accurately reflected the meeting.

Dr. Hunnewell stated that she did not want to have to submit an Open Meeting Law complaint, and Dr. Vitale responded that she should submit whatever she thinks is appropriate. He stated that he thinks Dr. Hunnewell is asking for a level of voice and agency that is not typical for the level of community input the Board has for Minutes, and he felt that if the Board granted that input to her, it would also suggest a conflict with her role on the Board. He stated that he recognizes that Dr. Hunnewell disagrees and believes the March 16<sup>th</sup> Minutes are inaccurate, but he stated that in this case, she is a community participant. The Board did its normal process of reviewing the Minutes, and even added review since Board members don't typically go back and review the video to cross-corroborate things. Dr. Vitale stated that it followed the process and if Dr. Hunnewell feels her best next step is to take it to the Attorney General, then she is welcome to do that in her capacity as a citizen. However, he did not think it appropriate, in her role on the Board, to be advocating for this as an agenda topic, noting that her roles need to be separated.

Dr. Bevers noted that Dr. Hunnewell is acting as a member of the public for this discussion, and he felt that it would be completely reasonable if she wanted to file a complaint, and then there would be outside review.

Conservation Commission member Carol McGarry stated that the Conservation Commission doesn't have details on their agendas, so she believes it would be fine to have discussion tonight. Secondly, she understands that there are fine points here about at what point Dr. Hunnewell is speaking as a Board member and at what point she is speaking as a citizen, but she hoped that if Boards knew that something was inaccurate in the Minutes, they would go back and correct it because it is a requirement to be as accurate as possible – no matter who tells us or reminds us about it. Ms. Beardsley responded that both she and Dr. Bevers went back and reviewed the recording against the comments submitted to the written Minutes. Ms. McGarry felt it was the obligation of the Board to go back and make the Minutes accurate. Dr. Bevers again noted that it was above and beyond for the Board to go back and review the recording based on citizen submitted comments, but they did, and they still felt the Minutes accurately reflected the meeting. He noted that Dr. Hunnewell disagrees on that point, but he stated that she cannot use her position on the Board to amend the Minutes in a way that a normal citizen wouldn't. Dr. Vitale stated that there shouldn't be any gray area about Dr. Hunnewell's role, noting that it wouldn't be permissible to have another community member add something to the agenda without telling the Administrator what it is about, and he discouraged the Conservation Commission, from an open meeting standpoint, from having agenda items without the appropriate specificity so a member of the public can clearly see what you will be talking about. Dr. Hunnewell stated that she thought the Board would be interested in what the Attorney General's office had advised.



Dr. Vitale recognized that Dr. Hunnewell doesn't believe the March 16<sup>th</sup> Minutes are accurate, but the feeling of the Board is that they are, and he felt both positions were fine. However, the Board is under no obligation to change the Minutes to reflect the position of the proponent. By not adjusting the Minutes, doesn't mean the Board failed to make them accurate.

Conservation Commission member Courtney Ek stated that she wanted to make it clear that Ms. McGarry was not earlier speaking as a member of the Conservation Commission and she urged Ms. McGarry to make that clear. Ms. McGarry clarified that when she spoke earlier, she was not speaking on behalf of the Conservation Commission, but was only observing.

Ms. Beardsley noted that, while the Board had a more detailed discussion than they normally would have tonight, no further determination was necessary.

17. **Regulation Review topics** (see Minutes of 4/6/2022) – Dr. Vitale noted the preliminary breakdown of tasks he proposed and hoped to get agreement from the Board regarding the distribution of tasks. Noting that members expressed interest in four of the tasks and he proposed the following distribution:

1. Ledge disruption – Dr. Hunnewell
2. Administrative Updates – Dr. Vitale and Dr. Bevers
3. Planning Board engagement – Ms. Beardsley and Dr. Bevers
4. Well Installation – Ms. Beardsley and Dr. Vitale

Well potability will go on the back burner since no one expressed interest. He stated that the rationale for this proposal is they everyone gets half a task. He noted that Dr. Hunnewell had as her highest priority ledge disruption, which otherwise was not a higher priority for others. Dr. Vitale stated that he hoped to get sign-off on this proposal so members can take those topics on with the plan to bring back proposal to subsequent meetings.

Ms. Campe recalled at some point offering to help with updating the well potability section in terms of drinking water quality objectives. She stating that she'd be happy to look at it with someone, but given her workload, she definitely can't do that on her own. Dr. Vitale responded that what is already listed is an aggressive set of pieces, and he felt well potability could be put on the back burner for now, and he noted Ms. Campe's general PFAS knowledge as a source of value.

The Board members were comfortable with the proposal as presented.

18. **Minutes** – The Minutes of April 6, 2022 were reviewed and discussed. Ms. Beardsley noted that she had provided minor edits, and requested a motion to approve the Minutes as amended. Such a motion was made. Dr. Hunnewell stated that she has some amendments to make, but once again she needs to listen to the recording. In response to a question from the Chair regarding when she could provide her edits, Dr. Hunnewell stated that she could do it tomorrow morning. Dr. Vitale stated that since it has been a month since the last meeting, if the Board doesn't vote on these Minutes tonight, there is a risk that the Board will be in violation of the open meeting law because she didn't provide her edits before this point, and Dr. Hunnewell stated that she could provide them tonight. Dr. Vitale stated that if she thinks her edits are minor grammatical edits, that would be fine, but if she thinks they are substantive edits, the Board is not in a position to approve. Dr. Hunnewell stated that the Board has questioned the integrity of her corrections before, so she felt the Board might not authorize them now, and Dr. Bevers commented that is why it would have been nice to have her proposed edits before this meeting. Dr. Vitale stated that he reviewed the Minutes and had no substantive edits, and Dr. Bevers and Ms. Campe stated that they had no edits at all.

Dr. Vitale stated that if Dr. Hunnewell feels that she has edits that she needs to offer, the Board would not be in a position to vote on it tonight, but it does risk that we'll be violating the open meeting law. Dr. Hunnewell stated that she does have some errors that she'd like to correct that were quotes of statement she made. Ms. Beardsley stated that all of the Board members are squeezed to review Minutes and get them done by the next meeting. Dr. Hunnewell stated that she has sent edits at the last minute to the

Administrator before and she didn't think the Board had any objections before, but Dr. Vitale responded that if these are not substantive edits, there is no objection. Dr. Hunnewell stated that they were not substantive edits. Dr. Vitale advised the Administrator that if she had any concerns about that, then these Minutes could be brought back as an agenda item on May 18<sup>th</sup>. The Administrator responded that she does not believe she is required to accept any edits that are provided to her, noting that the Minutes are not verbatim and are not a transcript, and she is not required to accept edits that she feels are not necessary. Ms. Beardsley noted that when she sends edits, she always says they are "suggested".

Dr. Vitale stated that he was comfortable to vote on the Minutes as a Board and then, if the Administrator has concerns with edits to be provided by Dr. Hunnewell, The Administrator can bring them back at the next meeting for a follow-up discussion, and he asked if that was reasonable. He noted that the Administrator typically provides the Minutes to the members at least a week ahead of the next meeting. Following additional discussion, Dr. Vitale suggested that the Board members review the Minutes as quickly as possible after they are provided and provide possible edits back. If the Administrator feels they are substantive, she can circulate amended Minutes around. The Administrator stated that following the last meeting the Town Clerk advised that any edits should only be typographical, noting that these are her own notes. She suggested that Dr. Hunnewell check with the Town Clerk and see what she says.

A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

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

19. **5/18/2022 agenda items** were listed. There is one variance hearing scheduled. The Administrator was instructed to include a brief discussion of the regulation review process, and was instructed to hold off on including a discussion about beaver management.

20. **Adjournment** – A motion was made to adjourn the meeting, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

This virtual meeting adjourned at 8:56 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]

M22-0504.doc



**DOCUMENTS REVIEWED AT THE VIRTUAL 5/4/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **97 Washington Street –Septic Replacement/Expansion plan #22-28**, drawn by McIntyre Engineering, dated 3/14/22 and revised 5/2/22
  - Variance request letter dated 3/28/22 from Daniel McIntyre, P.E.
  - Certified list of abutters from Assessor's office dated 3/23/2022
  - Copy of abutter notification letter from Daniel McIntyre, P.E. dated 3/30/2022
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
2. **9 Kendall Avenue –**
  - Septic Replacement plan #22-16, drawn by CIVILized Solutions and dated 2/2/22 and revised 5/2/22
  - Variance request letter dated 2/8/22 from Eric Dickinson, R.S.
  - Certified list of abutters from Assessor's office dated 4/5/2022
  - Copy of abutter notification letter from Bill Bernard dated 4/5/2022
  - Certified mail return receipts (green cards) and/or usps.com printouts or original returned, unopened envelopes
3. **Library Arts & Crafts Fair –**
  - Temporary, 1-Day Food Establishment Permit Application #TF22-18 for 7 food vendors
4. **C.A. Dowse and Son Inc. –**
  - 2022 Seasonal Food Establishment Permit Application #F22-19 with partial water analysis
5. **Natick-Walpole Visiting Nurse Association –**
  - March 2022 COVID-19 invoice
  - April 2022 COVID-19 invoice
6. **New 2022 Disposal Works Installer Permit Application –**
  - Robert Despres d/b/a Despres Landscape & Excavation of Westminster - #122-18
7. **10-Day Emergency Beaver Permit Application –**
  - Town of Sherborn DPW for Goulding Street East and South Main Street - #B2022-01
8. **Minutes –**
  - 4/6/2022 Board of Health meeting Minutes
9. **39 Nason Hill Road –**
  - Building Application #22-16 including existing floor plans and updated proposed floor plans (available from the Building Department)
10. **Massachusetts Coastal Railroad (MCRR) 2022 Vegetation Control Program**
  - Copy of letter dated 4/4/2022 addressed to the Sherborn Conservation Commission from Tec Associates Consulting Engineers with the 2022 Yearly Operational Plan
11. **58 Oldfield Drive –**
  - Letter dated 4/22/2022 from Brett Piercy, owner
  - 12/2/2021 Board of Health meeting Minutes
12. **Sustainability Letter of Support –**
  - 5/3/2022 email from Sustainability Coordinator Dorothea Von Herder requesting a support letter for the Municipal Vulnerability Preparedness Grant – FY23
13. **Regulation Review –**
  - Chart of Board members' preferences for regulations on which to work
  - 5/2/2022 email from Dr. Vitale to BOH Administrator with proposed division of labor



**14. Open Meeting Law –**

- Dr. Hunnewell's 5/2/2022 email to BOH Administrator requesting agenda item "Open Meeting Law", with Administrator's response requesting more specificity for the agenda (in accordance with the OML)

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
May 18, 2022**

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

**Members Absent:** None

**Others Present:** Margo Powicki, Bob Carreiro, Kay Petersen, Matthew Bombaci, Courtney Ek, Marian Neutra, Sean Killeen, "fb", Laura Weatherall, Alex Weatherall, and Mark Oram, Agent.

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – absent

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

This VIRTUAL meeting came to order at 7:05 PM via Zoom with Ms. Beardsley, Dr. Vitale, Ms. Campe, and Dr. Bevers present. It was noted that all votes shall be taken via roll call vote.

1. The Chair 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) New 2022 Disposal Works Installer Permit application – Paul Gouveia of Rehoboth, MA - #I22-19

(2) Farm Road Homes 40B

(3) Farm Pond Bathing Beach License - #B2022-1

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Absent

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley - AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

2. **25 North Main Street, Robert Carreiro – Building Application #21-68** – Mr. Carreiro was present. Health Agent Oram reported that the septic system at this site serves both 25 and 27 North Main Street, with each building having its own septic tank. He noted that the owner has disclosed that the "tee" in the tank for 25 North Main needs to be replaced, and he stated that without a Title 5 Inspection, we don't know if the system is functioning properly. The Agent recommended a Title 5 Inspection be required.

The site plan was reviewed and it was noted that the building has already had an addition. 27 North Main Street is the bicycle shop and insurance agency with two (2) 1-bedroom apartments on the second floor, according to Board of Health records. Mr. Carreiro stated that the 2 rooms on the second floor of 27 North Main are now offices, and he stated that they haven't been used as apartments for many years.

Ms. Beardsley suggested that floorplans be provided, and Ms. Campe agreed, stating that she needs clarity of the floorplans for both buildings, noting that the information provided is too broadly general. Dr. Bevers agreed that floorplans are needed, but commented that he felt a Title 5 Inspection should be

required. Dr. Vitale stated that this joint system is generally more vulnerable. Ms. Beardsley questioned if the system was being evaluated on the basis of the DEP tables of commercial facilities.

Dr. Bevers felt there were 2 issues:

- (1) Can the Board approve a building application? He felt that the Board could not without more information about the septic system and floorplans of both buildings.
- (2) Does the Board need a Title 5 Inspection report? Dr. Bevers felt the answer is “yes”.

[Dr. Hunnewell logged on to the meeting at 7:17 PM.]

Mr. Carriero asked if the Board wanted detailed floorplans, and if they wanted them for 25 or 27 North Main or both, and he was advised that the Board wants detailed floorplans for both buildings. Dr. Vitale noted that before the Board can get to the building application, they will need the Title 5 Inspection report, and he noted that the Board needs the detailed floorplans in order to do a room count to determine the design flow. Mr. Carriero stated that he has already ordered a Title 5 Inspection and noted that it is scheduled with Scott Septic on June 6<sup>th</sup>. He stated that he would continue to work on the floorplans. Ms. Beardsley stated that the Board needs the floor area because this is a commercial use and area can influence flow calculations.

Dr. Vitale stated that with regards to the detailed floorplans and patterns of use, it is conceivable that Mr. Carriero might have to hire someone to review the design flow. If it is a straight forward question, the Agent might be able to help, but that is unknown right now.

Mr. Carriero stated that he would touch base with the Agent regarding the level of detail needed for the floorplans, and the Agent noted that he does not need to hire an architect – he can draw them himself with a pencil and ruler.

3. A **New 2022 Disposal Works Installer Permit application** was received from **Paul Gouveia** of Rehoboth, MA - #I22-19, and it was reviewed. The references have been checked and are OK. A motion was made to approve the issuance of this permit, conditional to a pre-construction conference with the Agent prior to any work, and close oversight by the Agent, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

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

4. **2022 Farm Pond Bathing Beach License - #B2022-1** – The Administrator stated that a request has been received to approve this license so the beach can open Memorial Day weekend. The Agent noted the Board should vote *conditional* to passing beach water reports (and drinking water reports if the water fountain is to be used), as well as an inspection. A motion was made to approve the issuance of this license, conditional to the Agent’s inspection and water reports, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

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



5. **Farm Road Homes 40B** – Ms. Beardsley stated that notice has been received that plans for this project will be submitted for a 40B on Farm Road. A site visit has been scheduled for 6/14/2022 at 11:00am. Ms. Beardsley stated that she hopes to attend the site visit, and the Agent stated that he also hopes to attend. Dr. Hunnewell stated that she would like to attend the site visit, but stated that she is not available until noon. Ms. Campe responded that it will likely be finished by noon, but she stated that comments are due 6-days after the walk-through.

Ms. Campe stated that she will not be able to attend the 6/15/2022 BOH meeting, and Dr. Bevers stated that he could not attend the 6/1/2022 meeting.

6. **21-23 South Main Street, Alex Weatherall, Sherborn Fuel LLC – VARIANCE HEARING – Septic Replacement #22-14** (see Minutes of 6/16/21) – Alex and Laura Weatherall were present with engineer Matt Bombaci from Bohler Engineering. The Administrator stated that the certified list of abutters and a copy of the abutter notification letter have been received. Most of the certified mail return receipts (green cards) have been received, and a check of the post office website for the 6 outstanding cards show that they are being returned to the sender. She stated that the engineer should provide those original, unopened envelopes to the BOH office when received, and stated that proper abutter notification has been made. The Hearing was opened.

Mr. Bombaci stated that the proposed is to move the Dunkin' from inside the Sherborn Market building to the former hair salon building. He noted that the site has been reviewed by the Planning Board and the ZBA and approved, and that it has received an Order of Conditions from the Conservation Commission.

The existing Presby system was designed and installed around 2005, with a total design flow of 1000-gallons/day which included 400-gallons/day for the hair salon. Mr. Bombaci stated that the proposed design removes the hair salon and replaces it with a minimal design flow for a couple seats within the Dunkin' shop. There was a question regarding whether this proposal was new construction or an upgrade, and Claire Golden of MassDEP sent an email on 5/16/22 stating *"If the design flow for the new 'configuration' ... is less than or equal to the existing design flow, then it is an upgrade. Otherwise, it is new construction."*

Ms. Campe asked Mr. Weatherall if he would just be expanding the market within the main building or if he was planning to add something else to the Dunkin' space. Mr. Weatherall responded that he wants to add a "take-out dinner/meal component", and he stated that whatever he does will not put considerable demand on the system. However, nothing substantial is planned at this time. Ms. Campe cautioned that whatever the owner is contemplating is taken into account with the cumulative design flow, and she stated that she doesn't want any surprises. Ms. Beardsley stated that at one point, a take-out food service in the downtown area couldn't do it because they didn't have the necessary design flow. The Chair stated that, for advocacy of the application, it would best be done by someone evaluating it for the applicant, and the Board of Health would review it.

Mr. Bombaci stated that coffee and creamers are "brutal" on septic systems, and he hypothesized that is probably what is causing the problems with the current system. He stated that the proposed system includes a MicroFAST unit with a blower to aerate the tank, with a traditional trench system (2x2 trenches) in the area of the existing Presby system.

The Agent stated that Claire Golden of MassDEP has suggested that there should be a "cap" on the gallons/day for the system, lower than the minimum 1,000-gallons/day. He noted that the need for the 1,000-gpd makes sense due to the strength of the sewage, but it was felt that it might be best to look at the complex as a whole and consider a cap on the total design flow allowed. If 1,000-gpd is put into the system, adequate treatment might not be achieved.

Ms. Beardsley asked if a pizza shop falls into the category of “fast food” in Title 5, and the Agent responded that the Title 5 chart does not list out every possible use, and he felt the Board should take that into consideration.

Noting that the total design flow for the existing use, per the plan, is 650-gpd, Dr. Vitale asked the owner if he anticipates almost doubling the design flow to 1,000-gpd. He felt that if the existing use is 650-gpd, then the replacement system (with variances) can be 650-gpd. In response to Mr. Weatherall’s question asking why he couldn’t use 1,000-gpd, Dr. Vitale responded that it is because for a replacement system, he is only using 650-gpd. Ms. Campe stated that she felt Mr. Weatherall won’t be able to do anything more, but she felt it might be useful to check with Claire Golden at MassDEP to see if she would allow additional flow since he is using aeration. The Administrator read Ms. Golden’s 5/16/22 email.

Ms. Beardsley noted this is a complicated site – it is dense for an area that relies on septic and well on the same property and there is quite a bit of fill and an increase in flow is being contemplated by the owner. Dr. Bevers stated that Mr. Weatherall seems to be confused that he has a 1,000-gpd minimum system, but he is being limited to 650-gpd. The Agent stated that this was discussed with Ms. Golden at MassDEP. Ms. Campe suggested that Mr. Weatherall ask the Board to provide DEP with his updated plans, stating that it might be prudent to have DEP review it. Engineer Matt Bombaci stated that he would like to have the design flow determined and obtain DEP advice.

Select Board member Marian Neutra sympathized with Mr. Weatherall, asking how, if the system has to be designed for 1,000-gpd, the Board can limit it to 650-gpd, and Dr. Vitale responded that the existing use was 650-gpd. Dr. Vitale stated that he had a concern that the applicant could say the system was over-designed so he wants to use the additional flow when he has received variances. He provided an analogy to residential systems and replacements vs. new construction. Dr. Hunnewell stated that anything over the 650-gpd would be considered new construction.

Ms. Neutra noted there has been talk of a restroom in the Dunkin’, and she asked if that was still planned, and she encouraged the Board not to delay the project. Ms. Beardsley noted that the Planning Board has seemed excited about a public bathroom at Dunkin’, and she asked Ms. Neutra if the expectation is that people from events in the downtown area (i.e., the Library Fair) would be sent to the Dunkin’ bathroom, and Ms. Neutra responded negatively.

The requested variances were reviewed and discussed:

(1) Section 5.1(B) – to allow the use of confirmatory soil testing conducted out-of-season in June 2021 to design the replacement system rather than in-season testing. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(3) Section 7.1(D) – to allow the proposed soil absorption system to be designed using 4-foot spacing between the leaching trenches rather than the required 6-feet. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

(4) Section 8.0(1) – to allow the proposed soil absorption system to be installed 4-feet above maximum 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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – 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 installed in an area where maximum high groundwater is <5-feet below natural surface grade. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(6) Section 10.2 – to allow the proposed soil absorption system to be located 66.6-feet from 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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – 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 74.5-feet from an open surface drain 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:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Dr. Vitale – AYE

Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(8) Section 13.0(1) – to allow the proposed septic tank to be installed 160-feet from the building it serves rather than the required 50-feet or less. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:



Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell – AYE  
Vice Chair Dr. Vitale – 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)(e) – to allow the proposed soil absorption system to be located 66.6-feet from wetlands rather than the required 100-feet. This request was withdrawn by the engineer as it is not needed.

**NOT VOTED / REQUEST WITHDRAWN**

(10) Title 5 Local Upgrade, 310 CMR 15.405(1)(i) – to allow the proposed soil absorption system to be designed on the basis of sieve analysis, in accordance with MassDEP guidance, rather than the required percolation test. A motion was made to approve this local upgrade, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell – AYE  
Vice Chair Dr. Vitale – AYE  
Chair Ms. Beardsley – AYE

The motion passed and the Local Upgrade was approved.

**APPROVED 5-0**

The Hearing was closed.

The Agent noted that revised plans for this project was just received yesterday and he stated that they have not yet been reviewed to determine if all of the changes/corrections to the deficiencies have been made. Dr. Vitale noted that the Agent, Engineer, and Claire Golden at MassDEP should communicate regarding the design flow and any limitations.

Dr. Vitale instructed the BOH Administrator to place this on the 6/1/2022 agenda for additional review and discussion, including any advice received from Ms. Golden, and possible approval if all is in order.

7. **Additional Meeting – 7/6/22** The Administrator stated that she is currently holding at least one submittal that needs a variance hearing, waiting for Conservation Commission approval, and she is expecting more submittals soon. After this week, it will be too late to schedule for the July 20<sup>th</sup> meeting, so an additional meeting in late June or early July might be needed. Possible dates of 6/19/22 or 7/6/22 were discussed, and the July 6, 2022 date worked the best for all, with the exception of Dr. Hunnewell. Since a quorum is available for 7/6/22, the Administrator was instructed to schedule variance hearings for that date if necessary. The scope of this additional meeting will be limited to variance hearings *only*.

8. **Reorganization of the Board** – Ms. Beardsley nominated Dr. Vitale to be Chair, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell - AYE  
Member Ms. Beardsley – AYE  
Member Dr. Vitale - AYE

The motion passed and Dr. Vitale is now Chair.

**AGREED 5-0**

Dr. Vitale nominated Ms. Beardsley to be Vice Chair, and it was seconded. By a roll call vote:

Member Ms. Beardsley – AYE  
Member Dr. Bevers – AYE  
Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and Ms. Beardsley is now Vice Chair.

**AGREED 5-0**

DPW Director Sean Killeen asked to be the first public member to thank Ms. Beardsley for her many years of service as Chair of the Board of Health, and he congratulated Dr. Vitale on his new position. Dr. Vitale also thanked Ms. Beardsley for her work as Chair.

The Board reviewed their previous other appointments as follows:

Health Agent (including enforcement) – Mark Oram

Casual/Supplemental Part-time Agent – Ethan Mascoop

Food-Camp Inspector – Thomas Curran

Animal Inspector – Kimberly Morrow

Burial Agent – Jacklyn Morris

Groundwater Protection Committee Representative – Barton Kunstler

Local Emergency Planning Committee Representative – Ellen Hartnett

Emergency Preparedness/Bioterrorism Agent -- Ellen Hartnett

BOH Administrative Assistant -- Jean Greco

BOH Administrator – Ellen Hartnett

A motion was made to confirm these previous appointments 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 appointments were confirmed.

**AGREED 5-0**

9. **Potential Open Meeting Law Complaint** (see Minutes of 5/4/2022) – The Chair noted receipt of a letter dated 4/15/2022, received on 5/5/2022) from Rebecca Hunnewell, M.D. regarding a potential OML complaint. He requested the Board vote to authorize the Chair to work with Town Counsel on a response, 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 Chair will work with Town Counsel on a response to this letter.

**AGREED 5-0**

10. **COVID-19 Update** (see Minutes of 5/4/22, 4/6/22, 3/16/22, 3/2/22, 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) – Dr. Vitale noted there has been a definite increase in local cases as well as case across the State. The D/S school district has also seen an increase in cases. The prevalence of antigen testing has changed what the numbers mean, and he stated that there is a systematic underreporting of cases of an estimated 10%.

Ms. Campe provided an anecdotal comment, stating that her corporate policy is that when the community transmission rate is high, her company starts indoor masking again. She stated that she is just relaying this information, noting there is not a big appetite to bring back masking, but felt it was a possibility. Dr. Vitale responded that the Health & Hygiene Advisory Group discussed this yesterday, and advised the school committee that there is high transmission. The school's onsite supply of antigen tests is adequate. Dr. Vitale stated that he hopes we are at the peak, but he noted that we might see an increase in cases at the end of the school year with the increased social activity, and the district is thinking of this. Dr. Bevers noted that the Seniors are done with in-school learning as of this Friday.

Courtney Ek commented that, as a parent of a student at Pine Hill, she was surprised at the tepid letter sent by the Superintendent. She asked if the school or the Board could just tell people that they should wear a mask when indoors in public places? Ms. Beardsley agreed, and felt it worth trying, given the Board's role in local health. She noted that at least recommending what is appropriately precautionary might help those who are finding peer pressure to not wear masks difficult. Dr. Bevers responded that it was discussed, but fixing it at the school would not be fixing anything. Ms. Campe noted that rates are up and that the CDC is recommending masking indoors. Dr. Bevers stated that he wished the statement from the superintendent has stated that the CDC is recommending masking.

Marian Neutra stated that the metrics on the DPH website this morning shows the incidence of new cases is highest among 20-30-year-olds, and she felt we will see a surge in Sherborn. Dr. Bevers responded that we are already seeing a surge in Sherborn. Ms. Campe noted that she was quite ill when she had COVID-19 recently.

Dr. Hunnewell stated it would be good to make a factual statement, noting that we are seeing a lot of long-term consequences and complications. She felt the Board should encourage prevention of the spread of disease by recommendation. Dr. Vitale responded that a recommendation is reasonable, noting that we are in an area right now where masking is totally reasonable. Dr. Hunnewell noted that it is difficult to control human behavior, but the Board can tell people what is recommended.

Ms. Neutra stated, as a Select Board member, that she would be in favor of whatever statement the Board of Health makes. She felt that people are unaware of just how transmissible it is, and they are not aware that people who are vaccinated and boosted are still being infected. Ms. Neutra stated that a series of clear statements of the facts would be helpful.

The Administrator was instructed to check the expiration date on the ARPA funded antigen tests and advise the Chair and Vice Chair.

10. **Minutes** – The Minutes of 5/4/22 were reviewed. Ms. Beardsley had provided minor edits. A motion was made to approve these 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. **Regulation Review Process** – The Administrator was instructed to place this topic on the 6/1/2022 agenda for discussion.

12. **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 9:01 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 5/18/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **21-23 South Main Street –**
  - Septic Replacement Plan #22-14, drawn by Bohler Engineering, last revised 4/4/22
  - Variance request letter from Eric G. Dubrule and John A. Kucich, P.E. of Bohler Engineering, dated 4/11/22
  - Application for Local Upgrade, Form 9A
  - Certified list of abutters from Assessor's office
  - Copy of abutter notification letter, undated, from Eric G. Dubrule and John A. Kucich, P.E. of Bohler Engineering
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters and/or unopened returned envelopes
  - Local Upgrade Approval, Form 9B
  - BOH meeting Minutes of 6/16/2021
  - 5/16/2022 email from Claire Golden, MassDEP, subject: Question on new construction at 21-23 South Main Street, Sherborn, MA
2. **Potential Open Meeting Law Complaint –**
  - Letter dated 4/15/2022, received on 5/5/2022, from Rebecca Hunnewell, M.D.
3. **Regulations Review Process –**
  - Administrator's "Developing Proposed Regulations Changes" handout with a copy of a previous Legal Notice for proposed changes, a Public Hearing Notice, Public Hearing Procedure, Legal Notice for adopted changes, and Board of Health notice of adopted changes (for website)
4. **25 North Main Street –**
  - Building Application #21-68, including old site plan (available from Building Department)
  - 1981 correspondence from and to Joan T. Pease regarding 25 North Main Street septic
  - Septic pumping records for 25 and 27 North Main Street
  - 5/13/22 email from Robert Carreiro to Health Agent re: status of the septic system
5. **2022 Disposal Works Installer Permit Application –**
  - Paul Gouveia of Rehoboth - #122-19
6. **Minutes –**
  - BOH meeting Minutes of 5/4/2022
7. **Reorganization of the Board –**
  - 5/12/22 memorandum to the BOH members from BOH Administrator
8. **Farm Road Homes 40B –**
  - Copy of 5/17/22 letter from Michael Busby, Relationship Manager at Mass Housing, addressed to Sherborn Select Board Chair Eric Johnson, RE: "Proposed 40B – Farm Road Homes, Sherborn, MA, MH ID no. 1151"
  - Email dated 5/17/22 from Jeanne Guthrie re: "Proposed 40B – Farm Road Homes" and site visit date/time

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
June 1, 2022**

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

**Others Present:** Margaret Powicki, Bob Murchison, Courtney Ek, Frank Wadas, Kristen Legor, Ian Bridgman, Charley Levine, Mary O'Hara Moore, Matthew Bombaci, Joyce Hastings, "iPhone", David Silverstein, Stuart Bridgman, Jeffrey Brem, P.E., Daniel McIntyre, P.E., "E Carroll's iPhone", Paul & Andrea Kelly, Brian Moore, Alex & Laura Weatherall, John Garrison, Chef Josh Ziskin, Laurel Valchuis, Karen Bonadio, Eric Johnson, "Wheelwright", Jeff Waldron, Food-Camp Inspector Tom Curran, and Mark Oram, Agent

By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

Member Dr. Bevers - Absent

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 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) Heritage of Sherborn – 5/27/22 inspection report

(2) 5/18/22 Minutes – for approval

(3) Three Temporary Food Establishment Permit applications for Dudleyfest at Unity Farm on 6/11/22

(4) Free rapid antigen test kits available to the BOH from the State

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 Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

2. **36 Great Rock Road, Robin Curtis – Septic Replacement/Expansion Renewal #22-40** (see Minutes of 6/3/2020) – The Agent recommended approval of this renewal plan, noting that the original submittal was approved under #20-25 on 6/3/2020. A motion was made to approve the renewal as requested, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE



The motion passed and the renewal was approved.

**APPROVED 4-0**

3. **29 Prospect Street, Stuart Bridgman – Revision to a Previously Approved Plan #22-33** (see Minutes of 5/19/21) – The Agent stated that this is a revision to the septic replacement/well replacement #20-70/71 plan that was approved on 5/19/21. This plan meets new construction standards and does not require any variances. The change includes a new house footprint in that they are adding on to the house.

The Agent noted that the engineer extrapolated groundwater at the foundation, stating that they want to determine the groundwater level at the foundation at the time of construction. He stated that a slab rather than a full basement might be necessary if the groundwater, when determined at the time of construction, is not found to be deep enough.

The Agent recommended approval of this plan as presented, noting that the replacement well must be drilled, and potable water proven, prior to construction of the replacement septic system. A motion was made to approve this plan as presented, conditional to the Agent's recommendations as noted above, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with conditions.

**APPROVED 4-0 with conditions**

4. **Lot 163A Maple Street (at 0 Maple Street) – Paul & Andrea Kelly – New Septic/New Well #22-05/06** (see also #20 of these Minutes) – Noting that the Board has not yet received Conservation Commission approval for the revised plan, the plan was not reviewed. It will be placed on a future agenda after receipt of Conservation approval and review by the Agent.

5. **145 Forest Street, David Silverstein (builder) – Preliminary Building Application #P22-21** (see Minutes of 2/15/12 and 7/21/10) – Charley Levine and David Silverstein were present, as was Joyce Hastings from GLM Engineering.

The Agent stated that the septic system, built in 2010, was designed for 5-bedrooms. The existing floor plan was reviewed:

- Existing 1<sup>st</sup> floor – 3 rooms
- Existing 2<sup>nd</sup> floor – 3 rooms

Dr. Vitale noted that there are lots of closets and bathrooms, as well as a laundry in addition to the rooms. Ms. Campe noted that one of the bathrooms is actually larger than the primary bedroom.

- Existing basement – 4 rooms (playroom, cedar closet, massage room, and personal salon)

This existing floorplan results in 10 rooms.

The proposed floorplan was reviewed:

- Proposed 1<sup>st</sup> floor – 4 rooms

It was noted that the 3-season room next to the kitchen and family room is not heated, so it is not counted.

- Proposed 2<sup>nd</sup> floor – 5 bedrooms plus the fitness room (with a full bath) = 6 rooms

Discussion followed regarding the fitness room, which is above the garage and is accessed from a stairway on the 1<sup>st</sup> floor. While there is no access from the other rooms on the second floor, it was noted that there is a full bathroom, so that fitness room is automatically considered a bedroom. In order to *not* be counted as a bedroom, the bathroom off the fitness room can only be a ½-bath, but it would still be counted in the overall room count.

- Proposed basement – the same as existing – 4 rooms

The resultant room count for the proposed plans is 14 rooms, which would require a 7-bedroom septic system, unless a deed recording for basement room(s) was provided. Options were discussed, including: (1) deed recording the 4 rooms in the basement, stating that they can never be used as bedrooms, and change the full bath in the fitness room above the garage to a half-bath. Ms. Beardsley felt it important to ensure that if this is done, that the ½-bath be designed so it is clearly a ½-bath and not too close to becoming a full bath in the future.

(2) Add on to the 2010 septic system to add design flow to allow 6- or 7-bedrooms (if no variances were granted). This would require soil testing, design, and approval of a septic system alteration, but it would allow the full bath in the fitness room, and either a simple deed recording or possibly no deed recording for the basement rooms.

The Agent stated that if they choose Option 1 (deed recording the basement rooms and changing the full bath in the fitness room to a ½-bath), they will also need to provide a passing Title 5 Inspection Report.

Ms. Campe asked about a note indicating an irrigation system, and she asked if there was a second well. Ms. Hastings responded that she believes there is a second well serving the property.

**6. 21 Prospect Street, Jeffrey Brem, P.E. – Discussion of soil testing and BOH Regulation I, Sewage Disposal, Section 8.0(2)** (see Minutes of 11/17/21 and 6/16/21) – Owners Frank Wadas and Kristen Legor were present with Jeffrey Brem, P.E. of Meisner Brem Corp. The Chair noted receipt of a letter dated May 10, 2022 (“Board of Health Regulation, Article I, Section 8.2”) and requested the Agent to introduce this discussion and provide the Board with some background.

Health Agent Mark Oram stated that an application to conduct soil testing (for new construction) was received in mid-late March (under application #22-24), and the soil testing was conducted in April 2022. He reported that the engineer was advised onsite at the time of the testing that due to the indication of groundwater from mottles, the site would not be suitable for new construction. Mr. Oram noted that the owner was also onsite, as was another soil evaluator, and that he was sure to advise them all of this result. He noted that they disagreed, and stated that they wanted to review this with the Board.

In response to a question from the Chair regarding the depth to the mottles, the Agent stated that he didn’t have that information in front of him, but he would get his soil test book to provide that information. The engineer, Jeffrey Brem, stated that the results for the 4 deep holes was (1) 42-inches, (2) 38-inches, (3) 36-inches, and (4) 40-inches. The Agent confirmed that those results sound like what he remembers.

Mr. Brem introduced himself and referred the Board to his May 10<sup>th</sup> letter. He stated that Mr. Wadas and Ms. Legor recently purchased two (2) properties – a 1-acre property at 21 Prospect Street with an existing house and a recently replaced septic system, and an 11.4-acre adjacent empty lot that is currently used as a farm field. They want to continue to farm that adjacent lot, but they’d like to put a house on a portion of it. The soil testing was conducted on April 24, 2022, within the Board’s required season for new construction. He stated that he is in disagreement with the Agent regarding a specific regulation, and he’d like to discuss that with the Board tonight.

Mr. Brem stated that he provided some background to the Board in his letter about what a soil log is, and he stated that he didn’t want to go through that tonight unless the Board has any questions. He noted that the soil profile must be done in Sherborn between November 1<sup>st</sup> and April 29<sup>th</sup>, and he stated that they did do it within that timeframe, and that they are about to go do the percolation test so that will also be within the time limits and they won’t need any kind of waivers or variances from that.

The engineer stated that they observed groundwater at 92”, 92”, 96”, and 106” in the four holes, and he stated that the minimum of that is 7.67-feet, and he stated that they sunk a well in two of those holes and got elevations of 85-inches. Mr. Brem stated that all of those meet the requirement of being more than 5-feet below the existing ground. He stated, however, that the question really is *what is the maximum groundwater level versus redoximorphic features*. Mr. Brem stated that he made his argument in the letter that Title 5 uses Form 11, Section C.5, stating there is a checkbox there to describe where groundwater was

observed (yes or no) and there is an input line for weeping water and depth of standing water. He stated that they noted all of that on the forms they submit, and he stated that they are all greater than 5-feet, so the only issue is the redoximorphic features. He stated that he knows they will use those redoximorphic features in the design of the system, and they have no problem with that and they believe they have the 5-foot “when it’s 5-feet or less below the natural surface grade”. Mr. Brem stated that they believe they have that to the groundwater elevation, which was done in the high-water table.

Mr. Brem stated that the Agent mentioned a long-standing regulation, Section 8.0(2), that doesn’t allow that, and he doesn’t think Section 8.0(2) is not allowing it – they believe they are within the requirements of 8.0(2) because they are using the groundwater level and not the redoximorphic features. He stated that Section 8.0(2) does not talk about the redoximorphic features – it talks about the groundwater level, which he stated that they meet. Mr. Brem noted that he is probably “dividing a line” there with the Board, but he stated that otherwise, there was testing done on other parts of the lot between the wetlands and the Board’s 125-foot offset requirement, which is stated is significantly above the Title 5 50-foot offset requirement, and other things, there were only 2 locations where testing could be conducted on this lot. He stated that there was previous testing done with similar results to his on the other section of the property, and he stated that if this interpretation is incorrect, then there might not be a buildable lot there, and he stated that doesn’t seem right, noting that the owners would get 11-acres of land that will meet Title 5 without any waivers or variances.

Mr. Brem stated that they’d like to go forward before he draws up a design, and before he does the percolation testing, and meet and discuss with the Board to make sure he is reading the regulation correctly since he and the Agent disagree.

Dr. Vitale requested confirmation from Mr. Brem that when he spoke of “incorporating the redoximorphic features into the design”, that he meant that this would have a mounded system, and Mr. Brem responded that that was correct. This would be a mounded system like it is allowed “everywhere else”. Mr. Brem noted that they would maintain at least 5-feet of pervious material / natural soil below the bottom of the leaching area by raising the ground.

Ms. Campe commented that Sherborn’s regulations are more stringent than Title 5 because the town has a plethora of very sandy alluvium, lots of wetlands, and almost exclusively private wells, so the Board has a lot of rationale behind why that buffer was added to the regulations. Hence that additional foot provides further filtering. She stated that she thinks his question comes down to should the Board be using mottling as a surrogate for the maximum height of the water table, or should the Board rely on a water table measurement that occurred within the timeframe that is specified. Ms. Campe concurred that March and April are usually months of pretty high-water table elevations due to the amount of rain or snow melt that occurs within that period, but she noted that mottles are associated with wetness – that is how we know they form. Redoximorphic features are created because there is moisture there, and Ms. Campe felt that is not a false indicator.

Ms. Campe stated that she thinks Mr. Brem is asking about the letter of the regulation, stating that he measured groundwater in the timeframe specified, and he did that and he meets the five-feet, so he is asking why he can’t rely on that. The Agent agreed, and stated that the discussion needs to concentrate on Section 5.1(B) which states that “if the redoximorphic features are inconclusive, then we set an adjustment per Frimptor, but he noted that under 5.1(B), mottles *were* seen, and the engineer is not arguing that, and they *were* conclusive. Therefore, the Agent stated that the way he sees it, they are not meeting the requirements to have groundwater more than 5-feet below natural surface grade because mottles were found. He noted that the mottles were found at about 3-feet to 3.5-feet below natural surface grade. The Agent stated that he believes it is spelled out very clearly that soil morphology is used when soil testing is being done, and he explained that very clearly when they were onsite. He stated that the engineer is trying to argue using Section 8.0(2), but he stated that it is very clear in Section 5.1(B).



Ms. Beardsley agreed with the Agent and stated that mottles are the gold standard of determining where historic high groundwater is, which is what we are after. It is not what might be happening in a given year because water levels vary a lot, and engineers who've had to refer to USGS wells see how levels may differ over time. Those wells have been put in by the USGS around the country and the USGS monitors them so the data can be used for doing historic high groundwater adjustments such as the Frimptor method that MassDEP relies upon as well. She noted that we are not only going by what one observes, and then making further adjustment by using comparable wells within the USGS system.

Ms. Campe asked the Agent that, because there was evidence of mottles, which are indicative of saturation at some point in time, at a depth shallower than the measured water, that that adjustment should be taken into account for determining the maximum high-water level? The Agent responded that mottles were observed, and that is the determination for groundwater – it is the most accurate determination we can find. He noted that all soil evaluators were trained to know that. However, if mottles were not found (and that does happen sometimes in very porous soils), we would combine the observed groundwater with the Frimptor methodology to determine high groundwater. He stated that March and April are usually the best time of year for that, but he noted that this year, March and April were actually very dry. Stating that we are in a period of time where precipitation levels are likely to continue to increase, Ms. Campe felt that the likelihood of the water table being higher over time is more likely than being deeper over time.

Ms. Beardsley stated that, for the hundreds of plans that have been worked on while on the Board of Health, the hierarchy has always been mottles, and then, if groundwater is observed, it's adjusted, and if it's not observed, then an assumption using the bottom of the pit and then a Frimptor adjustment.

Mr. Brem stated that he is not disagreeing with any of what has been said. He stated that the mottles they'll be using are 45-inches off from observed groundwater, and he stated that is not the question. The question is that what Mr. Oram is saying is that there is no lot here and that we cannot design a system to meet the regulations. Mr. Brem stated that he can design a system to meet every other regulation, and Mr. Oram is saying that he shouldn't even bother designing a system because the soils don't have 5-feet of natural material above the water table. He is saying that we can't develop any of this 11-acre parcel – that we can't build a house here because I don't have the 5-feet from the redoximorphic feature level, which he is calling the groundwater level. Mr. Brem stated that "that can't be true; it's just not true".

Ms. Campe responded that we also has a lot of water protection that we're dealing with in this town – water quality and quantity issues – and she didn't think Mr. Brem could make generalizations based on a particular lot about what the intent of the Board's regulations are – which is to protect water quality and quantity for all residents of the town before the Board starts worrying about adding new developments, and she stated that is the motivation behind the regulations.

Dr. Vitale noted that Mr. Brem earlier in this discussion alluded to previous testing conducted on the site, and he stated that he believes these same regulations are the reason that testing didn't turn into new lots and new buildings, so it echoes this intention of the regulations to protect well water and septic. He asked why would it be appropriate for the Board to approve plans for him today when they wouldn't have been approvable for the previous owners, and he felt that certainly could've been priced and structured, and he stated that he didn't know that the Board would say that it is 11-acres so that must be a buildable lot. He noted that in his 6-years on the Board, he's never had a new construction that was a mounded system. The Agent agreed, but noted that we don't usually use the term "mounding" because in some new construction cases, such as when groundwater or mottling is found at 5.5-feet, and a 2-foot trench is used, there might be a very slight mound, while it still meets all of the local regulations.

In response to a question from Ms. Beardsley, Mr. Brem stated that Mr. Wadas and Ms. Legor own this 11-acre parcel (at 25 Prospect Street) and they also own the adjacent lot (at 21 Prospect Street) that has an existing house and a recently replaced septic system.

Mr. Brem stated that he did have another request, and asked if he should put it in writing. He stated that all new town regulations have to be done b a public hearing, and in that public hearing the rationale for

the regulation needs to be outlined and stated, per Chapter 111, Section 31, and he stated that he would like to get a copy of that public hearing and the statement the Board made regarding this Section 8.0(2). The Agent responded that this regulation has been in existence since prior to his time with the Board (prior to 1986) so when Title 5 was created and changed MGL Chapter 111, Section 31, that is when that was required – prior to that time, the public hearing and rationale for additional regulations was not required. Dr. Vitale felt this sounded like a public records request, and welcomed it, but he asked Mr. Brem to put it in writing so the Board will have full clarity of the request so we will be able to work on getting him that response.

Owner Frank Wadas stated that his view of the regulation is that groundwater needs to be 5-feet, and he stated that it is at 7-feet. He stated that the speculation of where groundwater will be in 50 or 100-years is just that – speculation. Ms. Beardsley responded that the mottles are an indication of where the groundwater has come up to in the past, which is why they are the best indicator of maximum high groundwater. Ms. Campe commented that the Board is not taking climate change into consideration – the presence of mottles means that the water, at some point in time, was as high as that – you don't get them unless it is saturated soil. It is a good historic record.

Dr. Hunnewell stated that she believes that it is sometimes difficult to conceptualize why the water level matters, stating that unlike most towns where the water supplies come from really far away, or your drinking water is coming from Quabbin Reservoir where the water is tested and clean, the septic material in Sherborn is deposited right next to the drinking water wells, so if there is no ability for the material that comes out of your septic system to be cleansed by natural processes in the soil, it just sits there. Then, the drinking water could actually be contaminated. So, when we are talking about the water level, we are trying to protect the drinking water of anyone who lives there or any future residents and that is the goal of Title 5. In Sherborn, we have wells, so we obviously use Title 5 as a guide, but it doesn't really protect the drinking water if you have a private well. That is the reason why the regulations have to be more stringent – because we get our drinking water from adjacent to your own septic system or your neighbor's. Mr. Brem wanted to respond, but due to the time, Dr. Vitale stated that we must be respectful to the others who are on the agenda. He noted that if Mr. Brem wishes to stay on the meeting, he'd be happy to continue this discussion at the end of the scheduled appointments, but noted we are already infringing on other scheduled appointments. Mr. Brem stated that he was being "shut down" and left the meeting.

**7. 21-23 South Main Street, Alex Weatherall, Sherborn Fuel LLC – VARIANCE HEARING – Septic Replacement #22-14** (see Minutes of 5/18/22 and 6/16/21) – Owners Alex and Laura Weatherall were present with Matt Bombaci of Bohler Engineering. Dr. Vitale asked the Agent to provide some interval updates in terms of follow-ups from the last meeting. The Agent reported that a 2<sup>nd</sup> revision plan was received the same day as the last meeting. A 3<sup>rd</sup> revision plan was, ironically, received today, but the Agent stated that he was able to review it. The corrections needed were items that had been included on the original deficiency list, but the plans have now been updated to the Agent's satisfaction, with all that was needed. The Agent stated that he did note to the engineer that the abutter at 19 North Main Street had an issue with their well about 15-years ago, and he stated that he would just like to confirm that the location of that abutting well on the plan is in the correct location.

The actual design flow was discussed, and it was noted that Claire Golden of MassDEP has reviewed today's plan (as well as the draft 5/18/22 Minutes). She has indicated that the Board has the opportunity to look at this and determine that the 650-gallons/day is the maximum design flow because to allow the applicant to go up to 1,000-gallons/day would be allowing new construction since the existing plan design flow lists 650-gallons/day, and this has been presented as a replacement system with variances granted. Dr. Vitale confirmed that the capacity for the replacement system would be a maximum of 650-gallons/day, but the system would be built at the Title 5 minimum design flow of 1,000-gallons/day. Ms. Beardsley agreed, feeling that Ms. Golden has simplified what the issues are, including that to go above the

design flow of 650-gallons/day would push this into new construction category, which would be difficult for this site given the complexity of the site, as well as the variances required. To get those additional 350-gallons/day (to get to the 1,000-gallons/day flow) would necessitate finding an area on the property that could support a fully-compliant system under today's standards.

Dr. Vitale stated that the capacity of the system is 650-gallons/day, matching the existing design flow, but the system would be built for 1,000-gallons/day, but because of both the State and local variances, the design flow would not be permitted to increase above the 650-gallons/day previously permitted. Mr. Bombaci requested clarification, stating that they need the permit to be 1,000-gallons/day for the use. He stated that forever is a long time and they don't know what the site could be in the future. He noted that the 1,000-gpd is based on the fact that it's a Dunkin' Donuts today and it is 1,000-gpd because of that particular use, but we don't know if it would become something else in the future. He stated that he doesn't want to lose Mr. Weatherall's right to a 1,000-gpd permit, so after talking with the owner today, they'd be more than happy to do a condition that the system is limited to 650-gallons/day provided that if they want to increase that, they'd be happy to discuss design flows with the Board in the future. Mr. Bombaci stated that Mr. Weatherall wants to use the existing Dunkin' Donuts space and get a stove and stove and serve hot meals that would be taken "to go". He stated that there wouldn't be a lot of water use and there wouldn't be any seats. Mr. Bombaci stated that he wants to ensure that Mr. Weatherall has the ability to discuss that further with the Board should the use of the site change in the future.

Dr. Vitale stated that he would be happy to consider it in the future, but he does not want to feel like this is just a "check box", stating that it would depend on the specifics. Mr. Weatherall asked his engineer about the design flow of the plan he presented originally, stating that he feels the Agent is saying it was just presented today, but it is the same design flow that has been on each of the versions of the plan that have been submitted. Mr. Bombaci stated that the design flow is the minimum 1,000-gallons/day, and the calculated design flow is 370-gallons/day, so there is another 280-gallons/day available before he gets to the 650-gallons/day. Mr. Bombaci stated that relative to the uses the owner was looking at for the existing Dunkin' Donuts space, so he felt there is a good amount of room there if Mr. Weatherall wants to do some sort of hot food service or something similar. Mr. Weatherall stated that was the whole premise, stating he had this conversation with the Board in June 2021 – he wants to do hot meals in an environmentally friendly convection oven, and he stated that it would be a severe constraint on him if he isn't able to do that. He stated that he doesn't want this meeting to conclude with him being precluded from coming back with that kind of guidance and subsequent approval. Dr. Vitale responded that, to be very clear, if Mr. Weatherall expects to double the amount of effluent going into the system compared to what has been discussed, that is a real big change. Mr. Weatherall stated that is not what he is saying, and commented that this is very hard language for a lay person to follow. He stated that he has spent a lot of money and has a design flow of 1,000-gallons/day, but now we are talking only 650-gallons/day and now there's a threat of new construction and he stated he is just confused.

Dr. Vitale began to explain, noting that the proposed plan uses 370-gallons/day of sewage, and Mr. Bombaci agreed. Ms. Beardsley noted that the flow for the Dunkin' Donuts is still a missing piece, to which Mr. Weatherall responded that there is a Dunkin' there now. Dr. Vitale noted, however, that there is currently no seating in the existing Dunkin' Donuts, but he stated that he didn't want to re-adjudicate the things already discussed. Dr. Vitale noted that Mr. Weatherall and his engineer(s) have communicated to the Board that the existing 1,000-gpd system was not able to support 650-gpd of use, which is how the Board was able to have the first discussion for a replacement system with variances. He noted that Mr. Bombaci had stated that they believe the existing system would not pass a Title 5 inspection. Dr. Vitale noted that the system ended up in a position where it was no longer expected to be effective, resulting in a replacement system being necessary. We are now saying that the pattern of uses expected is 370-gallons/day. Because the State requires 1,000-gallons/day minimum, we are saying that you are coming in at 370-gpd and you say that you don't think you'll be able to come in at 650-gpd, the plans will need to be

described before you come to the Board in order for us to answer those questions. Dr. Vitale stated that he didn't think it would be an issue, but he couldn't tell the Mr. Weatherall that in the future any plan under the sun would be permissible, because it may not be. While Dr. Vitale couldn't imagine a case right now where that would be an issue with what has been described, he stated that the Board needs to see the specifics.

Mr. Weatherall stated that the Board should explain to him why the Agent is suggesting that they are pushing on new construction. Dr. Vitale responded by asking if it is 650-gpd or not, noting that the point made by Claire Golden is that the existing design flow is 650-gpd. If Mr. Weatherall were to increase the design flow to 900-gpd, it would, by definition, be new construction. Ms. Campe stated that a simple way to think about it is that the Board is not calling it new construction, so there are constraints of the existing paradigm that we have to live within. Even though the minimum design is 1,000-gpd, there are a bunch of uncertainties, such as Claire Golden noting that we don't have a calculation for a donut shop, and the engineer noting at the last meeting that there is grease and definite stress on the system from production of things like coffee, which is acidic, milk and cream. So, we have to stay within this limit, with some additional protections afforded.

Dr. Hunnewell noted that the State communicated with the Board and commented that from their perspective, they believe that it would be considered new construction if the design flow goes above 650-gpd. We are not coming up with this idea ourselves; rather, it is because of correspondence received from Claire Golden of MassDEP. She also asked if the engineer could clarify a question regarding if Mr. Weatherall is planning to have food preparation as part of his hot meal service there, and if the Agent could clarify how the considerations are evaluated and how that changes the assessment and the decisions that are being made. The Agent referred the question to the Chair and asked if he wants to the applicant to answer these questions. Dr. Vitale responded that if Mr. Weatherall wishes to share additional information, he is happy to incorporate them into this discussion, but the engineer has made the point that the 650-gpd is what we work with now, but we are open to a future conversation, but he didn't want to leave any impression that this is a "blank check" that Mr. Weatherall could go to 1,000-gpd.

Ms. Beardsley noted that part of the reason there might be confusion is if the design flow is 650-gpd, why is the system designed for 1,000-gpd and why can't 1,000-gpd be used, but she noted that the effluent that comes out of certain activities is the design flow. As the Board has noted in the past, the DEP had to up the minimum design flow for certain activities to 1,000-gpd just to give a cushion because the strength of the effluent coming out of those activities. She felt the Board needed a gallonage of design flow from the new Dunkin' Donuts, noting that it will have seating while the existing shop does not.

Mr. Bombaci stated that he thinks they are on the same page with the Board. He felt it unlikely that Mr. Weatherall would be unable to do what he wants to do, but they understand the need for discussion with the Board. The Agent noted that Claire Golden did indicate that when you are not sure of design flow, and you only have 6 seats in the Dunkin' Donuts, you try to find a similar facility. If there is a similar facility with 6 seats, it would be interesting to see their water meter readings to determine the actual flow, which under Title 5 would be the water meter readings from a similar facility multiplied by 200%. Dr. Vitale felt the design flow shown for Dunkin' Donuts on the plan seemed consistent in the absence of clear guidance from the State. The Agent noted that the State does have clear guidance in Title 5 about similar facilities and 200% of that flow, but the Chair felt the Board should accept the 20-gallons per seat that is shown on these plans. Following additional discussion, the Board was in agreement with the design flow for a fast-food facility (20-gallons/seat) was correct for the Dunkin' Donuts.

The plan was reviewed on screen, and the Agent noted that there was a well that was hit by a plow many years ago on the abutting property, and he wanted to check the files to confirm that well is located correctly on this plan. Ms. Beardsley asked if all of the required fees have been received, and the Administrator noted that the current plan was a 3<sup>rd</sup> revision and noted that the required \$200.00 fee has not



yet been paid. Dr. Hunnewell asked if this plan would automatically come back to the Board if the design flow was being increased, and Dr. Vitale responded that that would be required.

Mr. Bombaci requested that the permit reads that it is 1,000-gpd because they need that flow for their system, but other than that, he was fine with the requirements. Dr. Vitale noted that the upper left corner of the plan shows the actual design flow as well as the Title 5 minimum design flow. If a future design exceeds 650-gpd, they will have to return to the Board to discuss.

A motion was made to approve the plans as revised and submitted, conditional to:

- A design flow of 650-gallons/day, above which the property owner would need to come back to the Board to discuss further,
- Confirmation of the well location at 11 South Main Street,
- Payment of the 3<sup>rd</sup> revision fee in the amount of \$200.00

The motion was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with conditions. **APPROVED 4-0 with conditions**

The Agent noted that he has worked very well with Mr. Bombaci, but noted that he reviewed the original plan submittal well before the 45-days allowed, and he stated that more than 80 deficiencies were identified. He reviewed the 2<sup>nd</sup> submittal with Mr. Bombaci, again well before the 45-days allowed, and it still had deficiencies. He stated that he wanted that on the public record due to some comments made by the property owner about the length of time it has taken for his review.

**8. 127 Farm Road, Laurel Valchuis – Discussion of design flows for a potential commercial kitchen and accessory apartment** – Laurel Valchuis was present with Daniel McIntyre, P.E. The engineer's letter, dated 5/19/22, in which Mr. McIntyre reviewed the proposed commercial kitchen and his recommended design flows, was reviewed. Mr. McIntyre stated that the owner knows that there are other issues that must be addressed with other boards prior to any construction of a commercial kitchen, but this preliminary discussion is needed to clarify whether or not it is even possible, and if so, what the design flows might be.

Mr. McIntyre noted that this is a 7-acre parcel with an existing home and 2 out-buildings. Ms. Valchuis would like to convert one of the out-buildings to a 1-bedroom accessory apartment and a commercial kitchen. He stated that Ms. Valchuis owns a business that prepares vegan meals, and she'd like to take that business and do it on her own property. He has noted to the owner that the first step would be soil testing, and it has been conducted and the soils were found to be very good. There are no groundwater issues, so the site would be appropriate for new construction. The next step would be determining the needed design flow. Mr. McIntyre stated that the apartment flow is straightforward, but the kitchen flow is not something they see every day. He felt the kitchen flow in Title 5 (2-4 gallons/day per seat) would be reasonable for this use, although it would be very conservative, and he would base it on 2-4-gallons/day per meal (with a maximum of 200-meals per week), where the grease trap sizing is 15-gallons/day. The Agent noted that Title 5 also states that they could find a similar facility and determine a design flow based on 200% of the similar facilities flow.

Ms. Campe noted that there are other residential kitchens in town that are supplying baked goods, and while it is different, they are basically not sit-down situations in that they are preparing food products that are being shipped off and sold to others. The Agent noted, however, that residential kitchens are permitted for minimal food preparation of non-perishable foods, so that is an entirely different criterion. This is a commercial kitchen. He stated that we are aware of these, but mostly they operate out of cottage industry facilities, so the operators just prepare their food(s) in those commercial kitchens.

In response to a question from the Chair, the Agent stated that the calculation strategy used by the engineer did appear to be reasonable, but he suggested that they might want to get water meter readings from the commercial facility they are currently utilizing. The Chair noted that they have done that already.

Ms. Campe asked about the type of food preparation work, and Ms. Valchuis stated that she soaks grains, par boils beans, and washes, chops, and bags the ingredients for a meal, and the bags are delivered the same day. Ms. Campe stated they would be a modest use of water, but not a lot, and Dr. Vitale noted there would be a lot of washing.

Ms. Beardsley asked if there would be any risk of problems for the septic system from having very low flows, but Mr. McIntyre noted that the system would be attached to the 1-bedroom apartment, so it would be receiving flow from that as well.

Food-Camp Inspector Curran noticed that a janitorial (mop) sink is not provided, and he stated that it would be required. He stated that he will want to see a detailed menu/list of items to be prepared so he can make a determination of what the needs might be. In response to a question from the Agent, Mr. McIntyre stated that an outside grease trap would be provided as required in Title 5.

Dr. Vitale stated that the calculations and proposed design flow prepared by the engineer “passes the gut check” for him, and he asked how the other Board members felt. Ms. Beardsley, Ms. Campe, and Dr. Hunnewell each expressed agreement.

Ms. Valchuis asked if there was any possibility to design the septic system smaller, but Dr. Vitale noted that the proposal made by the engineer tonight has received agreement by the Board. If she wanted to come back with additional information to support the possibility of a smaller system, the Board would review it, but he stated that this design flow is from a similar facility.

The Agent noted that there may be a public water supply question that comes up, since it will be a commercial kitchen, and he will follow-up with MassDEP on that.

Mr. McIntyre returned to the design flow and asked if the Board would allow him to design the 1-bedroom apartment with just 110-gallons/day rather than the Title 5 minimum required of 330-gallons/day. The Agent responded that doing that may require a variance from Title 5 as well as from the local regulations.

The sequence of next steps was reviewed. Ms. Valchuis shall go to the ZBA for approval of her proposed accessory apartment as well as the commercial kitchen, followed by design and approval of the septic system. The Agent will review with DEP to see if the well will become a public water supply (at the level of 200 meals/week).

**9. Heritage of Sherborn – 5/272022 Inspection Report** – Josh Ziskin was present, as was Food-Camp Inspector Tom Curran. Mr. Curran noted that this inspection was conducted as a result of a complaint received on 5/24/2022 about rodent activity at this establishment. Mr. Curran stated that he found the complaint to be valid based upon his inspection. He noted contributory factors from one year ago, such as issues with doorways that need to be pest-proofed. Mr. Curran noted these ongoing concerns and stated that he would like to work with the owners toward a more permanent solution. In response to a question from Mr. Ziskin, the Food Inspector stated that he did not observe food contaminated, but he did see rodent activity.

Ms. Beardsley noted the quite long list again of things that need attention, and Mr. Ziskin responded that it is a difficult building to maintain. He stated that he did complete all of the issues from the previous (January 2022) inspection. Dr. Vitale noted that some issues from the previous inspection were due to supply chain related, and Mr. Ziskin stated that he has found someone to repair the front door. Mr. Ziskin stated that they have done the required cleaning, and everything else, other than finding and fixing the holes, has also been done. In response to a question from Ms. Beardsley regarding the employee restroom, Mr. Ziskin stated that a person has been hired and will do those repairs.

Mr. Curran noted that he will re-inspect and stated that he will stay in contact with Mr. Ziskin. He noted that he is encouraged that Mr. Ziskin is talking with pest control people.

10. **Sweet Meadow Farm – 2022 Recreational Camp for Children License #C2-01** – Food-Camp Inspector Curran recommended approval of this license, noting that he has inspected the camp, as has the Fire Chief and Building Commissioner. Mr. Curran stated that the owners have improved the bathroom facilities, noting that the new unit is handicap-accessible. The provided hand-washing facilities are good. Mr. Curran stated that the owner has purchased new software for electronic records, and that all pertinent certifications are up-to-date. A motion was made to approve the issuance of this Camp License as recommended, conditional to correction of the outstanding issues noted on the inspection report, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the license was approved with condition. **APPROVED 4-0 with condition**

11. **Sweet Meadow Farm – 2022 Food Establishment Permit (for Camp) - #F22-17** – The Food-Camp Inspector recommended approval of this permit as submitted, noting that it was very straightforward. The permit is for the immediate service of food (pizza) from an outside licensed facility. A motion was made to approve the issuance of this permit as requested, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved.

**APPROVED 4-0**

12. **Fresh Food Generation – Temporary 1-Day Food Establishment Permit #TF22-20** – This permit was for an event held on 5/28/22 and was previously approved by the Food-Camp Inspector. A motion was made to ratify the Food Inspector's previous approval and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the Food Inspector's previous approval was ratified.

**AGREED 4-0**

13. **Rancatore's Ice Cream – Temporary 1-Day Food Establishment Permit #TF22-21** – This permit was for an event held on 5/28/22 and was previously approved by the Food-Camp Inspector. A motion was made to ratify the Food Inspector's previous approval and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the Food Inspector's previous approval was ratified.

**AGREED 4-0**

14. **The Donut Shack, Westport, MA – Temporary 1-Day Food Establishment Permit #TF22-22** – The Food-Camp Inspector recommended approval of this permit, noting this is a low-risk food and stating that they would be at the “Dudleyfest”, held at Unity Farm on 6/11/22. A motion was made to approve this permit as recommended, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved.

**APPROVED 4-0**

15. **Like No Udder LLC, Warwick, R.I. – Temporary 1-Day Food Establishment Permit TF22-23** – The Food-Camp Inspector recommended approval of this permit, noting this is a low-risk food and stating that they would be at the “Dudleyfest”, held at Unity Farm on 6/11/22. A motion was made to approve this permit as recommended, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved.

**APPROVED 4-0**

16. **Nirvana Teahouse & Café, Millis, MA – Temporary 1-Day Food Establishment Permit #TF22-24** - The Food-Camp Inspector recommended approval of this permit, noting this is a low-risk food and stating that they would be at the “Dudleyfest”, held at Unity Farm on 6/11/22. A motion was made to approve this permit as recommended, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved.

**APPROVED 4-0**

17. **Farm Road Homes 40B** (see Minutes of 5/18/22) – Robert Murchison was present. Dr. Vitale stated that some materials were received just prior to the Board’s last meeting. The site visit is scheduled for June 14, 2022 at 11:00am, and the Chair stated that a more substantial discussion will take place at the next meeting. The CLAW site plan was briefly shown, and it was noted that further details should be provided before the Board can have a substantive discussion. Ms. Beardsley commented that she is not sure the Board will receive more details in advance of when comments are due to the State. She noted that the Board of Health provides comments to the Select Board, who compile them and send them to the State.

With regards to the site visit, Ms. Beardsley stated that she will attend. Dr. Hunnewell stated that she will try to attend. Ms. Campe cannot attend. The Agent stated that he will also try, but noted that he may be unable to attend the site visit.

Dr. Vitale stated that resident Brian Moore’s “watercourse presentation” will be provided at the June 15<sup>th</sup> meeting. Ms. Beardsley noted that the DPW has plugged up the pipe that fed into the open drain, so no water is flowing from it anymore.

18. **Free Rapid Antigen Test from the State** – The Administrator reported that she received an email from the State earlier today and noted that DPH is providing free antigen test kits to all Boards of Health if they want them. The number of kits available to each city/town is based on population, and Sherborn is eligible to receive 810 kits. The Administrator was instructed to respond to the State that we would like to



receive these tests. Residents will be encouraged to stop by the BOH office for a couple of test kits before they need them.

19. **COVID-19 Update** (see Minutes of 5/18/22, 5/4/22, 4/6/22, 3/16/22, 3/2/22, 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) – Dr. Vitale reported that we continue to see elevated levels of transmission in the State and locally, but the wastewater data is starting to move downward. In the hospital environment, the proportion of patients requiring ICU care remains substantially lower than previous surges, and a higher percentage of patients continue to have incidental COVID, based on the relatively high persistent community prevalence. The number of patients admitted to the hospital with primary COVID remains a smaller proportion than earlier waves, so we are in a similar to slightly better position than where we were a couple of weeks ago.

20. **Lot 163A Maple Street (at 0 Maple Street) – Paul & Andrea Kelly – New Septic/New Well #22-05/06** (see also #4 of these Minutes) – The Agent noted that Paul and Andrea Kelly were present as well as their engineer Desheng Wang, and he stated that they may not have been present earlier in this meeting when this property was it was noted that we are waiting on approval from the Conservation Commission.

Mr. Wang stated that they were not aware this plan was discussed earlier tonight. He stated that he did provide a plan to the Conservation Agent and discussed it with her, but she must have forgotten. He stated that this amended plan is not a significant difference from the Conservation review perspective because everything is still within the approved limit of work. He stated that he tried to talk with the Conservation Agent today, but she was not in the office. Mr. Wang stated that he would discuss the plan with her again and request an administrative amendment to the existing Order of Conditions. Mr. Wang began to describe the plan in more detail, but the Chair requested that the discussion be held when the Board is considering the plan for approval. We are still waiting for Conservation approval for this plan and once it is received, the Agent will conduct his review, after which it will be listed on the agenda for approval as an item under Agent's business.

Robert Murchison stated that he is very glad the Board of Health is now willing to review plans prior to receiving Conservation Commission approval, stating that he thinks that is the appropriate public policy approach, but the Chair disagreed, saying the Board of Health did not do that. In fact, the Board re-directed Desheng Wang and said they'd do that at the proper time. Mr. Murchison stated that the Agent stated that he reviewed the plan, but Dr. Vitale stated that was an inaccurate characterization.

The Agent clarified, for the record, that the plan was reviewed with Conservation review completed (an Order of Conditions), but they since submitted a revision, and the Agent wanted that revision reviewed by the Conservation Commission. Dr. Vitale closed the topic without further discussion.

21. **Minutes** – The May 18, 2022 Minutes were reviewed. Ms. Beardsley stated that she provided some very minor edits. A motion was made to approve the 5/18/2022 Minutes as amended and it was seconded.

By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 4-0 as amended**

**22. Agenda Items for the 6/15/2022 meeting were mentioned:**

- Farm Road Homes 40B and site visit
- Watercourse presentation by Brian Moore
  - There are 2 variance hearings scheduled
  - Discussion of a Preliminary Building Application

Ms. Campe will not be able to attend the 6/15/2022 meeting.

23. **Regulation Review Process** – Dr. Vitale reviewed the process for regulation review. He stated that he hopes to have a draft for a subset of the regulations that he and Dr. Bevers are working on for Board review at the 7/20/2022 meeting.

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

By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – 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]

M22-0601.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 6/1/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **Sweet Meadow Farm –**
  - Application for a License to Conduct a Recreational Day Camp for Children - #C22-01, with inspection report
  - Food Establishment Permit Application - #F22-17, with inspection report
2. **Heritage of Sherborn –**
  - 5/27/2022 inspection report
3. **Temporary 1-Day Food Establishment Permit Applications –**
  - Rancatore's Ice Cream - #TF22-21 for event on 5/28/22 at Silverwood Farm
  - Fresh Food Generation - #TF22-20 for event on 5/28/22 at Silverwood Farm
4. **36 Great Rock Road –**
  - Septic System Replacement plan #20-25, drawn by McIntyre Engineering and dated 4/17/20, approved on 6/3/2020 and renewal application #22-40
5. **29 Prospect Street –**
  - Revision to a Previously Approved Plan, drawn by GLM Engineering and last revised 5/24/2022
6. **145 Forest Street –**
  - Preliminary Building Application #P22-21, including floor plans drawn by DNA Architecture dated 5/4/22 and photographs provided of various rooms/stairways
7. **21 Prospect Street –**
  - 5/10/22 letter addressed to Daryl Beardsley (then Chair) from Jeffrey Brem, P.E. of Meisner Brem Corporation
  - BOH Regulation I, Sewage Disposal, Sections 5.1(B) and 8.0(2)
8. **21-23 South Main Street –**
  - Septic System Replacement plan #22-14, drawn by Bohler Engineering – 3<sup>rd</sup> revision, received 6/1/2022
  - Email received 6/1/2022 from Claire Golden, MassDEP, subject: "21-23 South Main, additional questions"
9. **127 Farm Road –**
  - 5/19/22 letter from Daniel McIntyre, P.E., addressed to the Sherborn Board of Health, subject: "127 Farm Road"
  - 6/1/2022 email from Building Commissioner Chris Canney re: "certified kitchen at 127 Farm Rd"
10. **Fresh Food Generation –**
  - Temporary 1-Day Food Establishment Permit Application #TF22-20
11. **Rancatore's Ice Cream –**
  - Temporary 1-Day Food Establishment Permit Application #TF22-21
12. **Dudleyfest at Unity Farm –**
  - The Donut Shack – Temporary 1-Day Food Establishment Permit Application #TF22-22
  - Like No Udder LLC – Temporary 1-Day Food Establishment Permit Application #TF22-23
  - Nirvana Teahouse & Café – Temporary 1-Day Food Establishment Permit Application #TF22-2
13. **Minutes –**
  - BOH meeting Minutes of 5/18/2022
14. **Farm Road Homes 40B –**
  - "Conceptual 40B Overlay" plan (at 55-65 Farm Road), drawn by Creative Land & Water Engineering, LLC, dated 4/26/22

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
June 15, 2022**

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

**Members Absent:** Lisa Campe

**Others Present:** Courtney Ek, Tom Trainer, Alison Hoppin, Ellen McDonald, Margo Powicki, Andrea Kelly, Bob Murchison, Francis Alves, “iPhone”, Sally Tipton, Jeff Waldron, Desheng Wang, Arthur Fenno, Kitty Sturgis, “dave”, “fossil lover”, Susan McPherson, Brian Moore, “Vicki”, and Mark Oram, Agent.

By a roll call vote:

Vice Chair Ms. Beardsley - Absent

Member Dr. Bevers – Present

Member Ms. Campe – Absent

Member Dr. Hunnewell – Present

Chair Dr. Vitale – Present

This VIRTUAL meeting came to order at 7:03 PM via Zoom with Drs. Vitale, Hunnewell, and Bevers present. It was noted that Ms. Beardsley was having Internet connectivity issues and would join as soon as she could. Ms. Campe previously advised that she was unable to attend this meeting. The Chair stated that all votes shall be taken via roll call vote.

1. The Chair 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) Kona Ice of Framingham/Natick – Temporary Food Establishment Permit #TF22-28

(2) Natick-Walpole Visiting Nurse Association – May 2022 COVID-19 invoice

**(3) Farm Road Homes 40B – Administrative updates only**

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

Vice Chair Ms. Beardsley - Absent

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

**APPROVED 3-0**

2. **Temporary Food Establishment Permit Applications** were received and reviewed. These food trucks will be at one or more of the *Library Concert Series* events, scheduled for 6/29/22, 7/6/22, 7/13/22, and 7/20/22). [Note: The Administrator mistakenly noted that they would be at “Dudley Fest” at Unity Farm, but that was an earlier temporary event.]

(1) **Thankque Catering LLC** of Walpole - #TF22-26

(2) **Dente Enterprises LLC d/b/a Trolley Dogs** of Framingham - #TF22-27

(3) **Kona Ice of Framingham/Natick** - #TF22-28

A motion was made to approve the above-noted temporary food establishment permits for these mobile food vendors, noting that the Food Inspector had recommended approval, and it was seconded. By a roll call vote:



Vice Chair Ms. Beardsley – Absent

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit were approved.

**APPROVED 3-0**

3. **Natick-Walpole Visiting Nurse Association – May 2022 COVID-19 Invoice** – This invoice, in the amount of \$825.00, was reviewed. The Administrator noted that this cost is paid entirely by a Grant. A motion was made to approve this invoice for payment and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – Absent

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the invoice was approved for payment.

**APPROVED 3-0**

4. **Farm Road Homes 40B** (see Minutes of 6/1/2022) – Dr. Vitale reported that his understanding from the Select Board is that they are going to request an extension of the comment period, and he supports that. He suggested that the Board authorize the Vice Chair to put together the initial comments for the Board. He noted that since Dr. Hunnewell also went on the site visit, if she had any feedback, she could provide it to the Vice Chair. Dr. Hunnewell responded that she had a comment, but the Chair noted that since this topic was listed on the agenda as an “administrative update only”, there should be no substantive discussion of the project tonight. Depending on the extension timing, if the extension is past July 6<sup>th</sup>, the Board can consider comments at that meeting, but he otherwise suggested that the Board authorize the Vice Chair to put together the comments for the Select Board, as she has done in the past for other 40Bs, and Dr. Bevers and Dr. Hunnewell were in agreement.

The Administrator asked if this topic should be listed on the July 6<sup>th</sup> agenda, and Dr. Vitale advised that it should be listed tentatively, but comments may prove to be due before that date. The hope is that the scope of the July 6<sup>th</sup> agenda will be limited as much as possible given it is an extra meeting. He stated that hopefully Ms. Beardsley and Dr. Hunnewell can represent and share those comments, and the more substantive discussion will occur further down the line.

Dr. Hunnewell stated that she is now able to attend the special July 6<sup>th</sup> meeting.

[Ms. Beardsley arrived at the meeting at 7:10 PM.]

5. **COVID-19 Update** (see Minutes of 6/1/22, 5/18/22, 5/4/22, 4/6/22, 3/16/22, 3/2/22, 2/16/22, 2/2/22, 1/19/22, 1/5/22, 12/15/21, 12/1/21, 11/17/21, 11/10/21, 11/3/21, 10/20/21, 9/29/21, 9/22/21, 9/15/21, 9/1/21, 8/18/21, 7/7/21, 6/2/21-#7 and #10, 5/19/21, 5/5/21, 4/7/21, 3/3/21, 1/6/21, 12/16/20, 11/18/20, 11/4/20, 10/29/20, 10/21/20, 9/30/20, 9/16/20, 9/2/20, 8/19/20-#11 and #18, 7/22/20, 7/1/20, 6/17/20, 5/26/20, 4/22/20, 4/14/20, 4/3/20, 4/1/20- #6 and #8, 3/18/20, 3/12/20, and 3/4/20-#3 and #12) – Dr. Vitale reported that we are now in a downward trend. The State-reported data is becoming increasingly inaccurate as people use more and more antigen tests as a higher proportion of total testing, since the State-reported data is PCR. We are seeing an encouraging down trend in case rates, but more importantly, in the MWRA wastewater data that is also down trending. Dr. Vitale stated that he thinks we will continue to see trends and down trends, but right now it is a down trend.

Dr. Vitale noted that he has circulated the most recent data that was available last week with the various constituencies that he’s shared the dashboard with overall, and he stated that he plans to stop sending those updates out since he doesn’t think the State will do anything that captures the antigen data, and the PCR data is increasingly less pertinent.

6. **New 2022 Disposal Works Installer Permit Application – Robert E. Baker / Rebco Inc.** of South Walpole - #I22-20. This application was reviewed. The Administrator reported that she contacted both references, and both provided very high recommendations. A motion was made to approve the issuance of this new Installer Permit, conditional to a pre-construction conference with the Health Agent prior to any work commencing, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the permit was approved with condition. **APPROVED 4-0 with condition**

7. **Leland Farms – 2021 Consumer Confidence Report and Certification** – Ms. Beardsley stated that *public water supplies* are required to produce annual information to send out to all users of the water about the water quality, the source of the water, and any other important information. She stated that she reviewed this report, and noted that it has been compliant with all water quality standards. She noted that there are standards that will trigger something to happen, such as postings, if something is violated (such as lead, copper or sodium). The level of sodium in this water supply is high, but that was noted not uncommon.

8. **Woodhaven – 2021 Consumer Confidence Report and Certification** – The Board noted receipt of the current report on this *public water supply*. Tom Trainor stated that he was familiar with these types of reports and asked how he could obtain a copy of this report. Ms. Beardsley stated that large-scale municipal reports are usually posted on municipal websites, but these reports for small-scale PWS are typically just mailed to those served by the PWS. The Administrator agreed to forward Mr. Trainor copies of these reports.

9. **Minutes** – The Minutes of 6/1/2022 were reviewed and discussed. Dr. Hunnewell reported that she had no edits, and both Dr. Vitale and Ms. Beardsley stated they had very minor edits. A motion was made to approve the 6/1/2022 Minutes as amended, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – Abstained

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 3-0-1 as amended**

Dr. Bevers abstained from the vote as he did not attend the 6/1/2022 meeting.

10. **Agenda Items for the 7/6/2022 meeting** were noted. Dr. Vitale instructed the Administrator to remove the “COVID-19 Update” as a standing agenda item from future agendas. He stated that he will add it on an ad hoc basis as needed.

Later in the meeting it was noted that there would be 2 variance hearings held on 7/6/2022, as well as a brief update on proposed regulatory changes. The June 2020 Natick-Walpole Visiting Nurse Association COVID-19 invoice will likely also be listed for approval.

11. **Free Rapid Antigen Tests from the State** (see Minutes of 6/1/2022) – The Administrator noted that the state sent out a press release today about local boards of health having free rapid antigen tests available for their local residents, but she noted that she has not yet received the shipment of tests from the state. Calls have already been received, but we’ve advised that we haven’t received the tests yet, and that

they should monitor the town website ([www.sherbornma.org](http://www.sherbornma.org)) as well as the Board of Health web page ([www.sherbornma.org/board-health](http://www.sherbornma.org/board-health)) since a notice will be posted there when the tests are available. The Administrator asked if there should be a limit on the number of tests provided to any one person/family, and Dr. Vitale felt that should be a judgment call. If a request seems unreasonable, Dr. Vitale stated that he'd be happy to connect with the Administrator in real time to troubleshoot because the goal is to end up with no tests at the end. People getting the tests and using them is a good outcome. The Administrator noted that in addition to the 810 tests soon to be received from the State, she also received about 100 tests from Region 4AB, and they will be distributed as well.

Dr. Vitale noted that the Board had previously placed an order for antigen tests with a subset of the ARPA funds back in February, and he stated that those tests arrived and the expiration date was four (4) weeks after the tests were delivered. At that time, the Board was holding those tests to be available in the event they were needed for an acute outbreak. Dr. Vitale reported that he has reached out to the manufacturer, as a number of lots have had extension of their expiration dates, but they have not gotten back to him yet. He will try to reach them again this week or next, just to clarify whether or not those lots are included in those that have an extension of the expiration date or whether we got "late, dated milk" in terms of the initial order. If we are able to extend that expiration date, he would favor including those tests with the others to be distributed. If that expiration cannot be extended, we'll have to dispose of them. Dr. Vitale stated that he would keep working on that and he will keep everyone posted as he tries to connect with the manufacturer.

Discussion of distribution of the tests took place, as well as other groups, such as the Council on Aging, Woodhaven, and possibly the Recreation Commission (although most of their activities are outdoors) who might want some. Dr. Vitale will reach out to the DPW, Library, Fire, and Police to see if they have a need for some tests to keep on hand. Ms. Beardsley will reach out to Woodhaven and the Recreation Commission.

The Administrator noted that the tests soon to be received from the State have already had their expiration date extended, so the State is providing stickers that must be placed on each individual box before it can be released.

**12. 12 Washington Street, Jessica Tahiraj – VARIANCE HEARING – Well Replacement #22-37** (see Minutes of 6/2/21 and 3/3/10-#12) – Engineer Daniel McIntyre was present. The Administrator reported that a copy of the abutter notification letter and the certified mail return receipts (green cards) and/or usps.com printouts had been provided, and all was in order. The Hearing was opened.

Mr. McIntyre noted that the septic system was replaced last summer, and the house was subsequently sold and renovations done. There was a lot of corrosion in the pipes and high sodium in the water. Northeast Water Wells inspected the well and recommended a new well be drilled. The requested variances were reviewed and discussed:

(1) Reg. II, Section 6.0(B) – to allow the proposed replacement well to be located 110-feet from the onsite sewage disposal system 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(2) Reg. II, Section 6.0(D) – to allow the proposed replacement well to be located 24-feet from the road right-of-way rather than the required 50-feet. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(3) Reg. II, Section 6.0(D) – to allow the proposed replacement well to be located 45-feet from the traveled road rather than the required 55-feet. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(4) Reg. II, Section 6.0(E) – to allow the proposed replacement well to be located 12-feet from a property line rather than the required 25-feet. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

The Hearing was closed.

The Agent recommended approval of the plan as presented, with the condition that the existing well be properly abandoned by a licensed well driller, and such a motion was made and seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with condition.

**APPROVED 4-0 with condition**

13. **Lot 163A Maple Street (at 0 Maple Street), Paul & Andrea Kelly – New Septic / New Well #22-05/06** (see Minutes of 6/1/2022) – Andrea Kelly was present with Engineer Desheng Wang. The Agent noted that a revised plan was required because the proposed well had been initially shown too close to the proposed septic system. This is new construction, and therefore no variances are allowed and none are requested. All appropriate notes have been placed on the plan.

Dr. Vitale asked about the “dug well” shown on the plan, and the engineer responded that it is a 30” stone-lined well, and was probably an old irrigation well. The Agent stated that this old well must be properly abandoned by a licensed well driller.

A motion was made to approve this plan conditional to (1) the old dug well being properly abandoned by a licensed well driller, and (2) a 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 Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plans was approved with conditions.

**APPROVED 4-0 with conditions**



14. **25 Farm Road, Ellen McDonald – VARIANCE HEARING – Septic Replacement / Well Replacement #22-34/25** – Ellen McDonald was present with her engineer, Daniel McIntyre. Abutter Sally Tipton was also present. The Administrator reported that a copy of the abutter notification letter and the certified mail return receipts (green cards) and/or usps.com printouts had been received and all was in order. The Hearing was opened.

Mr. McIntyre stated that Ms. McDonald is getting ready to sell her home, and noted that the existing system consists of a series of cesspools. An Eljen Geotextile Sand Filter replacement septic system is proposed, with the replacement septic in the back yard and the replacement well in the front yard (so the well will be upgradient of the septic system). Mr. McIntyre stated that there is ledge high up above the house, and shallow ledge, which he believes is an outcrop up by the house, in the test pits at the side of the house. The requested variances were reviewed and discussed:

(1) Reg. I, Section 8.0(1) – to allow the proposed soil absorption system to be located in an area with a 4-foot offset to maximum 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(2.) Reg. I, Section 8.0(2) – to allow the proposed soil absorption system to be installed in an area where maximum high groundwater is <5-feet below natural surface grade. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(3) Reg. I, Section 10.1(A) – to allow the proposed soil absorption system to be located 103-feet from the proposed new onsite well 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(4) Reg. I, Section 10.2 – to allow the proposed soil absorption system to be located 121-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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(5) Reg. I, Section 10.2 – to allow the proposed soil absorption system to be located 14-feet from the rear 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(6) Reg. II, Section 6.0(A) – to allow the proposed replacement well to be located 103-feet from the proposed down-gradient septic system 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(7) Reg. II, Section 6.0(A) – to allow the proposed replacement well to be located 115-feet from the down-gradient septic system serving 27 Farm Road 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(8) Reg. II, Section 6.0(D) – to allow the proposed replacement well to be located 20-feet from the road right-of-way rather than the required 50-feet. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(9) Reg. II, Section 6.0(D) – to allow the proposed replacement well to be located 33-feet from the road pavement rather than the required 55-feet. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(10) Reg. II, Section 6.0(E) – to allow the proposed replacement well to be located 17-feet from the property line rather than the required 25-feet. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

The Hearing was closed.

The Agent recommended approval of the plan as presented, conditional to (1) the garbage grinder prohibition deed recording and the DEP Notice of Alternative System deed recording being completed and (2) the new well shall be drilled and potability proven and the old well properly abandoned by a licensed

well driller, prior to the installation of the replacement septic system. Such a motion was made and seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with conditions. **APPROVED 4-0 with conditions**

15. **2022 DEP Notice to Local Boards of Health** – The Board noted receipt of this annual notice. Ms. Beardsley noted that it is heavily weighted to towns with large public water supplies, but she felt it is a good reference document for the Board for topics that might arise.

After a question from Dr. Hunnewell, there was a brief discussion about how other towns with public water supplies operate. Ms. Beardsley noted that in larger municipalities, there might be a Water Department with trained staff, or an outside firm that provides the trained staff to operate the water supply system might be hired. It was noted that there is not a big role for Sherborn's Water Commissioners, but Ms. Beardsley noted that they have been doing a good job of tracking the General Chemical and downtown water supply issues.

16. **58 Oldfield Drive, Brett Piercy – Preliminary Building Application #P22-26** (see Minutes of 12/2/2020 and 5/4/2022) – The Agent reviewed that this applicant is trying to find a way to build an in-law apartment using the existing 5-bedroom septic system, by reducing the existing number of bedrooms on the 2<sup>nd</sup> floor. The existing and proposed floor plans were reviewed:

Existing 11-room house:

- 5 rooms on 1<sup>st</sup> floor
- 5 bedrooms on 2<sup>nd</sup> floor
- 1 playroom in basement

Proposed 12-rooms:

- 5 rooms on 1<sup>st</sup> floor
- 4 bedrooms on 2<sup>nd</sup> floor; 1 existing bedroom is proposed to be converted into a bathroom and laundry room
- 1 playroom in basement
- 2-room studio apartment (kitchen area and living/sleeping area) in garage

This proposal of 12-rooms would result in the need for a 6-bedroom septic system *unless* the Board allows a deed recording for the existing basement playroom, in order to reduce the room count to 11.

The Agent was instructed to:

- (1) Confirm that the bathroom adjacent to the basement playroom is only a ½-bath;
- (2) Confirm that the “unfinished storage space” on the 2<sup>nd</sup> floor is actually unfinished space. Photos of the unfinished space(s) should be provided, and will be part of the deed recording.
- (3) Confirm the walk-out status of the basement.
- (4) A detailed floor plan of the studio space should be provided.
- (5) A Title 5 Inspection report is required if the renovations total 50% or more of the existing habitable floor space, but one is recommended anyway to confirm the existing system is operating properly.

Following confirmation and receipt of the requirements as noted above, a deed recording for the existing basement room and the unfinished 2<sup>nd</sup> floor space will be provided. If the applicant has any concerns, she is welcome to come back to the Board at a future meeting. The Agent noted timing of the construction, noting that the work in the house (reducing bedroom count) should be done first, or at least concurrently, with the in-law studio apartment in the garage. That reduction of bedroom count in the existing house must

be completed prior to a Certificate of Occupancy being issued by the Building Commissioner for the new in-law studio apartment.

**17. 53 Farm Road, Fenix Partners Farm Road LLC – Revision to a Previously Approved Plan #22-36** (see Minutes of 12/1/21, 11/3/21, 10/20/21, 9/29/21, and 9/1/21) – Mr. Murchison was present with Desheng Wang and Francis Alves of Creative Land and Water Engineering.

The Agent stated that the main intent for this “Revision to a Previously Approved Plan” was to change the lot lines. The plan was reviewed and it was noted that a section on the front of the lot (marked with green lines) is being turned over to *55 Farm Road* and a section (marked with red hashtags) will now be included with *53 Farm Road*. The Agent stated that while he was reviewing the plans, he saw that they were not the same as the plans previously approved in November 2021. He has been in contact with Dr. Wang quite often since last week, and he stated that a revised plan was submitted earlier today. Among other corrections, the Agent noted that boulders are shown as protection for the well head are now shown on the plan. The other corrections were noted.

Dr. Vitale asked about the drainage pipe from across the street, and Dr. Wang noted that the drainage swale has been graded according to Title 5. Ms. Beardsley stated that she was advised that the drainage pipe had been “plugged” by the DPW with brick or cement (or both) so it is no longer active.

In response to a question from the Chair, the Agent stated that all of the necessary elements of the plan are included, but are just spread across 3 different sheets. The Agent noted that he has reviewed the plan in detail with Dr. Wang, and compared it to the originally approved plan, and all of the needed corrections/changes have been made.

Dr. Hunnewell asked if we know anything about the history of that original drainage pipe about why it was placed there, and if there is any relationship to the water flow patterns on the surface versus below the surface. She asked if that would effectively change the flow or if this was just a simple change that actually doesn’t alter the true passage of water.

[Noting the time, Chair Dr. Vitale suspended discussion of this topic, but noted that the Board would return to this discussion following Mr. Moore’s scheduled presentation about water courses.]

[Discussion continued following #18 below. That later discussion is shown here for clarity of the Minutes.]

It was noted that the well serving this property has been in place for more than 5-months, but there is no protection for it. Dr. Wang stated that they will be moving forward with that well protection, and it will be in place in the next week or so.

Brian Moore stated that both he and his wife are strongly opposed to this project, stating there is a 10% off-flow off the property. There is nothing that shows the engineer has done any calculations that they’ve met the 10% flow off the property, and he requested the Board require the applicant to do a mounding calculation and a nitrate analysis before this is taken to a vote.

Dr. Hunnewell agreed with Mr. Moore, saying the Board needs more information up front before they can make a decision. Dr. Bevers noted that what is before the Board is an application for a single-family house, and he stated that the Board cannot ask for anything of this applicant that isn’t asked of any other applicant. Dr. Vitale agreed that the application before the Board is an application for *53 Farm Road* only. Dr. Vitale stated that he appreciates Mr. Moore’s appreciation of a volunteer Board, and he stated that his points are very clear and he does not mean to dismiss them.

Mr. Moore stated that he and his wife hired an expert and he presented the Board with a model that indicated it would not diminish when it meets the property line, and he asked why isn’t the Board requiring it. Dr. Bevers responded that the Board cannot arbitrarily change the rules, but Dr. Hunnewell felt that wasn’t true. She stated that the Board is tasked with protecting the drinking water, and she stated that this



Board is not doing that. Dr. Vitale stated that the Board does not ask for nitrate load at the property line for any other property.

Ms. Beardsley stated that she and Dr. Hunnewell were the only current Board members who were on the Board during the Fields of Sherborn 40B, and she noted that the Board had those analyses for that larger project. Ms. Beardsley stated that MassDEP does not require it in Title 5. If the Board wants to pass such a regulation for single family homes, then we have to have it written down so people know what they are working against. If we want to pass it, we would have to move it forward in the regulatory process. Ms. Beardsley stated that she was very excited that so many people are getting more interested in how we manage our drinking water resources in town, and she hopes people continue to be involved with the Board as we move ahead with the regulatory changes.

Dr. Hunnewell stated that MassDEP has advised that this is a civil matter between two property owners, and she stated that what we are saying is that the Board of Health is unwilling to stand up for our abutter. We have those calculations from previous maps done by an expert, so what the Board is saying is that they are forcing an abutter to sue or we won't do anything in his interests. We are supposed to represent every person in Sherborn and not just one. We usually don't have the math, but we do have the math now, so she asked how can the Board use their responsibility to protect the abutter's interest.

Dr. Vitale asked for a motion to approve the revised plan as received and presented today, noting the Agent fully reviewed the plan today, and such a motion was made and seconded.

Dr. Vitale commented that he would like to see the wellhead protected within the next two (2) weeks. He stated that he would like to be able to release the plan, but he would also be comfortable making it conditional to placement of the well protection, given the extended period with which the well has been placed, and he asked if the Agent had any suggestions about how to best ensure the Board has a way to get the wellhead protected, and the Agent responded that it could be made as part of the septic/well approval. Ms. Beardsley stated that she is also concerned, especially with the potential increasing activity at the site, that the protection be put in place sooner than later. Dr. Vitale asked the engineer if the 2-week timeframe sounded realistic, and Dr. Wang responded that he thought so, and he asked Mr. Murchison, who was on the call, to speak if he wants to, or he could just put the well protection in place. Mr. Murchison made no comment.

Ms. Beardsley requested verification from the Agent that, since he received plan revisions just hours ago, that he was confident he has been able to review the plan sufficiently, and the Agent responded that it was thoroughly reviewed.

By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Dr. Hunnewell – NAY

Chair Dr. Vitale – AYE

The motion passed and the revised plan was approved.

**APPROVED 3-1**

Dr. Hunnewell was opposed.

**18. Brian Moore – Presentation on Watercourses** – Mr. Moore was present, as were many others. Dr. Vitale stated that Mr. Moore would get his time uninterrupted, followed by a period of time for the Board to ask questions they might have or clarifications. It will then be opened up to any public comment or discussion. Mr. Moore began by thanking all of the volunteers who work on boards in the town, noting it is a thankless job.

Mr. Moore referenced his letter dated 6/9/2022 throughout his PowerPoint presentation. He started his presentation by stating there is no definition of "watercourse" in the town Wetlands Regulations, nor is there a definition in the Massachusetts Wetlands Protection Act, the Massachusetts River Protection Act, or the Federal Clean Water Act. He stated that it is his understanding that the Board of Health regulations are

written by the Board of Health and approved by that Board as protective measures for public health. He stated that he believes the term “watercourse” in the Board of Health regulations was intended to address what the Board members at the time felt was a gap in one or more of the State or Federal Regulations noted above. Mr. Moore stated that, as such, it is not an ephemeral stream and it is not surface water – it is its own entity, and he stated that, as a practicing geologist, he believes these watercourses exist in Sherborn and should be subject to protection, as contemplated in the Board of Health regulations.

Mr. Moore moved on to the definition of a “watercourse”, and noted that he provided “a bunch of different definitions” in his 6/9/2022 letter from both the Merriam Webster Dictionary and the Internet, and he noted that, as a single word, watercourse speaks not only to water underground and surface water, but also to its habitat to where and how it travels. Mr. Moore stated that just because there isn’t water there doesn’t mean water doesn’t periodically get through there. He is looking at “watercourse” as being that portion of the subsurface or surface where water periodically travels.

The PowerPoint was reviewed, and Mr. Moore stated that on the map, it shows the location of the 53-65 Farm Road project is on the western side of the groundwater divide that he provided. He stated that these types of deposits, groundwater can be perched or trapped, but it basically interacts directly with surface waters throughout much of New England, including in Sherborn. Mr. Moore stated that much of the surface water is an expression of what is going on with groundwater, and that groundwater divide signifies a divide between the two drainage basins, noting that 53-65 Farm Road is on the western Sewall Brook side of that drainage. A map of the ledge in the area was shown.

Mr. Moore noted that we are currently in a drought and he noted that the level of water in Farm Pond is quite low. Groundwater elevations change throughout any given year, and he stated that in a Till deposit, those elevation changes can be 5-10-15-feet, while in sandy deposits they are much smaller (usually inches or feet). He noted that there is quite a bit of fluctuation within the saturated zone itself.

Mr. Moore stated that the MassDEP has mapped this “watercourse” as a “wetlands hydrologic connection” in its “Oliver/Mass Mapper System, and he stated that it has been mapped this way for decades. He stated the USGS has come to the same conclusion in their own published computer models. In closing, Mr. Moore stated that he wants the Board of Health to recognize that there *is* a watercourse on this property at 53-65 Farm Road.

#### Comments:

Dr. Vitale stated that he felt it was clear that Mr. Moore put a lot of time and effort into educating this Board and the community. He stated that it is important that the Board act consistently, and he stated that he is concerned that, at least in his time as a member of the Board of Health, the Board has not said that although the Conservation Commission has not identified this as a watercourse or a wetland, the Board is going to use a set of definitions that will. The Chair stated that he is not comfortable saying that we are using mapping features or other features that are not how we’ve handled other projects or properties that have come into town, and he said that those may be valid considerations, but this is not the pattern he has seen in terms of the process of review, so as such, he felt that the Board needs to be consistent with how the Board has behaved and handled other projects. He stated that while there may be room for regulatory change, Dr. Vitale felt that if that were to happen, it would be most appropriate within the Conservation Commission as it relates to delineation. He stated that this is not to dismiss the importance of what Mr. Moore has said, but as a Board, the Board of Health must be consistent with past practice, and he didn’t recall an instance where a watercourse was identified by the Board and not by others.

Ms. Beardsley stated that last November the Board did research watercourse definitions and she felt that an ephemeral watercourse fits this situation the best. She stated that we did speak with MassDEP about how they regarded these sorts of features vis-à-vis septic, and they did not have concerns. Rather, they deferred to Conservation Commission types of determinations. Ms. Beardsley stated that is what the Board is operating off of. She stated that some time later, the Board received documents from 1977 regarding some dynamics that were taking place at that time and the need for the town to put in a drain that

has since been plugged up. She stated that the Board has also been advised by Town Counsel to not speculate on what might happen, so even though members of the Board (both volunteers and staff) saw flow in that open drain in the winter, the plugging of that drain changes it now, but the Board cannot speculate without other information. Ms. Beardsley felt that the information Mr. Moore has presented speaks to the question of if the water dynamics that prompted the letter and actions taken Circa 1977 will find another path, and, reoccur as a watercourse, but we don't know that right now. The Board cannot verify the original reason for the addition of the term "watercourse" to the regulations – we don't have that institutional memory present. She stated that she prefers a precautionary approach, but she wasn't sure how to deal with that on a regulatory level.

Dr. Bevers stated that he agreed with both Dr. Vitale and Ms. Beardsley have said. In addition, he noted that the Board considered the issue previously, discussed it with MassDEP, and made a decision. He stated that he's not sure that the fact the plans are coming back to the Board because of an unrelated change is sufficient reason to set a precedent that the Board will go back on a decision made well beyond the typical period. Dr. Bevers felt there is not enough here for him to take the action Mr. Moore is seeking on the particular plan before the Board, but he couldn't comment on any future plans that might be submitted. Given the fact that the Board asked the question, got answers from MassDEP, and made a determination, he is uncomfortable dragging the Board down forever in terms of being constantly at risk for the Board to change its mind.

Dr. Hunnewell stated that she finds it interesting that the Board uses scientific data that are essentially speculative – nothing is factual. She stated that the Board has to rely on their clinical judgment in medicine, and that is why scientists interpret data – it's all speculative in the end. She stated that you can't prove anything until the person is dead or until "the whatever falls over on Farm Road". She cited a specific situation on Maple Street where a resident's well had manganese contamination. Dr. Hunnewell stated that she finds it interesting that our Board and our Town Counsel would advise that we are speculating, stating that the Board has no other way to assess data as a scientist.

Dr. Vitale responded saying the discussion about Maple Street is a wonderful example where there was not an applicable regulation, there was an action taken in the context of that experience to address that regulatory gap. He stated that he isn't saying this to minimize what Mr. Moore is saying or raising, but he stated that from his point of view, he didn't think this is a place where acting on this would be consistent with the past practice of the Board, but he recognized that a reasonable person could certainly disagree with him. Dr. Vitale opened the topic to public, recognizing Mr. Moore first, and noting that he hopes Mr. Moore will address the question of whether he has had any of the watercourse discussions with the Conservation Commission, or that presentation, yet.

**Public Comment:**

*Brian Moore* responded first to Dr. Vitale's question, stating that he has not had the watercourse discussion with the Conservation Commission, because the term "watercourse" does not appear in their regulations. Additionally, he was aware, from previous public sessions, that the Chair of the Board of Health had contacted MassDEP.

Mr. Moore stated that things *have* changed since the Board dealt with the Maple Street situation, pointing out that at the Annual Town Meeting, the town declared that we are in a State of Climate Emergency – that the town or the Select Board made a resolution that we are in an environmental emergency. He stated that every single day in the newspaper there are people who don't have drinking water, and he noted that some of them are in our own country. He stated that he thinks we should take up the charge and continue to lead in protecting this resource, and he stated that it is not just saying the water is still there in the ground, but it is protecting the environment of the water – its habitat, the place it lives the way nature cleans it before it comes out of your tap with no PFAS or very low PFAS levels in it. He stated that is all Mother Nature – it's not granular activated carbon or UV – it is Mother Nature and she does a great job. He stated that, in a climate emergency, he wants to continue to support Mother Nature's

efforts. He stated that it is not a Conservation Commission issue because it is not in their regulations, and it is not a wetlands protection issue because it's not in their regulations, it's not in MassDEP regulations and it's not in the Rivers Protection Act. It is in the Sherborn Board of Health regulations, and he stated that he is simply asking within this climate emergency, when everyone's water is at risk every day from new chemicals, that we consider the implications of having a regulation that could prevent people from being exposed to things that are not good for them. He stated that, in a climate emergency, it is time for us to be a little inconsistent with the way we've done business and be a little more protective.

*Tom Trainor* commented that as a Board, he totally understands the approach of looking at past practices and the regulations that you are designed to adhere to, but he stated that in 30-40 years, the storms we will be seeing will be much larger. He stated that the state, in their flood modeling guidelines had been using 8-inches of precipitation for a large 100-year, 24-hour event, but they just changed that to 10-inches. He felt the Board is going to have to start building in buffers into their septic and well protection regulations. He stated that he thinks this is a very serious concern that these abutters have with that watercourse.

*Ms. Beardsley* stated that the best she could tell from the research she did last year is that there was flow from the septic system to that drain and it could mix periodically with the intermittent flows that might be in the open drain, and because it was at the surface, kids, pets, and adults might come in contact with that water, not realizing that it might have had some influence of contaminants present. With the plugging of that drain which was feeding that more directly, what we don't know is whether there will be sheet flow off the road, or whether the cross-section Mr. Moore showed from the pond that is further down Farm Road might also reach the drain – or, it might flow underground from there. She stated that it is not clear that there is definitely going to be water entering that drain. She stated that it is incredibly complex and she is not saying that she doesn't want to tackle it, noting that she has spent years working on trying to protect our water supplies, but she said she is finding it difficult to connect those dots right now. Additionally, it would open up a lot of questions everywhere and that is very complex. She stated that she's encouraged by what Tom said – that maybe there is some kind of modeling that the state is going to be using or something we could apply so we could do some forecasting on that. However, she stated that she can't see doing this on a specific location now before we have concrete information. *Ms. Beardsley* noted that the drain has been plugged, and stated that if the drain had not been plugged, she would have absolutely ruled that the septic system was within less than 125-feet from an open drain. However, the conditions changed.

*Mr. Moore* noted that nowhere in his presentation about watercourses did he refer to the open surface drain that was plugged, stating that he considers that completely independent. He agreed that it might have served to fuel that open drain, but he believes the main driver is the pond, the rainwater, and the bedrock and underlying materials.

*Dr. Vitale* stated that as he's thought of the project, the open drain was one of the questions as it related to the historical drywall installation, the culvert under Farm Road, and the watercourse is another issue, and he believes the Board has tried to thoughtfully approach both.

*Sally Tipton* commented that she thinks Mr. Moore's case is most alarming, stating that she lives downstream from all of this, and feels this should be considered most carefully.

*Ms. Beardsley* asked the Agent to comment on excavations that took place between the Pond and where we're talking about, and whether there is shallow depth or significant depth of soil in that location. The Agent responded that there is significant depth of soil, noting that he tested with the current engineer, *Desheng Wang*, over the past two years in several locations. Previous to that, some soil testing observations were done with a previous owner on the pond side, and that testing was found to be not suitable for any new construction because groundwater was anywhere from 3-4-feet. As you start to go on the west side of that driveway, where *Desheng* had tested, it isn't as wet as what was found on the pond side.



Dr. Hunnewell stated that at some point the Board will have to evaluate the water. She stated that Mr. Murchison did a really nice job of presenting his concept on the tour, and she felt some of the ideas were really good. But, one thing he hasn't had to the opportunity to address is the drinking water, and as the Board of Health, we are going to need to consider the interests of the future residents of the proposed development, especially if there is affordable housing.

Dr. Bevers clarified that the Board is discussing 53 Farm Road right now and not anything else. He stated that he does think there are separate considerations, and he wanted to make sure the Board doesn't dive too far into a discussion of the proposed development that is not in front of the Board right now.

In response to a question from Ms. Beardsley, the Agent stated that he recalls the soils were permeable, and he didn't recall a percolation test to be over 20-minutes/inch, but he noted that was for the whole area. For the 53 Farm Road house, the soils were anywhere from a sandy loam, and he didn't see anything that would indicate a percolation rate over a 40-minute/inch rate. Ms. Beardsley stated that the reason she asked that question is because, if it was very shallow ledge, it would be easier to envision that there could be breakout to the surface that might be channeled again in the open drain, but lacking the pipe that was feeding water to it, that becomes less of a certainty.

The Agent commented about an observation of a bunch of rocks, which according to the engineer, was a well. The Agent stated that he couldn't confirm if it was a well because he never looked inside it because they didn't remove the rocks – they were just able to put a tape measure down it. He stated that he knows the Board isn't discussing that property tonight, but he stated that this would need to be reviewed at future meetings.

Dr. Vitale stated that he doesn't mean to minimize either Mr. Moore's or Mr. Trainor's points, but he stated that he doesn't think historical practice of the Board supports the Board to invoke a watercourse in this fashion. While they may be important issues, particularly in the context of climate change, you need to have the regulations to support it. The watercourse issue can be one that can continue in the future.

Ms. Beardsley noted that the Board does look at the run-on or run-off of a property being developed, and she noted it should not change by more than 10%.

Dr. Vitale closed the watercourse discussion and returned to discussion of 53 Farm Road (see #17 above).

19 **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 Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

This virtual meeting adjourned at 9:38 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]

M22-0615.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 6/15/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **12 Washington Street -**
  - Well Replacement plan #22-37, drawn by McIntyre Engineering and dated 5/2/2022
  - Variance request letter dated 5/2/2022 from Daniel McIntyre, P.E.
  - Certified list of abutters from the Assessor's office dated 5/4/2022
  - Copy of abutter notification letter from Daniel McIntyre, P.E. dated 5/18/2022
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
2. **25 Farm Road –**
  - Septic Replacement/Well Replacement plan #22-34/35, drawn by McIntyre Engineering, dated 4/12/22
  - Variance request letter dated 4/18/22 from Daniel McIntyre, P.E.
  - Certified list of abutters from the Assessor's office dated 4/20/2022
  - Copy of abutter notification letter from Daniel McIntyre, P.E., dated 5/18/2022
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
3. **58 Oldfield Drive –**
  - Preliminary Building Application #P22-26
  - BOH meeting Minutes of 12/20/2020 and 5/4/2022
4. **Watercourse Presentation by resident Brian Moore –**
  - PowerPoint on watercourse at 53-65 Farm Road – 6/9/2022
  - Cross section of watercourse – 3/11/2022
  - Watercourse supporting documentation – 6/9/2022
5. **Lot 163A Maple Street (at 0 Maple Street) –**
  - New Septic/New Well plan #22-05/06, drawn by Creative Land & Water Engineering, dated 3/10/22 and revised 5/11/22
6. **53 Farm Road –**
  - Revision to a Previously Approved Plan #22-36, drawn by Creative Land & Water Engineering, dated 9/21/21 and last revised 4/27/22
  - BOH meeting Minutes of 12/1/2021
7. **2022 Temporary Food Establishment Permit Applications –**
  - Thankue Catering LLC of Walpole - #TF22-26 (Library Concert Series 7/20/2022)
  - Dente Enterprises LLC d/b/a Trolley Dogs of Framingham - #TF22-27 (Library Concert Series 7/13/2022)
  - Kona Ice of Framingham/Natick - #TF22-28 (Library Concert Series 6/29/22, 7/6/22, 7/13/22, and 7/20/22)
8. **2022 Disposal Works Installer Application –**
  - Robert E. Baker, Rebco Inc. of South Walpole - #I22-20
9. **Leland Farms –**
  - Consumer Confidence Report Certification for calendar year 2021
  - 2021 Report on Water Quality
10. **Woodhaven Elderly Housing –**
  - Consumer Confidence Report Certification for calendar year 2021
  - 2021 Report on Water Quality
11. **Natick-Walpole Visiting Nurse Association –**
  - May 2022 COVID-19 Invoice, dated 5/31/2022 and received via email on 6/14/2022
12. **Notice to Local Boards of Health –**

- MassDEP Notice to Local Boards of Health dated June 2022, received 6/10/22

13. **Minutes –**

- BOH meeting Minutes of 6/1/2022

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
July 6, 2022**

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

**Members Absent:** None

**Others Present:** Courtney Ek, Laura Mastrobuono, Margo Powicki, Mike Kocsik, Bob Murchison, Marian Neutra, Daniel McIntyre, P.E., Jeff Waldron, “iPhone”, Maksim Bolyasnyy, Tom Trainor, Keith Lewis, Jeanne Guthrie, Eric Dickinson, “Holly”, Mary O’Hara Moore, Brian Moore, Arthur Fenno, and Mark Oram, Agent.

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 came to order at 7:01 PM via Zoom. It was noted that all votes shall be taken via roll call vote.

1. The Chair 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) 10 Obed Lane, Joseph Lockhart – Emergency Well Replacement #22-50

(2) Natick-Walpole Visiting Nurse Association – June 2022 COVID-19 invoice for approval

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

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

**APPROVED 5-0**

2. **10 Obed Lane, Joseph Lockhart – VARIANCE HEARING - Emergency Well Replacement #22-50** (see Minutes of 9/7/2016) – The Administrator noted that, due to the specific variances requested, a full Hearing with abutter notification is *not* required, in accordance with Regulation II, Domestic Water Supply, Section 19.0, Variance Procedure. The Hearing was opened.

Daniel McIntyre, P.E. was present, representing the owner, and he stated that the existing well recently went dry. Dover Well & Pump inspected, and due to the age of the existing well, they recommended drilling a new replacement well.

Mr. McIntyre stated that the septic system was replaced in 2016. Noting the percolation rate at that time was <3-minutes/inch, the engineer stated that increased the required offset distances. Mr. McIntyre stated that he investigated 3 possible locations and is recommending location #3. Ms. Beardsley noted that



just one bollard was shown for well protection near the driveway, and felt that more than 1 bollard should be provided. The engineer was advised that large boulders could also be used for well protection. In response to a question, Mr. McIntyre stated that a new well line would be run from the new well to the house. Ms. Campe asked about the depth of the existing well, stating that would be helpful information, and the Agent responded that would be requested of the licensed well driller at the time of abandonment of that existing well. Ms. Campe reviewed the process of drilling and testing.

The requested variances were reviewed:

(1) Regulation II, Section 6.0(B)(C) – to allow the proposed well to be located 102-feet from the existing upgradient onsite septic system rather than the required 175-feet. A motion was made to approve this variance 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 variance was approved.

**APPROVED 5-0**

(2) Regulation II, Section 6.0(B)(C) – to allow the proposed well to be located 170-feet from the existing upgradient septic system serving 35 Eliot Street rather than the required 175-feet. A motion was made to approve this variance 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 variance was approved.

**APPROVED 5-0**

(3) Regulation II, Section 6.0(D) – to allow the proposed well to be located 5-feet from the existing onsite driveway rather than the required 20-feet, with the condition that well protection, in the form of bollards or boulders. A motion was made to approve this variance 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 variance was approved with condition. **APPROVED 5-0 with condition**

The Hearing was closed.

The Agent noted that the engineer located the septic system at 28 Lake Street by using a previous well location plan, and he further noted that he had provided an earlier emergency approval for this application.

A motion was made to ratify the Agent's previous approval of this emergency well replacement, with the condition regarding well protection stated above, 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 Agent's previous approval was ratified.

**RATIFIED 5-0 with condition**

3. **27 Snow Street, Thomas & Amy VanLangen – Emergency Well Replacement #22-49** – Daniel McIntyre, P.E. was present, representing the owners. He noted that the existing well has failed and is not producing water. The replacement plan was reviewed, and it was noted that no variances are needed. Mr. McIntyre stated that there are some overhead electric lines and the well driller might need to move his rig a little bit which could put the replacement well location a little bit closer to Snow Street. If that happens, they will do the as-built plan and come back for an after-the-fact variance hearing. He stated, however, that he is confident the replacement well can be installed without any variances. During decommissioning of the existing well, the well driller will be asked to provide the depth and other properties of the existing well. The Agent stated that he provided an emergency approval on June 30<sup>th</sup>, and the Board's ratification is needed.

A motion was made to ratify the Agent's earlier approval, 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 Agent's earlier approval was ratified.

**RATIFIED 5-0**

4. **Natick-Walpole Visiting Nurse Association – June 2022 COVID-19 Invoice** – This invoice, in the amount of \$522.50, was reviewed. The Administrator confirmed that this cost is paid entirely by a Grant. A motion was made to approve this invoice for payment 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 invoice was approved for payment.

**APPROVED 5-0**

5. In front of **184 Forest Street – Release of oil or hazardous waste** – The Agent reported receipt of a notice addressed to **Eversource Energy** from MassDEP, requiring response action. He stated that it was a transformer (non-PCB). Ms. Campe stated that dielectric fluid is the most innocuous type of release you can have, noting has very low toxicity.

Later in the evening, Ms. Campe reported that she went MassDEP's website, checked into the release report, and it indicates that Eversource Energy did file the permanent solution closure report, so it is all cleaned up.

6. **Temporary 1-day Food Establishment Permits** for an event at 124 Bogastow Brook Road on **7/2/2022** were reviewed. Ms. Beardsley commended the Food Inspector, BOH Administrator, and Health Agent for acting quickly together, on very short notice – noting there was actually no notice because this was found through other means – to help get this done. Dr. Vitale agreed, noting that the Building Commissioner also helped out. He stated that it is much appreciated by the applicant, and by anyone else who attended the event.

(A) **Super Star Ice Cream (food truck) from Methuen - #TF22-30**

(B) **Yai's Kitchen (food truck) from Norton - #TF22-31**

A motion was made to ratify the Food Inspector's previous approval of the two above-noted temporary, 1-day food establishment permits, 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 Food Inspector's previous approval was ratified.

#### **RATIFIED 5-0**

7. **Minutes** – The Minutes of 6/15/2022 were reviewed. Dr. Vitale and Ms. Beardsley both had very minor typographical corrections. Dr. Hunnewell stated that she wants to listen to the recording before providing comments, saying she needs more time because she's been extremely busy. Dr. Vitale requested, to the degree possible, that it would be best if the Board could try to vote on meeting Minutes at the subsequent meeting. Dr. Hunnewell responded that she agrees 100%, with one exception, noting that the only times she's needed to delay her comments is when she must listen to the recording because a couple of the quotes and statements included, that she does not think are correct. She stated that she wants her statements to be accurate, noting that those in the Minutes were quite critical of the Board and she stated she wasn't criticizing the Board at all. Dr. Hunnewell stated that these quotes slightly misinterpreted what she was saying, and she wants to have an opportunity to listen to the recording.

Dr. Vitale felt Dr. Hunnewell introduced an inaccuracy, noting the last time she wasn't able to make comments or edits to the Minutes was when she wasn't acting as a member of the Board – she was acting as a community member for an agenda item. The Chair stated that Dr. Hunnewell can certainly provide edits to the Minutes in her capacity as a member of the Board, which is different than the scenario where this came up previously.

Dr. Bevers asked when these Minutes should be approved, and Ms. Beardsley responded that the Board tries to have them done at the next meeting, which is tonight. Dr. Hunnewell responded that this is unusual because she was on call, there was a holiday, and it's been busy. Dr. Bevers stated that the Board should try to stay on top of this and get Minutes approved quickly, noting that all of the Board members are very busy, and he felt it unfortunate that this has to be delayed.

The Administrator was instructed to place approval of the 6/15/2022 on the 7/20/2022 agenda.

8. **Remote Meetings** – The Administrator reported that the ability for the Board to hold their meetings remotely ends on July 15, 2022 unless the state legislature votes to extend that ability. She stated that she has heard anecdotally that the state Senate has approved an extension to December, and that it has gone to the House. If it isn't passed, the Board will be required to meet in-person after July 15<sup>th</sup>. Town Counsel will advise of the outcome.

Dr. Vitale stated that remote meetings have been helpful, especially with the sharing of plans. He asked if there was anything on the July 20<sup>th</sup> agenda, and the Administrator noted that there is one variance hearing scheduled. Daniel McIntyre, the engineer for that hearing, was present and stated that the abutter notification letters have already been sent, noting that the meeting will be virtual. The Administrator noted that, if the legislature does not extend remote meetings, it would be up to the Town to notify the abutters of the change to an in-person meeting, so that would be something she would have to do. Dr. Vitale commented that this, hopefully, will be a moot point and the remote meetings will continue.

Select Board member Jeff Waldron confirmed that the state Senate has approved an extension of remote meetings, and it is currently in the House. He stated that he is confident it will be extended. He stated that the Senate vote was to extend it to December 2023 rather than this December. Mr. Waldron noted that the town is very close to having hybrid capability, stating that we have a large monitor in the normal meeting room that will appear as just another zoom participant, but it will allow everyone who is attending by zoom to see whoever is in person. He stated that the town is close to Boards who want to have a combined in-person and virtual meeting to be able to do that.

9. **36 Farm Road, Barry O'Donovan – VARIANCE HEARING – Septic Replacement/Expansion #22-44** – The Administrator reported that the certified list of abutters, a copy of the abutter notification letter, and certified mail return receipts had been provided. Usps.com printouts indicate that some letters have been delivered with the receipts in-process back to the sender, and she stated that the homeowner should be sure to provide those cards (or unopened returned envelopes) to the Board of Health office upon receipt. The Hearing was opened.

Eric Dickinson, R.S., of CIVILized Solutions, was present, representing the owners. Abutter Mike Kocsik was also present. Mr. Dickinson reviewed the plan, stating the main site constraints are the onsite well and the abutting well serving 38 Farm Road, although there is also a wetlands system to the west. Testing was therefore conducted in the front yard, and no groundwater or redox was encountered, so a Frimptor groundwater adjustment was calculated. He stated that the proposed replacement system is a GeoFlow system with a FAST unit, and they will be going from the existing 3-bedrooms to a 4-bedroom design. He noted that the grading in the backyard changes, and a replacement system located there would be at a higher elevation than the abutting well, requiring an increased setback.

Resident Mike Kocsik stated that he is the abutter to the South, and is the abutter whose property will be within 10-feet of the proposed replacement system. He stated that he doesn't have any issues or problems, but asked if the replacement leaching field would be higher than the current grade. Mr. Dickinson responded that this type of system follows the contour of the grade and there would be no change in grade and no mound. Mr. Kocsik asked about an orange stake in the ground, and Mr. Dickinson responded that it shows the location of one of the test pits. Mr. Kocsik stated that his leaching field is approximately 55-feet from this proposed system and he asked if there would be any interaction that might affect the performance of his system, and Mr. Dickinson stated there would be no interaction. He also noted that this type of innovative/alternative system is like a wastewater treatment plant and offers very high treatment. Mr. Dickinson stated that it will need to be monitored twice a year, and the owner will need to enter into a contract with a company that comes out to test it and ensure it is functioning as designed, with those test results submitted to both MassDEP and the Board of Health.

The requested variances were reviewed:

(1) Section 1.2 – to allow the use of a “bed” design rather than the required trenches, with the use of a GeoFlow drip design and MicroFAST unit. A motion was made to approve this variance 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 variance was approved.

**APPROVED 5-0**

(2) Section 10.1(A) – to allow the proposed soil absorption system to be located 138.2-feet from the existing 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(3) Section 10.2 – to allow the proposed soil absorption system to be located 10-feet from the southern 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

The Hearing was closed.

The Agent recommended approval of the plan as submitted, conditional to the garbage grinder prohibition deed recording and the DEP Notice of Alternative System deed recording. 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 plan was approved with conditions.

**APPROVED 5-0 with conditions**

**10. 101 Woodland Street, Maksim Bolyasnyy – VARIANCE HEARING – Septic**

**Replacement/Expansion #22-45** (see Minutes of 9/2/2020 and 5/20/2020) – Daniel McIntyre, P.E. was present with owner Maksim Bolyasnyy. Dr. Vitale questioned if Dr. Hunnewell was an abutter to this property, and Dr. Hunnewell responded that she was not. The Administrator confirmed, stating that Dr. Hunnewell is not listed on the certified list of abutters provided by the Assessor's office. No abutters were present. The Administrator reported that the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts (green cards and/or usps.com printouts) had been received, and all was in order. The Hearing was opened.

Mr. McIntyre stated that the existing septic system is not in failure. He stated that approximately a year ago, the owner received ZBA approval for an accessory apartment and they designed a 1-bedroom septic system, but it needed a variance and was not allowed by the Board (since it was considered new construction).

Mr. McIntyre stated that in-season testing was conducted in the backyard around the existing system, and a larger system to accommodate the 1-bedroom accessory apartment has been designed. The proposed system is a convention stone and pipe system. The Agent stated that the existing 10-room home is served by a 5-bedroom septic system and this proposed replacement is based on a 6-bedroom design.

In response to a question from the Chair, Mr. McIntyre stated that the existing system was installed in 1980, and the plan indicated it was for 4-bedrooms, using 150-gallons/bedroom/day (a 600-gallon/day design flow). A lengthy discussion about the design flow, and whether an additional bedroom has already been added, followed. The Board reviewed the MassDEP 10/12/2002 guidance letter, and after determining that this situation is consistent with that DEP guidance letter, the Board was in agreement that they could treat the 1980 system as serving 5-bedrooms. Following that determination, the requested variances were reviewed and discussed.

(1) Section 8.0(2) – to allow the proposed soil absorption system to be installed in an area where the maximum high groundwater is <5-feet below natural surface grade. A motion was made to approve this variance 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 variance was approved.

**APPROVED 5-0**

(2) Section 13.0(1) – to allow a septic tank to be located 71-feet from the building it serves rather than the required 50-feet or less. A motion was made to approve this variance 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 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 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 plan was approved with condition.

**APPROVED 5-0 with condition**

**11. Farm Road Homes 40B** (see Minutes of 6/15/2022 and 6/1/2022) – [A preliminary discussion was held on this topic during the 4-minutes prior to the Variance Hearing detailed in #10 above. The entire discussion is shown here for clarity of the Minutes.]

Dr. Vitale began the discussion, noting that we are at this time providing initial comments to the Select Board, who will then integrate them into one letter to Mass Housing. The discussion tonight shall be on the themes and subject of that communication, rather than a detailed, comprehensive review.

Select Board Chair Jeff Waldron stated that they Select Board would like Board of Health input, as well as community-at-large input, from a Board of Health perspective, from anyone who is on this call tonight. He stated that the Select Board would like to have draft comments in advance of the July 14<sup>th</sup> Select Board meeting. Select Board member Marian Neutra is coordinating the overall response to Mass Housing, which will include the individual Boards and Committee's comments, and she will create an Executive Summary of the key issues from each of those sets of sections. Mr. Waldron stated that Town Counsel is available to anyone who needs it for wording or phrasing, and he noted that Heather White is the designated Town Counsel.

Dr. Hunnewell stated that the Board of Health's main information and analysis has to do with drinking water, but she noted that the Board hasn't yet been provided any information about that, and she asked how the Board could make any health comments without that information. She asked if someone could review the procedure and process, including the timing, for this 40B, noting that the Board knew the dates and deadlines for different parts of prior 40Bs. Dr. Vitale responded that Mr. Waldron already provided that information for the current cycle of feedback.

Marian Neutra stated that since we only have preliminary plans at this stage of the process, it is understood that the Board of Health doesn't have all the needed information for a detailed analysis. She felt the state is looking for the town's "first take" on all the elements in this 40B plan, and she noted that the Board could include in their comment letter to the Select Board that they don't have all the information needed to do a detailed analysis. The Select Board would then include that in their Executive Summary. Ms. Neutra noted that the state uses the information provided by the town to write a letter to the developer, instructing the developer as to what must be covered when they apply to the ZBA for a comprehensive permit. She stated that the timing between the letter from the state to the developer (which tells the

developer what they must have in their final plan and the Hearings for the comprehensive permit) depends, and she noted that it can be months. During that interim period, Ms. Neutra noted that the Board will have a lot more opportunities for input.

Mr. Waldron noted that Ms. Neutra gave an overview of the 40B process at the last Select Board meeting, and he recommended that Dr. Hunnewell watch that recording. Dr. Hunnewell stated that she has been on the Board for several 40Bs, and noted that the Board was provided with deadlines. Ms. Neutra responded that the deadline for the Board's comment letter is "before July 14<sup>th</sup>" so it can be reviewed at the July 14<sup>th</sup> Select Board meeting.

Dr. Vitale stated that Ms. Beardsley has been authorized to draft the comment letter on behalf of the Board. Dr. Hunnewell, noting that she was the only other Board member who attended the site visit, stated that she wants to see what Ms. Beardsley is going to present before it is presented, in case she has an additional comment. Ms. Campe stated that, in the past, the Board has highlighted, in general, the types of concerns the Board has, i.e., the big picture factors that the Board will be concerned with and that need to be addressed. She stated that the high notes, factors and concerns that must be addressed in a comprehensive manner, are specified. Dr. Vitale stated that if Dr. Hunnewell has a particular comment or points she feels are important from her experience on the site visit, now would be a good time to bring those comments up, but he noted that Ms. Beardsley has a fair amount of experience with 40Bs. Ms. Campe stated that, in the comment letter, the Board reserves the right to comment in detail on all of the issues once the more detailed plans are submitted to the ZBA.

Ms. Beardsley stated that this might be the Board's 7<sup>th</sup> comment letter on a 40B, starting with Whitney Farms and the last one being the 41 North Main/Hunting Lane project. Ms. Neutra stated that she felt the Board's "Hunting Lane letter" was very well written and very detailed, and she stated that that much detail is not needed – something shorter might be appropriate. Ms. Beardsley stated that the Board's major concern is water supply (quality and quantity), septage management, and the interplay between those. She noted that is the same concern the Board has for every building project that comes before them, and she noted that the local regulations are stricter than Title 5. Ms. Neutra noted that, with a Comprehensive Permit, the local regulations don't necessarily apply; they might follow the state regulations. Ms. Beardsley responded with agreement, unless the Board can make a case that the local regulations are needed.

Ms. Beardsley asked if anyone had another view of it or a different way of expressing it, saying that would be useful for her writing of the letter, and Dr. Hunnewell stated that it would be important to emphasize the lack of statutory protection, and she commented that they would understand that at the state level. Ms. Beardsley noted that she has never understood when Dr. Hunnewell makes that statement, because the Board does have protections. Ms. Beardsley stated that if she is talking about public water supplies, that is not a protection – rather, it is a verification of quality, but that is not a different protection. Ms. Beardsley noted that the state has similar setbacks from other features, just as the Board has for a private well, so that is just a testing requirement that will tell you if you have a problem, but it's not a protection in the sense of preventing a problem. Ms. Beardsley stated that she doesn't agree with Dr. Hunnewell that there is a big difference between the state and local regulations on that front. Dr. Hunnewell responded that the Board doesn't have DEP to help regulate, and that puts a lot of pressure on the Board of Health. The real challenge to the private water supplies and the lack of statutory protection is that an abutter who is endangered is forced to sue. She stated that if the Board of Health is unable to help an abutter, it creates challenges that might not exist in other places where the DEP can help. Both Ms. Beardsley and Ms. Campe responded that they did not agree with that comment.

Ms. Campe stated that in the very near future, she would be happy to take the lead on a proposal to amend the local regulations on domestic water supply to add a reference to add to the potability standards to reference the Massachusetts drinking water regulation guidelines. She stated that our drinking water quality needs to be at least as protective as what the state requires for public water supplies for health-based

standards. Ms. Campe noted that in that way every contaminant doesn't have to be listed, and every number doesn't have to be listed – it is just linked directly to the Massachusetts maximum contaminant levels. The list can be expanded as appropriate. Ms. Campe noted that the Board has talked about this before, but she urged the Board to move forward with amending the current regulations in that way.

*Brian Moore, 49 Farm Road* stated that he is immediately downgradient of this proposed project, and he stated that his concern is focused on the viability of his drinking water supply. He stated that he understands the Board has been provided with a very broad application without many specifics, but he hoped the Board would consider such factors as:

- The applicant has approvals for single-family homes, but nothing for multi-family development
- There is no public water supply to service the proposed 40+ homes, and nowhere on the property to locate a public water supply well
- There is nowhere on the property to locate a Zone 1 for a public water supply well
- There is nowhere on the property to be a septic system that will service that many homes without having nitrates over the regulatory limits at the property line, and
- There is nowhere on that property to put that much seepage without having it affect the wetlands.

Mr. Moore stated that he thinks this project is designed to “move the needle” to a more modern development, and he is entirely opposed to it.

Dr. Vitale noted that in the second phase with the ZBA, there will be a granular review about things such as the water drop-down and the impact on abutting wells. He stated that there is a place for that review, but today, this is the “10,000-foot” review. Today, we are identifying the key issues. Ms. Neutra agreed, unless you know facts about the hydrogeology that raise particular concerns. She stated that in some areas, the Board is aware of what the general problems tend to be, but that doesn't mean it will be exactly that at this site. Ms. Neutra stated that in the next week she intends to put the process and criteria the state will look at up on the town website, and she briefly reviewed what the state tends to look for. She noted that the town hasn't fulfilled its affordable housing requirement, so there is a need in general for affordable housing.

Ms. Campe requested information about the process for changing the regulations, and it was very briefly reviewed. This topic will be added to the next agenda for further discussion. Ms. Campe requested the Administrator send her the current regulations in “word” format.

Dr. Bevers stated that a comment on the importance of considering seepage and how that may impact the onsite and abutting drinking water wells should be included, noting that the more detailed comments can wait for later responses. Ms. Beardsley asked if she could include a comment supporting the local regulations as opposed to defaulting to the state regulations, but Dr. Vitale felt the intent of the 40B process is to bypass the local regulations, and he stated that the rationale behind the local regulations should be communicated. He felt it important the state understand the circumstances for the reasons the Board made the choices they've made, and he stated that, to him, is more important than the specific regulations. Dr. Hunnewell stated that we have private wells, and Dr. Vitale stated that is a circumstance. He re-stated that Sherborn is in a suburban zone with private wells and water supplies, and helping to communicate that is more important than saying a 125-foot offset is the magic number. Dr. Bevers agreed, saying the key is to make it clear that because of our unique circumstance, given our density, plus the private water supply and private septic, it needs to be made clear that those factors be considered in the design, rather than saying the local regulations must be followed. It is essential that abutting drinking water supplies be considered.

Ms. Neutra suggested that the Board revisit previous comment letters for previous 40B projects, noting they have been very well written. Dr. Vitale asked if there were any other pieces that should be included, and Dr. Hunnewell responded that she would just like to read the letter.

Ms. Beardsley noted that after drafting the letter, she assumed she'd be sending it to the Chair for signature, so additional comment from Dr. Hunnewell would constitute a “meeting”. Following brief



additional discussion, all were in agreement that following the Chair's signing, the letter would be forwarded to the full Board so all would be able to read it. They were cautioned, however, not to respond or make any comments, as that would be an open meeting law violation.

Ms. Neutra reminded the Board that the Select Board will be considering all of this at their July 14<sup>th</sup> meeting, so additional comments will be welcomed at that time. Dr. Hunnewell stated that if she can read the letter before that Select Board meeting, she might make a comment at that meeting.

Dr. Vitale reviewed that Ms. Beardsley will generate the letter, and it will be sent to Dr. Vitale for signature. It will then be sent to the Interim Town Administrator for the Select Board, and will be shared with the full Board as an FYI. If there are additional comments that anyone feels are important, the July 14<sup>th</sup> Select Board meeting would be a venue to share those comments.

A motion was made to authorize Ms. Beardsley to write the BOH comment letter to the Select Board 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 Ms. Beardsley was authorized to draft the Board's comment letter.

**AGREED 5-0**

12. **7/20/2022 agenda items** were stated. Dr. Vitale requested that a follow-up to the July 14<sup>th</sup> Select Board meeting regarding *Farm Road Homes 40B* be included to ensure the Board has a venue for any updating to the Board's comment letter or discussion, as appropriate. Ms. Campe's proposed drinking water regulation amendment is planned for review.

13. **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 8:47 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 7/6/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **36 Farm Road –**
  - Septic Replacement/Expansion plan #22-44, drawn by Eric Dickinson, R.S., CIVILized Solutions, dated 5/26/22
  - Variance request letter dated 5/25/22 from Eric Dickinson, R.S.
  - Certified list of abutters from the Assessor's office, dated 6/2/2
  - Copy of abutter notification letter dated 6/30/2022 from Barry O'Donovan
  - Certified mail return receipts (green cards) and/or usps.com printouts and/or returned, unopened envelopes from abutter notification letters
2. **101 Woodland Street –**
  - Septic Replacement/Expansion plan #22-45, drawn by Daniel McIntyre, P.E., dated 5/28/22
  - Variance request letter dated 6/1/22 from Daniel McIntyre, P.E.
  - Certified list of abutters from the Assessor's office/963
  - Copy of abutter notification letter dated 6/6/2022 from Daniel McIntyre, P.E.
  - Certified mail return receipts (green cards) and/or usps.com printouts and/or returned, unopened envelopes from abutter notification letters
3. **10 Obed Lane –**
  - Emergency Well Replacement plan #22-50, drawn by McIntyre Engineering and dated 7/3/2022
  - GIS locus plan showing 10 Obed Lane and surrounding area printed on 7/3/2022
  - Informational letter dated 7/3/2022 from Daniel McIntyre, P.E.
  - Variance request letter dated 7/3/2022 from Daniel McIntyre, P.E.
4. **27 Snow Street –**
  - Emergency Well Replacement plan #22-49, drawn by McIntyre Engineering and dated 6/29/2022
  - GIS locus plan showing 27 Snow Street and surrounding area printed on 6/29/2022
5. **Natick-Walpole Visiting Nurse Association –**
  - June 2022 COVID-19 invoice
6. **In front of 184 Forest Street –**
  - Copy of MassDEP Notice of Responsibility; MGL c.21E & 310 CMR 40.000 dated 6/22/2022, addressed to Eversource Energy with Release Tracking Number 3-37479
  - Copy of the Public Notification of Environmental Sampling Results, Non-PCB MODF Release, Utility Pole No. 11, in the vicinity of 184 Forest Street, Sherborn, MA, MassDEP RTN 3-37479, dated 6/16/2022 and addressed to Ms. Diane Moores, Interim Town Administrator
7. **Temporary 1-Day Food Establishment (food trucks) Permit Applications – 7/2/2022 –**
  - Super Star Ice Cream, of Methuen - #TF22-30
  - Yai's Kitchen, of Norton - #TF22-31
8. **Minutes –**
  - Board of Health meeting Minutes of 6/15/2022

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
July 20, 2022**

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

**Members Absent:** None

**Others Present:** Margo Powicki, Stuart Bridgman, Jeff Waldron, Kelly Dennehy, Kevin & Kate Reese, Laura Woodward, Ian Bridgman, Mary O'Hara Moore, Daniel McIntyre, P.E., Laura Mastrobuono, Courtney Ek, "The Howland Company LLC", "doug", "iPhone 11", and Mark Oram, Agent.

By a roll call vote:

Vice Chair Ms. Beardsley - Present

Member Dr. Bevers – Absent

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) 7 Course Brook Road, Varlei Souza – Revision to a Previously Approved Plan #22-55

[Dr. Bevers arrived at 7:02 PM.]

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

Member Dr. Hunnewell – Absent

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

2. **Farm Road Homes 40B** (see Minutes of 7/6/22, 6/15/22, and 6/1/22) – Ms. Beardsley reported that she attended the July 14<sup>th</sup> Select Board meeting, and she noted there was a lot of harmony across the various Boards and Committees regarding comments. Select Board member Jeff Waldron stated that he and Marian Neutra worked on a letter to Mass Housing last Friday (7/15/22), and that it was sent out to them on Monday, July 18<sup>th</sup>.

[Dr. Hunnewell arrived at 7:06 PM.]

3. **41 Forest Street, Kelly Dennehy – Building Application #22-35** – Kelly Dennehy was present. The Agent stated that he received this application for a kitchen renovation, but he noted that the existing

house has more rooms than the septic system can handle. Prior to this owner, additional rooms were added to the house without permits, per the BOH files and Building Department files. The Agent reported that the existing septic system has a 4-bedroom design flow, and the existing floor plan shows more than the 9-room limit.

The floor plans were reviewed:

- 1<sup>st</sup> floor – 6 rooms
- 2<sup>nd</sup> floor – 4 rooms
- Basement – 2 rooms

The results in a total of 12 rooms, 3 rooms above the 4-bedroom septic system limit of 9 rooms.

Discussion followed about how the room count could be reduced.

Dr. Vitale recognized the scope of this renovation project doesn't impact the room count, but the building permit process is the Board's only opportunity to ensure the house is compliant, and if not, to be sure it is brought into compliance. Dr. Vitale stated that the Board is faced with a 12-room house that needs to get to 9-rooms, based on the septic system. He noted that in the past the Board has allowed deed recordings for basement rooms. In response to a question from Ms. Campe, Ms. Dennehy stated that the basement is all below grade with no access to the outside, and that there is no bathroom in the basement. Dr. Vitale asked if deed recording the two existing basement rooms sounded consistent with past precedent, and Dr. Bevers, Ms. Campe, and Ms. Beardsley agreed. Dr. Hunnewell voiced disagreement, stating that she feels this is a best guess of what the Board does. She stated that she disagrees because she is an honest person and follows the rules. Ms. Beardsley noted, however, that this practice has been allowed in the past.

Dr. Vitale stated that, per the above discussion, a 2-room deed recording is possible for the basement rooms, but he noted that brings the total room count down to 10-rooms, and he stated that he could not get to 9-rooms. Dr. Bevers stated that he felt it was difficult to get to 9-rooms, noting there is a masonry chimney between the library and office. The Chair stated that the total room count needs to be reduced by 1 more room, or the septic system would need to be replaced.

The Chair stated that as the plans now exist, the room count doesn't work by either State or Sherborn regulations. He noted that this could be resolved by combining the living room and dining room (physically open the wall between them), or by combining 2 bedrooms on the second floor. Ms. Dennehy stated she doesn't know what they could do structurally to remove walls between the living room and dining room, but Dr. Vitale responded that as the plans exist now, the room count doesn't meet the requirements.

Ms. Beardsley stated that, if the existing septic system was installed post-1995, they might be able to add on to it (provided there were no variances granted), and the Agent stated that the lot acreage would need to be reviewed. Ms. Dennehy stated that she would be interested in any resolution.

Dr. Bevers noted that the options were either reducing the room count by 1-room, or adding on to the existing septic system if possible, and he stated that each of those options have trade-offs associated with them. The Agent commented that an entire new septic system would be required if the existing system was built before 1995, and that no State variances would be allowed.

Dr. Vitale reviewed next steps, noting that:

- The Agent will help pull the septic system plans for Ms. Dennehy to determine if adding on to the existing system for a 5<sup>th</sup> bedroom might be an option, and if not, a full replacement system;
- Ms. Dennehy will follow-up with photographs of the living room/dining room space to help contextualize the intersection of living room and dining room space; and
- Ms. Dennehy will follow-up and explore with her builder regarding the ability to remove the wall between the living room and dining room.

3. **2 Morse Road, Eric Wetjen – VARIANCE HEARING – Septic Replacement #22-39** – The Administrator reported that a copy of the abutter notification, the certified list of abutters, and the certified



mail return receipts and/or unopened returned envelopes had been received and all was in order. The Hearing was opened.

Daniel McIntyre, P.E., was present, representing the owner. No abutters were present. Mr. McIntyre stated that there had been a problem with the system, including ponding over the system and some back-up into the house. He stated that the property is just over 1-acre, with some wetlands, but good soil was found (percolation rate <3-minutes/inch). The existing system is in the front yard and the well is in the back yard. The only area for a replacement system is in the same location as the existing system. The requested variances were reviewed and discussed.

(1) Section 10.1(B)(C) – to allow the proposed soil absorption system to be located 103-feet from the existing downgradient onsite well, and 160-feet from the existing downgradient well at 33 Lake Street, rather than the required 175-feet. A motion was made to approve this variance 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 variance was approved.

**APPROVED 5-0**

(2) Section 10.1(A)(C) – to allow the proposed soil absorption system to be located 120-feet from the existing upgradient well at 32 Lake Street 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

(3) Section 10.2 – to allow the proposed soil absorption system to be located 102-feet from 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 5-0**

The Hearing was closed.

The Agent recommended approval of the plans as presented, 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 – AYE

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with condition.

**APPROVED 5-0 with condition**

4. **215 South Main Street, Brian Blue – Well Deepening #22-52** – The Agent presented the plan, noting the plan submitted was the 2008 septic system as-built plan. It indicates that there are no other wells

o septic systems withing 200-feet other than those shown. The request has been made due to inadequate production from the existing well. Ms. Campe asked about the depth of the existing well, and the Agent responded that we have that information in the office. [NOTE: The Agent checked the file and has advised that the existing well is 400-feet deep, per the 1997 well pump data form.] Ms. Campe stated that the depth of wells would be interesting information to have available. Ms. Beardsley commented that the Groundwater Protection Committee intern could compile that information while doing the file review, and she agreed to talk with GWPC Chair Tom Trainor about that. The Agent recommended approval of this well deepening plan as presented, 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 plan was approved.

**APPROVED 5-0**

5. **53 Farm Road, Fenix Partners Farm Road – Building Application #22-06** (see Minutes of 6/15/22, 12/1/21, 11/3/21, 10/20/21, 9/29/21, and 9/1/21) – Mr. Murchison was present, as was abutter Mary O'Hara Moore. Dr. Vitale stated that this building application is before the Board for a question specifically as it relates to the room count in the basement. The floor plans were reviewed:

- 1<sup>st</sup> floor – 5 rooms (including 1 bedroom)
- 2<sup>nd</sup> floor – 4 bedrooms
- Basement – 2 rooms (with a full bath)

The total room count is 11-rooms, with 5 bedrooms, and it was noted that the approved septic system was designed for 5-bedrooms.

Regulation I, Section 7.1(A) was reviewed, and discussion followed about the basement floor plan showing a recreation room, a gym, and a full bathroom. Noting the proposed full bath, Dr. Vitale felt the current separation of the recreation room and entry and gym resulted in 2 rooms, but the degree to which the entryway is obviously a hallway is mor subtle to him. He felt there are demarcations of the rooms – a little kick-off from the gym and a small (about 4-inch) kick-off from the bathroom, but he felt it made it separate from the recreation room with that turn. Dr. Vitale felt the question is whether the entry is separate from the recreation room, and he asked what other Board members thought. Is just labeling the entry on this plan sufficient to make that a distinct space from the recreation room?

In response to a question from Ms. Campe, Mr. Murchison stated that the recreation room has an open cased entry into it. Dr. Bevers clarified that the question really is if this full bath connects to a room in such a way that it makes that room a bedroom. Dr. Vitale stated that if the gym and the recreation room opening were narrower, it would be obvious that the entry was its own unique space. Additional discussion followed.

Dr. Vitale noted the intent of the regulation, in the language, says the full bath leads directly into a room, and he noted that the Board does not count an entry as a room, so he felt the same rule should apply here, but he acknowledged that he has struggled with this. He stated that defining the entry as a sort of open hallway space rather than a private space could be the question, and he asked what the stairway looked like. Mr. Murchison responded that it is a basement staircase, with a door at the top, but not at the bottom. Ms. Beardsley stated that having the door from the garage allow direct entry to the basement spaces may keep it from being a bedroom suite and there should not ever be a door that isolates the space from the stairs and door to the garage.

Dr. Bevers noted that each Board member individually counted the recreation room and the gym as separate rooms, so that was the Board's gut – they are 2 rooms connected by a hallway (the entry), which opens to the bathroom. He stated that in his mind, if the Board is counting the rec room and gym as 2

rooms, and the entry is the connector, and the bathroom does not open to a room, then he is OK with it. Ms. Campe stated that she agreed there are 2 rooms connected by a hallway, but felt that in the future, the Board should consider additional language to clarify this section of the regulations. Dr. Hunnewell stated that she does not agree with the Board's reasoning, stating that she believes the space could be easily converted.

In response to questions from Ms. Beardsley about windows in the recreation room and gym, Mr. Murchison confirmed that the garage side is open to grade and there are window wells on the side built into the slope.

Mr. Murchison noted that the garage enters into that area – to get into the house you enter there, and Ms. Beardsley stated that she was concerned about the area being a “suite” if a door was added in the area of the entrance from the garage. The Agent stated that, when the floor plan is uploaded into the Building Application, the plan must be the final construction plan. It cannot say “preliminary engineering review set – not for construction” on it.

Ms. Beardsley asked if the Board could require the well protection be installed as a condition of the Board's approval of this building application, and Dr. Vitale shared Ms. Beardsley's concern, but stated that he was not comfortable tacking that condition onto this approval. In response to a question from Dr. Vitale, Mr. Murchison stated that once he has a building permit that is not in appeal and the construction begins, he will commit to protecting the well, right at the very beginning of construction. He stated that all construction will be from the other side of the house.

A motion was made to authorize the Agent to review and approve the building application once the final plans are updated and finalized and are consistent with the preliminary plans discussed at this 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 – NAY

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with condition, with Dr. Hunnewell opposed.

**APPROVED 4-1 with condition**

6. **29 Prospect Street, Stuart Bridgman – Building Application #22-20** (see Minutes of 6/1/22 and 5/19/21) – Stuart Bridgman and Ian Bridgman were present. The Agent stated that there is an approved septic/well plan for a 4-bedroom house on this site, and the applicant is currently having the new well drilled and will be proving potability. In the meantime, the applicant wishes to ensure the building plans were reviewed. The Agent stated that right now he is asking only for the foundation permit, and that will be at his own risk. The applicant has submitted these plans for review. The old, 1-bedroom house that currently exists on the property will be preserved and incorporated into the new house.

The Agent reviewed the plan, noting that in the original house the plan is to remove the stove from the existing kitchenette area, but the sink and refrigerator will remain. The ¾-bathroom that currently exists will remain. A wall will be removed, making the existing bedroom into a library/formal living area. From there, a hallway will take you to the other section of the house (new construction).

Ms. Beardsley stated that she felt the area looked like a guest suite, and with the presence of a shower, it begs to be used as a bedroom or as a studio apartment. She stated she would be more comfortable if it were a ½-bath. Ms. Campe agreed, stating that it must be changed to a ½-bath. Dr. Bevers also agreed that he would be fine with the proposal if the shower was removed. Dr. Vitale noted that this portion of the house could be entered from two points – one from the new construction portion of the house, and the other from the mudroom. Mr. S. Bridgman stated that there is also a screened-in porch with a door from the outside. Dr. Vitale stated that he'd be completely comfortable if the ¾-bath were

reduced to a ½-bath, saying it feels strange to have a full-bath next to a formal living room. Mr. S. Bridgman responded that their plan was trying to keep the old portion as original as they can and they want to have access to the screened porch – the new house doesn't have a screened porch. He stated that with the laundry in the old section, it will be used quite regularly as a walkway to connect everything together. He stated that he would like to keep the ¾-bath.

Following brief additional discussion, Ms. Campe, Ms. Beardsley, and Dr. Bevers all agreed that they wanted to see the ¾-bath changed to a ½-bath. Dr. Bevers noted that the access through the mudroom will no longer be the main entrance to the house, so it really becomes a private room, and he felt the ¾-bath makes the living space a bedroom if it remains.

Dr. Vitale reviewed the hallway. The Agent noted that area is currently the kitchen, and only the stove will be removed – the sinks and refrigerator will remain. Dr. Vitale then stated that turning that space into a hallway might be tricky, but Mr. S. Bridgman stated that it might be possible because it is a nook and he could easily put French doors across from there if needed. Noting that the sink was close to the laundry room, Dr. Vitale felt that would not be unacceptable, but Ms. Campe noted that the refrigerator was still a problem. She stated that the less the owners make this feel like it could be a rental guest cottage, the better. Mr. S. Bridgman stated that he could have a refrigerator there, but if he's not allowed to have a refrigerator there, there doesn't have to be one there. Dr. Vitale noted that this portion has been a separate home for many years, so to magically say that the same floor plan is no longer a home is difficult.

The Agent noted that this is a 5-acre lot and all of the new construction requirements were met – no variances were necessary. He suggested the owners have their engineer review the current 4-bedroom septic system design to determine if it could be increased to a 5-bedroom design. Mr. S. Bridgman asked if that was something he could revisit in the future, and the Agent responded that he could, provided the septic system is in compliance with the regulations in effect at that point in the future. The Agent stated that he'd have to increase the leaching area and also the septic tank size.

Dr. Bevers summarized that the options are:

- Change the ¾-bath to a ½-bath in the original house area, or
- Increase the size of the septic system

The Board will need to revisit the plan if anything other than that occurs. Mr. S. Bridgman stated that if the building application could be approved with him reducing that bathroom to a ½-bath, he is happy to remove the shower.

In response to a question from the Chair, the Agent stated that he could approve the building application if it shows on the plans as a ½-bath once he received the proof of potability of the water. He again noted that the foundation permit has already been approved at the owner's risk.

A motion was made to authorize the Agent to approve the building application with the plans provided, conditional to the ¾-bath being changed to a ½-bath, and assuming no other change to the room count, 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 – Abstained

Chair Dr. Vitale – AYE

The motion passed with Dr. Hunnewell abstaining.

**APPROVED 4-0 / 1 ABSTENTION**

7. **22 Nason Hill Lane, Kevin & Katherine Reese – Building Application #22-22** – Mr. and Mrs. Reese were present, along with their Contractor from The Henry Company, LLC. The basement floor plan was reviewed, and it was noted that it shows a playroom with wet bar, and a full bathroom proposed. There is a door at the top of the stairs, and there is walk-out access (sliding doors to the backyard). Dr. Vitale



noted that the full bathroom is directly off a hallway, and abuts a wet bar (and a wet bar is not a kitchen). Ms. Beardsley stated that this looks like a suite.

In response to a question from Ms. Beardsley, the contractor stated that the sliding doors go out to subterranean level, almost like a bulkhead walkout. You need to go up stairs to get to ground level.

The contractor shared his screen and showed the existing, unfinished basement, and it was a 180-degree inverse from the proposed basement floorplan. The contractor stated that the stairway is a “floating” staircase with simple posts, so you can walk underneath it. Ms. Campe asked about access to the mechanical area, and the contractor stated that they have located the access door on the bottom left side of the stairs, and it will be a fire-rated door. Ms. Beardsley commented that the hallway by the bathroom doesn’t lead anywhere else functionally so the bathroom is essentially directly off the room.

The contractor asked if there was any criteria they don’t meet that led to this review, and Dr. Vitale responded that the Board has a regulation that says any room that leads directly to a bathroom is treated as a bedroom, so the Board is wrestling with the hall since it is a hall that doesn’t actually connect anything. The contractor stated that he wouldn’t argue that the bathroom is directly part of the playroom, and said the playroom could be considered a bedroom. He stated that the septic system is sized for 5-bedrooms and the house currently has 4-bedrooms.

The full house floor plans were then reviewed:

- 1<sup>st</sup> floor – 4 rooms (living room with a full bathroom off of it, kitchen, dining room, and playroom;
- 2<sup>nd</sup> floor – 4 bedrooms
- Basement – 1 room

The contractor noted that the full bath on the 1<sup>st</sup> floor opens from the living room, but the ½-bath opens from the hallway. This makes the living room count as a bedroom, and Ms. Campe noted that is why the basement matters.

Dr. Vitale stated that, in this case, there are 2 rooms (on different levels) that have ¾-bathrooms opening directly to other rooms, and that takes us from 4- to 6-bedrooms. He stated that the hallway in the basement would need to change to a true hallway. Right now, it is leading to a closet and not going to another room and it’s not a point of transit. The contractor stated that he could remove the closet to the mechanical room and add a door that would lead to the mechanical room. There would then be a second passage into the mechanical room. Dr. Bevers suggested that if the only access to the utility/mechanical room was through that hallway, with the other access door at the bottom of the stairs eliminated, there would be just one entrance to the mechanical space and the hallway would need to be used. Ms. Campe agreed, stating the hallway would truly be a hallway.

The contractor expressed concern that when he goes to the code books, and the rules as set forth are followed, but they now need to do more. Dr. Bevers responded that the Board is trying to follow their own regulations – the Board is trying to get to a place where it’s clear that it is not just something that is constructed for a technicality. The contractor stated that it would be constructed for a technicality, but it would be meeting the criteria. Ms. Beardsley stated that she understands the current owners might have a vision for this space, but in the future, someone else will view it as a perfect in-law or au-pair suite.

The contractor stated that he has been building for a long time and has a great reputation as a builder, but he stated that he also knows a lot about septic, and he also does utilities. He stated that this is a 3½-acre property, and he looks at the original percolation tests for the septic design. The contractor stated that the engineer did the bare minimum and they were able to get a 5-bedroom septic system and that’s what they went with. The contractor stated that he thinks there could have been more bedrooms than what was designed. The contractor agreed that someone could absolutely use this basement space as a suite or for a weekend get-away, but at the end of the day, it comes down to black-and-white in terms of he can leave that existing door coming down the stairs and add another door at the beginning of the hallway and remove the closet at the end of the hallway, and he feels he meets the criteria. The contractor stated that the

other token is that he could get rid of half the bedrooms in the house and keep adding bathrooms everywhere because septic systems are based on bedroom count.

Dr. Vitale stated that if the closet was gone and it was a true hallway, he would be OK. He stated that he doesn't like it, but it passes. Ms. Beardsley stated that she understands his "letter of the law" issue, but also noted the functional characteristics of a hall, which this does not have. Dr. Bevers agreed with Dr. Vitale, stating that it would technically be a hallway if the closet were gone and a door added in its place. Ms. Campe asked if they could remove the shower and just make it a ½-bath, and stated that she'd have to think about this some more. Dr. Hunnewell stated that the Board should approach things with the intent of the law rather than the letter of the law.

The Chair noted that it appeared the Board was not yet ready to vote on this, and he specified three scenarios for the applicant:

- Eliminate the ¾-bath on the 1<sup>st</sup> floor (off the living room);
- Eliminate the shower in the proposed basement bath, converting it to a ½-bath; or
- Have a single hallway point of access to the mechanical room in the basement.

As a next step, the applicant should consider these options and determine how they'd like to move forward. The Chair noted that the Board was not ready to vote on a conditional plan right now without seeing it.

The contractor stated that he had a revised plan ready and offered to put it on the screen, but Dr. Vitale felt it should first be reviewed by the Agent. The contractor complained that he's waited 3-months since they submitted the plans. Mr. Reese commented that it might be a little bit unfair and stated that they have been waiting a very long time for the town to reply to them. Finally, they get some time, and it doesn't seem fair that they get pushed off. Dr. Vitale responded by saying the Board raised concerns with the plans that exist. He was unsure if this applicant was present at the beginning of the meeting, and noted that this meeting began with a property where there was a series of changes made to the property that brought it out of compliance. Dr. Vitale stated that he hears what the applicant is saying, but he noted that the Board is dealing with 40- or 50-year-old septic systems, and the applicant can't tell what's going to happen over the life of the property. The plans are important, but the Board must be consistent.

After further discussion, Dr. Vitale allowed the contractor to present the revised plan, and the contractor shared his screen. The revised plan showed the closet gone and the only entrance to the utility/mechanical room being from the hallway. Dr. Vitale stated that he felt it reflected the Board's recommendation. Ms. Beardsley agreed, saying it was a big improvement, and Dr. Bevers stated that he felt it removed ambiguity.

The Agent stated that there will be a need to get information on the ejector pump to make sure it meets Title 5 requirements.

A motion was made to authorize the Agent approve the building application with basement plan for this building application as edited and as displayed on the screen with the elimination of the closet and direct access to the utility room, and closure of the other point of entrance to the utility room, and with additional detail for the ejector pump, 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 – Abstained

Chair Dr. Vitale – AYE

The motion passed conditional to the revised plans being added to the building application and the ejector pump information being provided for review, with Dr. Hunnewell abstaining.

**APPROVED 4-0 / 1 ABSTENTION**

The Agent requested the contractor contact him to review the needed additional information.

8. **24 Hollis Street, Laurie Woodward – (1) Review of 7/6/2022 Title 5 Inspection Report /**

**(2) Well Replacement #22-42** – Ms. Woodward was present by telephone. Dr. Vitale introduced the background, noting that this property is up for sale. There was an application for a replacement well. There was a previous prospective buyer who relayed that the septic system was reportedly replaced, and that it was not in compliance with the required well distance. (That is how the Title 5 and the well piece connect.) Dr. Vitale stated that the Board of Health does not have any existing plans for an installation of a septic system, and that is one of the Board's questions today.

Ms. Woodward stated that she purchased the property about 30-years ago, and that they have maintained the septic system with D.L. Atkinson, pumping it every year, and there were no issues. They thought they might try to sell the property, and she consulted with a Title 5 inspector, who came out and advised that the well was too close. She stated that she had received a well permit in 2004 because she was very concerned with the septic system that was installed at 28 Hollis Street, so she decided not to go forward with replacing the well. She stated she knew when the Title 5 inspector came out when they were thinking of selling that the well would probably have to be moved, so she hired an engineer to design a well plan. She stated she then consulted with a Realtor who told her that was fine but suggested she wait until there was a buyer, and she went with her recommendation and held off. Ms. Woodward stated that her buyer wants to purchase the house "as is" and the closing is scheduled for July 27<sup>th</sup>. She stated that she knows she needs to replace the well. She stated that the Agent suggested she provide the Title 5 inspection ahead of the closing because it would be contingent on moving the well. Ms. Woodward acknowledged the well is too close to the septic system.

Dr. Vitale asked, noting that Ms. Woodward purchased the property in approximately 1990, if she knew when the existing septic system was installed, and Ms. Woodward responded that she did not know, she just made sure it was well taken care of and she never had any issues with it.

Dr. Vitale stated that when he reviewed the Title 5 inspection report, it indicated that the system was originally installed on top of grade, and the Agent agreed. The Agent stated that is not typically allowed and would require variances. He stated that there are two issues – one is the issue of the well being too close to the septic system and the second is the actual soil absorption system being in that location was above the topsoil. In response to a question from Ms. Campe, the Agent stated that there are no plans or other data or information in the Board of Health or Building Department files regarding the existing septic system. There are no Minutes regarding this property.

It was noted that the Title 5 is not a "pass", but "needs further evaluation by the local approving authority", and the Agent confirmed that is driven entirely by the location of the existing well. Ms. Campe asked if the Title 5 inspector was able to identify the exact location of the septic system leaching area, and the Agent responded that he had and noted that he dug a deep hole next to it (which is how he confirmed that the leaching lines are above the topsoil). The Agent confirmed that Title 5 allows inspectors to provide a rough sketch of the soil absorption system.

It was noted that the proposed well location is shown close to a driveway. Ms. Woodward clarified that it is legally a cart path, but she stated that she could either move the driveway/cart path or we could add something to protect the well. Dr. Vitale stated that, because the well is less than 20-feet from the driveway, it would need to be protected with either bollards or boulders. Ms. Woodward agreed, stating that she will provide that protection (or a concrete barrier), but stated that it is not an area where anyone would actually drive.

Dr. Vitale stated that it is clear that the well needs to have protection, but it is not clear that a variance is necessary since it is not actually a driveway. The Agent agreed and stated that the plan has been updated to address the requirements he had requested, including having the septic system location confirmed by at Title 5 inspector.

A motion was made to approve the well permit, conditional to the presence of protective bollards or boulders as described in the notes on the plan, 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 well replacement plan was approved with condition.

**APPROVED 5-0 with condition**

The Agent stated that the Title 5 inspection (“Needs Further Evaluation by the Local Approving Authority”) will need to come back to the Board after the well is drilled, potability has been proven, and the existing well is abandoned. He stated that process cannot be changed.

Ms. Woodward stated that a buyer is purchasing her home next week, and she stated if they need to change the closing date, they will.

9. **7 Course Brook Road, Varlei Souza – Revision to a Previously Approved Plan #22-55** (see Minutes of 12/15/21 and 7/7/21) – The Agent stated that the original septic system designer provided a letter, received today, that states the original existing conditions topographic plan did not reflect the conditions at the time of soil testing. This revised plan corrects that. The Agent stated that the discrepancy was found by the licensed installer who was beginning the system installation. He called the Agent to the site and the discrepancy was found, the installation was stopped, and the original designer was contacted. The Agent stated that this is an urgent matter because the replacement installation is mid-stream and the area is open. The Agent stated that he is ready to recommend approval of this revised plan.

The Administrator noted that the initial plan approval had an Order of Conditions from the Conservation Commission. This revised plan was sent to the Interim Conservation Agent and the Administrator reported that she received an email from Ms. Hastings this afternoon stating that she has reviewed the plan and she sent it to 2 members of the ConsComm. Ms. Hastings has advised that the Commission will issue a letter for the file after their meeting tomorrow night approving this change. In response to a question from Dr. Vitale, the Agent stated that this is similar to beaver permits, where due to the emergency situation, the approvals go through the Agents and are later ratified by the Boards. The Agent stated that he would wait to issue the permit until the Conservation Commission ratifies the Interim Agent’s approval.

A motion was made to approve the revised plan as presented, conditional to ratification of the Interim Conservation Agent’s approval, 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 – Abstained

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with condition, with Dr. Hunnewell abstaining.

**APPROVED 4-0 / 1 ABSTENTION**

10. **Big T’s – Temporary 1-Day Food Establishment Permit #TF22-29** - The Administrator reported that this application, for an event to be held at 39 Brush Hill Road on July 24<sup>th</sup>, has been reviewed by Food Inspector Tom Curran, and he has recommended approval. Mr. Curran has indicated that he will inspect on the day of the event. A motion was made to approve the issuance of this 1-day permit as submitted, 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**

11. The **2021 Consumer Confidence Report and Certification** for the **Fields at Sherborn** public water supply was received and reviewed. The Board noted receipt.

12. **Minutes** – The Minutes of 6/15/22 have been reviewed. A motion was made to approve these Minutes as previously discussed 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 6/15/22 Minutes were approved as amended.

**APPROVED 5-0 as amended**

The Minutes of 7/6/22 were reviewed and discussed. Dr. Vitale noted that Dr. Hunnewell had submitted an edit that the Administrator had forwarded. Dr. Vitale felt the Minutes as written most accurately reflected what Dr. Hunnewell had said, and he clarified the discussion. Ms. Beardsley noted that she had provided very minor edits. A motion was made to approve the 7/6/22 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 7/6/22 Minutes were approved as amended.

**APPROVED 5-0 as amended**

13. **Regulation Review – Working Session –**

(A) *Well Regulations* – Ms. Campe shared a red-lined version of the well regulations, noting that she focused on the technical meat of the regulations, specifically the quality requirements. She reviewed that she added PFAS requirements and that the PFAS and VOC standards will become the MA Drinking Water Standards.

Dr. Vitale asked about the testing requirements, and Ms. Campe stated that she did not make a proposal to change that section of the regulations. The Chair instructed the Administrator to circulate Ms. Campe's red-lined version to the full Board.

Ms. Beardsley stated that she had drafted some edits to this section of the regulations as well. She stated that she would provide her edits onto Ms. Campe's document, and she will then provide that further edited document to the Administrator for circulation to the full Board. Further discussion will take place at the August 17<sup>th</sup> meeting.

(B) *Application Procedures* – Dr. Vitale reviewed the edits that he and Dr. Bevers had worked on, noting that none of them should be controversial since they detail the existing procedures. The document was slightly edited further, and Dr. Vitale stated that he would make the edits discussed and have the updated document sent to the Board.

In response to a request from Dr. Hunnewell, the Chair instructed the Administrator to recirculate the word document of task assignments out to the full Board.

(C) *Additional Edits* – Ms. Beardsley stated that she had some additional edits for the regulations. She stated that she would pull them together separately and provide a document to the Administrator for circulation to the full Board.

14. **Agenda items for the 8/17/2022 meeting** were mentioned. Additional discussion regarding proposed regulations changes will take place.

15. **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 10:15 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]

M22-0720.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 7/20/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **2 Morse Road –**

- Septic Replacement plan #22-39, drawn by McIntyre Engineering & Septic Services, dated 5/6/2022
- Variance request letter dated 5/10/2022 from Daniel McIntyre, P.E.
- Certified list of abutters dated 5/10/22 from the Assessor's office
- Copy of abutter notification letter dated 6/23/2022 from Daniel McIntyre, P.E.
- Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters.

2. **Farm Road Homes 40B –**

- BOH comment letter to Select Board, addressed to Mass Housing, Office of Planning and Programs, and dated 7/18/2022

3. **Regulations Review –**

- Proposed regulation changes to Regulation I, Section 4.0, Application Procedures and Regulation II, Section 1.3, Permit Application

4. **Minutes –**
  - BOH meeting Minutes of 6/15/2022
  - BOH meeting Minutes of 7/6/2022
5. **41 Forest Street –**
  - Building Application #22-35, including existing floorplans and proposed floorplans dated 6/1/22 (available from the Building Dept.)
  - BOH Regulation I, Section 7.1A – Leaching Area Size
6. **53 Farm Road –**
  - Building Application #22-24, including proposed floorplans for all levels and revised basement level floorplan (undated) (available from the Building Dept.)
  - BOH Regulation I, Section 7.1A – Leaching Area Size
7. **29 Prospect Street –**
  - Building Application #22-20, including floorplans for all levels, dated 5/20/22 (available from the Building Dept.)
  - BOH Regulation I, Section 7.1A – Leaching Area Size
8. **22 Nason Hill Lane –**
  - Building Application #22-22, including existing floorplans and proposed basement level floorplan (undated) (available from the Building Dept.)
  - BOH Regulation I, Section 7.1A – Leaching Area Size
9. **215 South Main Street –**
  - Well Deeping plan #22-52 showing existing well location (final grade as-built plan for new septic plan drawn by MetroWest Engineering and dated 7/13/1998 and revised 8/4/1998)
  - As-built foundation plot plan drawn by MetroWest Engineering and dated 7/15/2008
10. **24 Hollis Street –**
  - 7/6/2022 Title 5 Inspection Report, received from David W. Atkinson Jr. of DL Atkinson Inc., Needham
  - Replacement Well plan #22-42, drawn by Paul Saulnier, P.E., last revised 7/14/2022
11. **Temporary 1-Day Food Establishment Permit –**
  - Application #22-29 received from Big Ts (food truck) – 7/24/2022 event
12. **The Fields at Sherborn –**
  - 2021 Consumer Confidence Report and Certification
13. **7 Course Brook Road –**
  - Revision to a Previously Approved Plan #22-55, drawn by Elizabeth Dupre, R.S. of Clear Water Environmental and last revised 7/20/2022
  - Letter from Elizabeth Dupre, R.S. dated 7/20/2022 regarding a deviation in existing grades found at the site upon the start of the septic system installation

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
August 17, 2022**

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

**Members Absent:** Matthew Vitale, MD, Chair

**Others Present:** Kitty Sturgis, Thomas Curran, Jeff Waldron, Daniel McIntyre, P.E., Courtney Ek, Laura Mastrobuono, Kelly Dennehy, Christopher Herot, Jim Mello, 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 – Present

Vice Chair Dr. Vitale - Absent

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) Natick-Walpole Visiting Nurse Association – July 2022 COVID-19 invoice for approval  
(2) 218 Farm Road, David & Susan Fairchild – Emergency Well Replacement #22-65 – ratification of Agent's previous approval

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

2. **Natick-Walpole Visiting Nurse Association – July 2022 COVID-19 invoice** – This invoice, in the amount of \$96.25, was reviewed. Ms. Campe noted that contact tracing is no longer needed and she requested the Administrator make sure the service, as shown on the invoice, is accurate. Ms. Beardsley noted that they are still following up on questions regarding COVID-19. A motion was made to approve the invoice as presented, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the invoice was approved for payment.

**APPROVED 4-0**



3. **2022 Food Establishment Permit Renewal – Art’s Specialties, 11 South Main Street - #F22-25** – Food Inspector Tom Curran was present, and he noted that the required Nitrite Nitrogen analysis report was not included on the initial water analysis report submitted with the renewal application earlier this year. That report has now been received. Ms. Campe asked why a water analysis is necessary since this establishment only sells pre-packaged products and no food preparation is done onsite. Mr. Curran responded that there are bulk food items, including olive oil, for sale, so the water is required for ware-washing. Ms. Beardsley noted that it is also used for hand-washing. The level of sodium in the water supply was noted to be 258 mg/L. A motion was made to approve this renewal permit, conditional to a sodium posting, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the permit was approved with condition. **APPROVED 4-0 with condition**

4. **Mobile Food Vendors – Ice Cream Trucks –**

(A) **Sherborn Yacht Club** - The Administrator reviewed that on Monday (8/15/22) she emailed John Hyde an application and advised of the requirements to have an ice cream truck at a party at the Yacht Club on Friday evening (8/19/22). When it hadn’t been received earlier today, she emailed Mr. Hyde again, who responded that he was unable to get the necessary documentation from the truck so he’s decided against having it at the party.

(B) **Sherborn Recreation** – Mr. Curran noted that he fast-tracked this permit for the Recreation Commission, after receiving notice they wanted an ice cream truck at a large swim meet that same night (8/11/22), with the condition that they would submit the required documentation and fee after-the-fact. He stated that he allowed them to operate contingent to receipt of the required documents and fee. To date, however, nothing has been received.

5. **A New 2022 Disposal Works Installer Permit** application was received from **Robert Ullo d/b/a Robell Inc.** of Lunenburg - #I22-21. The two references provided have been checked and are OK. A motion was made to approve the issuance of this new permit, conditional to a pre-construction conference with the Health Agent prior to any work beginning, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the permit was approved with condition. **APPROVED 4-0 with condition**

6. **Minutes** – The Minutes of 7/20/2022 were reviewed. Ms. Beardsley noted that she had submitted some edits. A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 4-0 as amended**

7. **Agenda items for 9/7/2022 meeting** – The Administrator stated there is a variance hearing scheduled for 9/7/2022. The Vice Chair requested that “Regulatory Review” be added, and Ms. Campe requested a discussion regarding documentation for deed recordings.

8. **218 Farm Road, David & Susan Fairchild – Emergency Well Replacement #22-65** – Daniel McIntyre, P.E. was present. It was noted that this application was received yesterday, and following review, the Agent provided emergency approval the same day. An Administrative Approval from the Conservation Commission has been received.

In response to a question from Ms. Campe regarding a map showing the locations of all of the well replacements and deepenings, the Vice Chair confirmed that the Groundwater Protection Committee is working towards such a document, along with mapping all septic and well data in GIS, but she noted that the Intern has left. The GWPC is advertising for a new volunteer Intern to complete this project.

Mr. McIntyre stated that the well stopped producing. There is no information on the existing well, but he stated it appears to be a shallow, dug well or point well. It has dried up, as well as the large wetland offsite, and a modern deeper well is required. He noted that the replacement well has been sited at the high point of the property. There are no variances to well setbacks needed. Mr. McIntyre stated that the homeowners are currently being helped by a neighbor with a garden hose. Ms. Beardsley cautioned that older garden hoses may contain lead – that is what added some flexibility to them. Mr. McIntyre responded that they are not using the water from the neighbor for drinking or cooking – they are using it to fill up the toilets, etc.

A motion was made to ratify the Agent’s previous emergency approval, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the previous approval was ratified.

**APPROVAL RATIFIED 4-0**

9. **54 Farm Road, Susan Moor – VARIANCE HEARING – Septic Replacement #22-53** – The Administrator reported that a copy of the abutter notification letter, the certified list of abutters, and the certified mail return receipts (green cards) have been received and all is in order. The Hearing was opened.

Daniel McIntyre, P.E. was present representing the owner. He stated that the existing system failed a Title 5 inspection and the house is being sold. The engineer stated that the existing septic system is located in a sloped area of the front yard, and the well is located directly behind the house, 60-65-feet from the existing septic system. The replacement system is a conventional stone and pipe system and will be pumped up about 15-feet to the leaching area. He noted that some trees in the rear of the property will need to be removed. Ms. Campe asked about any contingencies when fighting gravity to this extent and Mr. McIntyre responded that the septic tank is sized for at least 24-hour storage of flow, there are auto-alarms, and 2 pumps so if one fails, there is an extra pump. The requested variances were reviewed:

(1) Section 8.0(1) – to allow the proposed soil absorption system to be installed 4-feet from groundwater rather than the required 5-feet. A motion was made to grant this variance as requested and it was seconded.

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(3) Section 10.1(B) – to allow the proposed soil absorption system to be located 115-feet from the existing, onsite downgradient well rather than the 150-feet required. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

The Hearing was closed.

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with condition.

**APPROVED 4-0 with condition**

10. **41 Forest Street, Kelly Dennehy – Building Application #22-35** (see Minutes of 7/20/22) – Ms. Dennehy was present. The Agent reviewed that this building application came in for a kitchen renovation and some renovations to a few other areas of the house. In reviewing the application, he was trying to determine if the renovations were for more than 50% of the original house. In doing so, he determined that the existing room count exceeded the septic system design allowance of up to 9 rooms / 4 bedrooms, noting that there actually were 12 rooms. The Agent stated that the Board reviewed the application at the last meeting and one of the suggestions was to deed record the two existing basement rooms. The other challenge was to determine how to reduce the first-floor room count from the current 6-rooms to 5-rooms. He stated that Ms. Dennehy has presented photos to show the heat has been removed from the sunroom (now office) on the left-side of the 1<sup>st</sup> floor. The Agent stated that this is now back for the Board to review and determine if removal of the heat from that room could be the solution to allow her to move forward with her kitchen (and other room) renovations.

Ms. Campe stated that the heat removal brings it into compliance with the existing 2003 deed recording that stated the sunroom couldn't be finished or heated, and she noted that document wasn't carried forward in the deed transfer to the current owner. Ms. Beardsley felt it meets the letter of that deed recording in that it does not have heat. She stated that because it doesn't really look like a sunroom as might have been anticipated speaks to the need for the Board to be more precise in the future about requirements. She stated that opening doors to abutting rooms could effectively heat that room. Ms. Campe noted that plugging in a portable heater would also bring heat into the room. Ms. Beardsley noted that this highlights how difficult it can be when the lack of precision regarding how the Board defines the wanted outcome can lead to something unintended. She stated that this situation is not the fault of the current homeowner because this condition appeared to have been there when she moved in – the Board is just trying to remedy something that was previously done incorrectly. Ms. Campe stated that for prospective

things, the Board would say things such as ‘you can’t even have finished wallboard’, but she agreed with the Vice Chair that the Board cannot retrospectively require more than the 2003 deed recording required. She stated, however, that the Board can require that the room count meets the septic system parameters. Ms. Beardsley agreed and stated that she was on the Board when this was evaluated and she recalled having it be a “true sunroom”, with just windows all around, but for whatever reason, that was not reflected in the language later on.

Ms. Beardsley noted that the Board’s typical use of deed recordings has only been for basement rooms, but she agreed that what Ms. Dennehy has provided meets what was required for the room in the 2003 deed recording. Moving forward, she asked what the status is of the baseboard heating pipes that lead to the heat removal – are they completely disconnected, removed, and capped off, or might someone else in the future simply reconnect the heat? Ms. Campe stated that the Board must make sure the current room count, or proposed room count, is in concordance with the septic capacity. Ms. Beardsley stated that she wants to avoid another future owner not realizing there is a deed restriction, seeing these pipes and reconnecting the heat. Ms. Campe responded that her suggestion would make it so everyone would be aware prior to any future transactions.

Ms. Dennehy stated that they had foam insulation installed underneath this room. At this point, the plumber cut the copper pipes below ground without removing that foam insulation, and just left the pipe remnants. This was the best they could do quickly and within the budget.

Ms. Campe asked the Agent if he felt comfortable with what Ms. Dennehy presented – that they went underneath and cut the pipes, capped the pipes for adjacent space, and removed the piping from under the room correctly. Ms. Dennehy stated that they removed as much of the piping as they could without pulling down all of the foam insulation that was recently installed.

Dr. Bevers felt that as long as the heat is removed from the room and the connection is not accessible, it is reasonable. Ms. Dennehy stated that she has tried to make the accommodations the Board required, noting that she was unaware of this deed restriction at the previous meeting.

The Agent stated that he was looking at the architect’s plan and noted an “office” off the living room, and he asked if that was the room being discussed. Ms. Dennehy responded affirmatively, stating that this office was previously a sunroom. It was noted that removal of the heat from the sunroom/office brings the 1<sup>st</sup>-floor room count down to 5 and the 2<sup>nd</sup>-floor room count is 4, with a total of 9-rooms. Ms. Beardsley noted that there were still the 2 basement rooms, but Dr. Bevers stated that the Board previously felt those basement rooms could be deed-restricted (to never be used as bedrooms and not counted in the total house room count).

Dr. Bevers stated that had he been on the Board back in 2003 he might have worded that deed recording differently, but he felt we are in compliance with it now. He stated that he has a difficult time going back in time and re-adjudicating it. Rather, it is a lesson learned for the future and how the Board manages this type of situation.

Ms. Campe stated that what she will discuss in greater detail at a future meeting a regulation that within 30-days of any transaction, the Board will require proof of this restrictive covenant which will be expanded to also deed record that the basement rooms cannot be used as bedrooms. The current owners will need to sign the proposed deed recording. Ms. Campe stated that what she is contemplating the Board add to the regulations is that within 30-days of any transaction, the Board be provided with a copy of the deed showing that the restriction is running with the deed and that the new owners when the deed is conveyed, that they are signing the restrictive covenant and are responsible for compliance with it. She stated that is what is done for “activity use limitations” right now that are put on properties when a hazardous waste site is only cleaned up to a level sufficient for industrial or commercial use. She stated that anytime there is a property with an “activity and use limitation”, which is a different kind of deed recording under the regulations in Massachusetts for the Mass. Contingency Plan, within 30-days of that transaction, MassDEP has to receive documentation that the new owners know it is running with the deed.



When the deed is transferred, the new owners have to sign the restrictive covenant and that documentation has to be provided. Because the new owners sign it, they become legally liable to comply with it.

Ms. Campe stated that the Board would only be asking for a fresh deed recording, signed by the new owners, every time a property transfers. Following additional discussion, the Administrator was instructed to provide the necessary deed recording document, including the previous deed recording language along with the new language about the 2 basement rooms to Ms. Dennehy. Once it is completed and recorded at the Middlesex South Registry of Deeds, Ms. Dennehy will provide the BOH office with a copy (showing the Registry's marginal reference as proof of recording), and the Agent will then be able to sign-off on the building application. Dr. Bevers stated that it does not have to come back to the Board again at that time.

Ms. Beardsley noted that the Board must vote agreement to deed restrict the two basement rooms. She asked if the Agent planned to visit the property to inspect and verify the heat removal from the sunroom/office, or if the photographs were sufficient. Ms. Dennehy noted that her contractor, Jim Mello, was present. Ms. Beardsley asked Mr. Mello regarding the heat removal. He responded that the pipes were removed below the surface of the floor for that room. In response to a question from the Agent, Ms. Dennehy stated that the floor where the heating pipes were removed has not yet been sealed, but she stated that is part of the scope of work to be done.

A motion was made to authorize the Agent to approve the building application for this property, conditional to receipt of a fully executed and recorded deed recording that the sunroom/office not ever be heated and that the 2 existing basement rooms not be used as bedrooms, and are not included in the total room count, and the house cannot be further expanded without a septic system upgrade. The motion was seconded.

Dr. Hunnewell stated that she still feels uncomfortable with this, and she believes we are in a major drought. She stated, for the record, that as a Board of Health with limited resources, it is unfortunate that they bought the property and they were unaware of it, but she believes at some point the Board needs to be conscious of the whole reason that the regulations are in place. Dr. Hunnewell stated that she doesn't agree with this. Ms. Campe noted that Dr. Hunnewell referenced drought, and stated that, to be clear, we are talking about septic, and Dr. Hunnewell stated that she understood that. She stated that the septic is going to affect the drinking water – everybody's drinking water – the natural resources are depleted until all these things end up interrelated. Ms. Campe responded that is why the Board is not allowing them to have more bedrooms, and Dr. Hunnewell stated she understood, and she said she is just saying that she doesn't agree. She stated that the Board has regulations for a reason and she understands that it is unfortunate that Ms. Dennehy bought the property and that this is the situation, but she also thinks that at some point it ends up being a situation where an upgrade of the septic system is beneficial. She stated that is her opinion, and she stated that the other members are entitled to their opinions. Dr. Bevers agreed.

Ms. Beardsley noted that the Board is following established procedures, and again suggested that Dr. Hunnewell try to formulate what she sees as a change to the existing procedures and make a proposal for review. She called for a vote on the motion already made and seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – NAY

Vice Chair Ms. Beardsley – AYE

The motion passed and the building application shall be approved conditional to receipt of the fully executed and recorded deed restriction as noted above. **APPROVED 3-1**

Dr. Hunnewell was opposed.

11. **Adjournment** – A motion was made to adjourn the meeting, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE  
Member Ms. Campe – AYE  
Member Dr. Hunnewell – AYE  
Vice Chair Ms. Beardsley – AYE  
This virtual meeting adjourned at 8:17 PM.

Respectfully Submitted,

A handwritten signature in black ink that reads "Ellen J. Hartnett". The signature is written in a cursive, flowing style.

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 8/17/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **54 Farm Road –**
  - Septic Replacement plan 22-53, drawn by McIntyre Engineering & Septic Services, dated 7/8/2022
  - Variance request letter dated 7/11/2022 from Daniel McIntyre, P.E.
  - Certified list of abutters from Assessor's office dated 7/11/2022
  - Copy of abutter notification letter dated 7/13/2022 from Daniel McIntyre, P.E.
  - Certified mail return receipts and/or usps.com printouts from abutter notification letters
2. **218 Farm Road –**
  - Emergency well replacement plan 22-65, drawn by McIntyre Engineering, dated 8/15/2022
  - Emergency well request letter dated 8/16/2022 from Daniel McIntyre, P.E.
3. **2022 Food Establishment Permit Application –**
  - Art's Specialties, 11 South Main Street - #F22-25, with 6/10/2022 water analysis
4. **2022 Disposal Works Installer Permit Application –**
  - Robert Ullo d/b/a Robell Inc. of Lunenburg, MA - #I22-21
5. **Minutes –**
  - 7/20/2022 BOH meeting Minutes
6. **41 Forest Street –**
  - Building Application #22-35, including plans (available from Building Department)
  - 8/16/2022 email from Kelly Dennehy to BOH Chair, Vice-Chair and Agent, titled "Update: 41 Forest St.", including copy of 2003 deed recording and before and after photographs of heat removal from sunroom.
7. **Natick-Walpole Visiting Nurse Association –**
  - July 2022 COVID-19 invoice

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
September 7, 2022**

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

**Others Present:** Jacob Strauss, David Strauss, Steve Constantine, Tom Trainor, Courtney Ek, Daniel McIntyre, P.E., “mikec”, Jeff Waldron, Melinda O’Neill, 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 7:02 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) Additional at-home COVID-19 test kits (free) from the Massachusetts Department of Public Health

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**

2. **Additional COVID-19 at-home test kits** – The Administrator reported that she received an email from the Dept. of Public Health late today advising that DPH was making additional test kits available to Boards of Health. She noted that the Board previously received 9-boxes (810 kits), and that she could now receive up to an additional 24-boxes (2160 kits). The Administrator stated that there is not enough room for that number of boxes, but she felt that 12-boxes (1080 kits) would be doable. The Board members agreed with that assessment. The Administrator will proceed with that order.

3. **75 Nason Hill Road, David Strauss – Building Application #22-42** – David Strauss and Jacob Strauss were present. The Agent stated that the septic system serving the house is a 3-bedroom design designed and built in the late 1970’s. He noted that the existing house appears to be a 4-bedroom by definition. The Agent stated that the current building proposal no longer proposes a 2<sup>nd</sup> floor study/office. The owner does not want to remove the wall between bedroom #1 and bedroom #2 – he proposes a half-wall between bedroom #2 and the hallway. Dr. Vitale stated that for the 3-bedroom septic design, there



must be no more than 7-rooms and 3-bedrooms. He stated the Board could offer suggestions, but that it is up to the owner to figure out how to arrive at that requirement.

David Strauss stated that he has owned the home for almost 2-years and he is doing an energy retrofit. The 2<sup>nd</sup> floor room is a recreation/TV room, but he understands that it is considered a bedroom by the Board of Health. He asked whether the Board is talking about the number of rooms in the house or the number of bedrooms, and Dr. Vitale responded that it is both.

Dr. Vitale stated that when he did a room count, he ended up with a total of 8-rooms and 4-bedrooms, and Ms. Campe agreed. She stated that the issue is also what the next owner's use of the rooms could be, and she felt the only way the current owner could get to 7 rooms would be to completely combine bedroom #2 and bedroom #3. Mr. Strauss responded that bedroom #2 is a "dog room" where they can put their dogs when they have people over. He stated that they do not want to put the dogs on the second floor, and he noted that bedroom #3 is a guest bedroom. Mr. Strauss suggested removing the wall between bedroom #2 and the hallway completely, but the Board agreed it was a separate space and would be counted as a room. Mr. Strauss asked about replacing the full wall with a ½-wall, but that was still a separate space that would be counted as a room. Ms. Campe felt the only way they could get to 7 total rooms would be to completely remove any partition between those 2 bedrooms and actually close up that space so it is one large functional room.

Ms. Beardsley asked if there was a basement, and Mr. Strauss responded that under the sunroom only there is a very small, unfinished basement. Ms. Beardsley encouraged the owner to consider the age of the septic system, noting that it is coming up on 44-45-years-old. She noted that if he upgraded the septic system to match the house, he would likely be able to keep the rooms as is.

Discussion was suspended to allow the Board to return to scheduled appointments. Dr. Vitale advised Mr. Strauss that discussion would return to this property as soon as possible.

Later in the meeting, the Board returned to this discussion. Dr. Vitale stated that he mulled the possible use of ½-walls, and he is not enthusiastic. He stated that, if feasible, upgrading the septic system would be encouraged. Mr. Strauss responded that while he has given a septic upgrade some thought, he asked if expanding the size of bedroom #3 and reducing the size of bedroom #2 would work. In response to a question about the size of a habitable room, the Agent stated that for Title 5 purposes, 70-square-feet is considered a "room" (housing code). The Agent noted that the function of the small room would need to be indicated, stating that if it is a "dining room", it would still be counted as a room.

Ms. Campe stated that a combination approach of shrinking the size and using a ½-wall with the smaller space was appealing to her, noting that it could not then be used as a bedroom. Dr. Vitale agreed, stating if it was <70-square-feet, used a pocket door (or barn door) and removal of the closet, it would not be counted as a room – it would be a large closet.

Mr. Strauss reviewed, asking if he reduced the size of bedroom #2 and labeled it as a "pantry", would it be OK. Dr. Vitale responded that he would prefer it be labeled as a "closet", noting there already is a pantry. The Chair noted that the room count would result in a 3-bedroom, 7-room house (kitchen w/nook, dining room, office, sunroom, and 3 bedrooms).

In response to his question regarding next steps, Mr. Strauss was advised to update the building plans with the Building Inspector, and advise the Agent when that has been done. Mr. Strauss was advised to contact the Health Agent if he had any questions regarding the septic system.

**4. 60 Page Farm Road, James Baroody – VARIANCE HEARING – Septic Replacement #22-63**  
– The Administrator reported that the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts (green cards) and/or usps.com printouts had been received and all was in order. The Hearing was opened.

Daniel McIntyre, P.E. was present, representing the owner. He stated that the existing 5-bedroom, 11-room house was built in 1967, and is for sale. It failed a Title 5 Inspection. The existing septic system is located behind the house and the well is in front. Site constraints, including ledge and a drop-off of the property to wetlands, were noted. Mr. McIntyre stated that he is proposing to locate the replacement system in the existing system area noting that it will be mounded up due to groundwater issues.

Innovative/Alternative technology – an Eljen Geotextile Sand Filter system in trench configuration – is proposed to reduce the footprint of the system. Additionally, this I/A technology improves the effluent quality coming out of the trenches. The Agent noted that there is 30-feet between the closed Eljen drain and the pool, and Mr. McIntyre noted there is a shallower slope to the pool with this proposal than what currently exists. The requested variances were reviewed and discussed:

(1) Section 8.0(1) – to allow the proposed soil absorption system to be installed 4-feet from maximum 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

(2) Section 8.0(2) – to allow the proposed soil absorption system to be located in an area where maximum high groundwater is less than 5-feet below natural surface grade. A motion was made to approve this variance as requested, 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 variance was approved.

**APPROVED 4-0**

The Hearing was closed.

Ms. Beardsley noted the “capacity” section on the plan was unclear and requested the plan be updated to correct any possible confusion. The Agent recommended approval of the plan as presented, conditional to correction of the “capacity” section, and conditional to the garbage grinder prohibition deed recording and DEP Notice of Alternative System deed recording. 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

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with conditions.

**APPROVED 4-0 with conditions**

5. **127 Farm Road, Laurel Valchuis – New Septic (Accessory Apartment) #22-60** (see Minutes of 6/1/22) – Engineer Dan McIntyre was present, representing the owner. The floor plan for this 1-bedroom accessory apartment was reviewed. Mr. McIntyre noted that the septic system was designed for 3-bedrooms, the Title 5 minimum. No variances are requested or allowed for this new system, which is a conventional stone and pipe system.

Ms. Beardsley noted that the septic system serving the main house consists of a septic tank and 2 leaching pits (which are no longer allowed). Since they are already building a new septic system for an accessory apartment as well as another for a commercial kitchen (see #6 below), Ms. Beardsley asked if any consideration had been given to design a system that would also accommodate the existing house. Mr.

McIntyre responded that the owner is aware of this, but noted that the system serving the main house passed a Title 5 Inspection in December 2021.

The Agent asked the engineer if the water line to the new accessory apartment was above or below the sewer line going to the pit, and Mr. McIntyre responded that he believes it is above the sewer line. The Agent responded that if it is determined that the water line is *not* above the sewer line, Title 5 requires that a water line pressure test be conducted.

The Agent recommended approval of the plan as presented, conditional to the garbage grinder prohibition deed recording and conditional to an evaluation of the positioning of the water line relative to the sewer line at the time of installation. 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

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with conditions. **APPROVED 4-0 with conditions**

6. **127 Farm Road, Laurel Valchuis – New Septic (Commercial Kitchen) #22-61** (see Minutes of 6/1/22) – Engineer Daniel McIntyre was present representing the owner. The plan was presented, and the engineer noted that the system was designed for 30-meals/day at 15-gallons/day/meal, as discussed with the Board previously. Mr. McIntyre stated that the septic line for this system *will* be above the water line, so a pressure test on the water line is required during the process of installation.

The Agent recommended approval of this plan as presented, conditional to a garbage grinder prohibition deed recording and a pressure test of the water line being conducted during installation of this septic system. 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

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with conditions. **APPROVED 4-0 with conditions**

7. **Farm Pond Advisory Committee (FPAC) – Draft Farm Pond HCB (Harmful Cyanobacterial Bloom) Rapid Response Plan** – Melinda O'Neill of FPAC and Tom Trainor of the Groundwater Protection Committee were present. Ms. O'Neill stated that she was the author of this draft plan, and she began to review the "blue bubble" action plan.

Mr. Campe stated that she is a risk assessor, as well as a LSP and MPH, and she provided comments, including:

- It should have a simpler communication scheme
- There should be a singular contact person
- There should be explicit, clear criteria that there is enough of a risk or threat that the Pond would be closed.

Dr. Vitale agreed, stating the difference between a "threat" or a "risk" is unclear.

Ms. Beardsley noted that we are in the risk category already, stating the Pond is green right now. She felt a trigger is needed for shutting the Pond down. Ms. Campe commented that people boating could always fall in, and she asked if the gate could be closed when there is an actual threat. She noted, however, that the Police cannot constantly monitor the Pond, so there needs to be clear criteria for closing it.

Ms. Beardsley asked what other towns are using as their criteria – a confirmed HCB or an amount? Ms. O'Neill responded by asking what the level is, noting that it is tricky because by the time a sample is obtained and looked at under a microscope, it could be gone. She stated that Barnstable recently closed a pond because of a bloom and she stated that they shared their process with her.

Regarding the part of the flow chart about who is to be notified when a bloom is detected, Ms. Beardsley stated that the single contact was going to be the Police dispatch, but they were not enthusiastic. Later, Select Board member Jeff Waldron noted that as of 1/1/2023, the Police are going to a remote, regional dispatch center so they will no longer be local.

Dr. Bevers stated that the Charles River Watershed has an established system using flags, noting that is another model that people understand that could be used. A red flag means there is a bloom.

Tom Trainor stated that the Pond has changed in the past 3 years and suggested a small working group from FPAC and the BOH and Conservation Commission to meet offline and work on this. He stated that Natick and other towns just close their beach for 2-weeks if they see a bloom, noting that is a common recommendation from the Department of Public Health. Mr. Trainor stated that this is a very important topic, but he cautioned that it could take a lot of time. Dr. Vitale stated that he liked the idea of a working group, and he asked if anyone was enthusiastic to volunteer. Ms. Beardsley volunteered, stating that she'd like to borrow experience and procedures from others (such as Barnstable County) as much as possible and adapt for Sherborn. She wondered if there is anything else that could be done to reduce nutrient loading, noting HCBs are not only related to higher temperatures. Ms. O'Neill stated that she liked the idea of the FPAC partnering with the BOH and ConsComm to look at other aspects that are impacting the Pond.

Dr. Vitale thanked Ms. O'Neill and Mr. Trainor for all the work they have already been doing to protect the Pond. In response to a question from Ms. O'Neill about how to move forward, Dr. Vitale suggested that she reach out to Ms. Beardsley and Mr. Trainor, and perhaps check back with the Board of Health in 2-months. He felt this could be a 2-step process:

- Phase 1 – what is the “green goop” process, and
- Phase 2 – FPAC, BOH, ConsComm – how do we adjust to the changing climate to ensure Farm Pond remains a gem.

8. **30 North Main Street, Steve Constantine – Septic Replacement #22-01 (approved with conditions on 3/2/22)** (see Minutes of 3/2/22, 2/16/22, and 7/21/21) – Steve Constantine was present with engineer Daniel McIntyre. Mr. McIntyre stated that one of the conditions of the septic approval for this property was that the owner provide a copy of the ANR (Approval Not Required) Plan signed by the Planning Board for 32-34 North Main Street, to show the subdivision. He noted that the Board wanted the replacement septic system to be on property actually owned by 30 North Main rather than an easement. Mr. McIntyre stated that they were also required to keep at least 40,000-square-feet on the 32-34 North Main Street lot, as part of the nitrogen loading requirements for their septic system. He stated that the ANR plan was prepared, but they found out after that plan was submitted to the town that the zoning for Sherborn defines an acre as a full 43,580-square-feet, as opposed to the 40,000-square-foot acre defined by MassDEP. Mr. McIntyre stated that the ANR plan they provided caused some concerns with the Town Planner, so before they do anything else, they wanted to come back to the Board of Health to see if there is any way they could change it so they can keep the full acre on the 32-34 North Main property – by going back to the easement discussion (which is allowed by MassDEP). He stated that an easement would simplify the subdivision process.

At the request of Dr. Vitale, the Administrator reviewed the discussion she had with the Town Planner regarding the ANR plan. She stated that Mr. Carlucci confirmed that he had received an ANR plan with lot lines matching the lines on the septic plan submitted to the BOH and approved on 3/2/22 with conditions. Mr. Carlucci advised that he had cautioned Mr. Constantine that these lot lines would create a further non-conformity on an already non-conforming lot, and that he should check with the ZBA for a “Finding” such that if he creates another non-conformity, he won't lose the grandfathering on that lot. Mr. Carlucci advised that the Planning Board would definitely approve the ANR plan, but he is merely waiting to hear back from the owner. Mr. Constantine has not yet gone to the ZBA for that finding.



Dr. Vitale stated that he was deeply unenthusiastic with an easement for the replacement septic system, stating that it would open up an incredibly complicated slippery slope. However, if the ZBA won't allow the owner to keep the grandfathering on 32-34 North Main, he might be willing to do it. Ms. Beardsley agreed, saying she wants to hear what the ZBA has to say before the Board makes a change. Dr. Bevers and Ms. Campe also agreed. Dr. Vitale stated that if the ZBA says something different – if it is unavoidable – he would still be incredibly uncomfortable, but there would be no other alternative.

Mr. Constantine stated that he would work with the Town Planner and the ZBA to lay this out and get their thoughts on it.

9. **2022 Disposal Works Installer Permit Application – Robert Santos d/b/a S&E Contractors - #122-22** – The Agent noted that he spoke with Mr. Santos today, and stated that he will be doing a very small job in town. He recommended approval of this application as presented, conditional to a pre-construction conference prior to any work beginning. 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

Chair Dr. Vitale – AYE

The motion passed and the application was approved with condition.

**APPROVED 4-0 with condition**

10. **Minutes** – The Minutes of 8/17/2022 were reviewed. Ms. Beardsley noted that she had provided some 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

Chair Dr. Vitale – Abstained

The motion passed and the Minutes were approved as amended. **APPROVED 3-0-1 as amended**

Dr. Vitale abstained as he was not present at the 8/17/22 meeting.

11. **9/21/2022 Agenda Items** were noted, and will include:

- Silverwood Farm – review of requirements for events
- Regulatory Review – including Ms. Campe's discussion regarding deed recordings, and "water supply" regulations changes proposed by Ms. Beardsley.

12. **Regulatory Review** – Ms. Beardsley briefly reviewed some proposed changes to Regulation II, one of which is changing the title from "Domestic Water Supply" to "Water Supply". After reviewing a few sections with minor changes, noting that the document had been provided shortly before the start of the meeting, the Board agreed to defer further review to the next meeting.

13. **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

Chair Dr. Vitale – AYE

The motion passed and the meeting adjourned at 9:20 PM.

Respectfully Submitted,

A handwritten signature in black ink that reads "Ellen J. Hartnett". The signature is written in a cursive, flowing style.

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 9/7/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **60 Page Farm Road –**
  - Septic system replacement plan #22-63, drawn by McIntyre Engineering & Septic Services, dated 7/27/2022
  - Variance request letter dated 8/1/2022 from Daniel McIntyre, P.E.
  - Certified list of abutters from Assessor's office, dated 7/28/2022
  - Floorplan of house received 8/2/2022 from Daniel McIntyre, P.E.
  - Copy of abutter notification letter dated 8/16/22 from Daniel McIntyre, P.E.
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
2. **127 Farm Road (1-BR accessory apartment) –**
  - New Septic plan #22-60 drawn by McIntyre Engineering & Septic Services and dated 7/27/2022
  - Floor plan for 2<sup>nd</sup> floor of "guest house", dated 5/10/22, and provided by Daniel McIntyre, P.E. with the septic plans
3. **127 Farm Road (commercial kitchen) –**
  - New Septic plan #22-61 drawn by McIntyre Engineering & Septic Services and dated 7/27/2022
  - Commercial Kitchen Floor plan, drawn by McIntyre Engineering & Septic Services and provided with the septic plan
4. **Farm Pond Advisory Committee HCB Rapid Response Plan –**
  - Farm Pond HCB Rapid Response Plan, draft5, received 8/25/22
  - Farm Pond HCB Rapid Response Plan Supporting Document, draft 5, received 8/25/22
  - "What Should I Do If I See Lots of Green Stuff Floating on Farm Pond?", received 8/25/22
  - Potential HCB Farm Pond Events Reporting, Rev. 8/2/22, Excel Spreadsheet
  - Sample "Warning!" and "Attention" signs
  - Photographs from Farm Pond, Early Signs of 2021 HCB Blooms, dated July 14, 2021
5. **30 North Main Street –**
  - 8/30/22 email from Daniel McIntyre P.E. addressed to BOH Administrator and Agent requesting an agenda appointment to discuss possible lot line change
  - Septic Replacement #22-01, drawn by Daniel McIntyre, P.E. and conditionally approved on 3/2/22
  - BOH meeting Minutes of 3/2/22, 2/16/22, and 7/21/21
6. **75 Nason Hill Road –**
  - Building Application #22-42 (for 2<sup>nd</sup> floor office) – available from the Building Department
  - Floorplans, drawn by Steven Baczek, architect, for Gilmore Builders
  - Septic System design plan, drawn by McCarthy & Sullivan Inc. dated 5/27/77, last revised 4/14/78 and approved 7/5/78
7. **NEW 2022 Disposal Works Installer Permit application –**
  - Robert Santos d/b/a S&E Contractors of Millis - #I22-22
8. **Minutes –**
  - BOH meeting Minutes of 8/17/2022
9. **Regulatory Review –**
  - BOH Regulation II, Domestic Water Supply, with track changes proposed by the Vice-Chair and received

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
September 21, 2022**

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

**Members Absent:** Matt Vitale, MD, Chair

**Others Present:** Courtney Ek, Jeff Waldron, Fred Schobel, Bert Corey, Tom Trainor, Jonathan Hodson-Walker, Thomas Curran, Food Inspector, 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 – Present

Chair Dr. Vitale - Absent

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) Jordan Bros. Seafood – 2022 Food Establishment (mobile) Permit #F22-32

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

2. **Regulatory Review** (see Minutes of 9/7/22, 7/20/22, 6/1/22, 5/18/22, 5/4/22, and 4/6/22) – Ms. Beardsley stated that she feels the full Board should be part of all discussions regarding any proposed regulatory revisions. This discussion was deferred to the next meeting.

3. **Jordan Bros. Seafood – 2022 Food Establishment (mobile) Permit #F22-32** – Food-Camp Inspector Curran recommended approval of this 2022 permit, stating that the owner forgot to apply this year. It was noted that all required paperwork was submitted when Mr. Curran requested it after noticing this food truck operating in town. A motion was made to approve this permit as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE



The motion passed and the permit was approved.

**APPROVED 4-0**

4. **Natick-Walpole Visiting Nurse Association – August 2022 COVID-19 Invoice** – The Administrator reviewed that the VNA is contacting positive elderly cases of COVID-19 as well as the parent(s) of positive infants and young children. It was noted that the Vice Chair has previously approved this invoice for timely payment. A motion was made to ratify the Vice-Chair’s approval of this \$82.50 invoice, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the Vice Chair’s previous approval was ratified. **RATIFIED 4-0**

5. **Farm Pond Status** – Ms. Beardsley noted that “Caution – Public Health Advisory” has been posted at multiple locations at Farm Pond, noting that a harmful algal bloom may be present and the water may be unsafe for people and pets. She stated that on the day of the perimeter swim, the Pond was very green and there was a lot of material floating in and on the water; these observations varied only slightly around the entire perimeter. The Vice Chair and Health Agent had a conference call with Irena Draksic of the Department of Public Health and she provided signage and made the recommendation for posting based on the description and photos of conditions. Ms. Beardsley noted that the Board of Health and Town are not obligated to prevent people from going in the water, but they should provide this information so people can make their own informed decisions. It was noted that there was confirmation of the presence of cyanobacteria, but it was not at a dangerous density. Ms. Campe stated that she liked the signage, noting it was an “advisory” rather than stating there was a “threat” – it provides information.

Groundwater Protection Committee Chair Tom Trainor shared his screen and showed a slide of Farm Pond Secchi Disk transparency trends year-to-date. He stated that the water is dense and green with phytoplankton and he goes out every 2-3 days to check. Mr. Trainor stated that the DPH recommends more than 4-feet of visibility for bathing water. He stated that there is a lake-wide bloom for the first time ever.

Returning to the discussion of the cautionary signage that has been posted, Ms. Beardsley stated that in order to remove this posting, we need to see the water clear up, but that has not yet happened. When it does, the DPH, when informed, will come out and they will take 2 tests, one-week apart. They will run the tests to see if the pond is cleared and meets algae and bacteria standards established by DPH.

Ms. Beardsley noted that the Triathlon is this Sunday, but the Board cannot say that everything is fine just yet. Ms. Campe asked Mr. Waldron if there was any potential liability for the Town if an athlete swims and gets sick, and Mr. Waldron responded that he didn’t think so since all participants must sign a release form. He noted that there are 300 entrants currently.

Ms. Beardsley noted that the DPH indicated that the Board and Town are not obligated to keep people out of the Pond – we are not liable for enforcement. Mr. Waldron noted the “caution” sign is posted in several locations. The Agent noted that the temperature of the beach water was 80-degrees on August 8<sup>th</sup> and 85-degrees on August 15<sup>th</sup>.

6. **Minutes** – The Minutes of September 7, 2022 were reviewed. Ms. Beardsley stated that she submitted some minor edits. A motion was made to approve the 9/7/2022 Minutes as amended and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – Abstained

Vice Chair Ms. Beardsley – AYE

The motion passed and the Minutes were approved as amended. **APPROVED 3-0-1 as amended**  
Dr. Hunnewell abstained as she did not attend this meeting.

7. **MassDEP Notices of Responsibilities** for oil or hazardous material releases in town were received:

(A) **177 Lake Street** (residential property)

(B) **16 Western Avenue** (Eversource substation)

Ms. Campe stated that she will monitor the MassDEP website for additional information on these releases. When it is updated, she will inform the Administrator so it can be on a future agenda to update the Board.

8. **10/5/2022 Agenda items** known to date were noted, including:

- Regulatory Review
- Farm Pond Update
- Variance Hearing for 49 Farm Road
- Jim Starbard, RCAP Solutions – presentation of report of anonymous results of 40 homes that had water analyses conducted last fall.

9. **33 Wildwood Drive, Mark Dershwitz – VARIANCE HEARING – Septic Replacement #22-62**  
– Fred Schobel, E.I.T. and Bert Corey, P.E. from DGT Associates were present, representing the owner. The Administrator reported that the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts and/or usps.com printouts had been received and all was in order. The Hearing was opened.

Mr. Schobel stated that the existing 5-bedroom septic system was in failure, and a replacement system has been designed with no increase in flow (5-bedroom). An innovative/alternative system, the Eljen Geotextile Sand Filter System, with modules in trench configuration, is proposed. The design does not include a garbage grinder. Due to site constraints, the replacement system is sited in the same area as the existing, failed system. The requested variances were reviewed and discussed:

1. Section 8.0(1) – to allow the proposed soil absorption system to be installed 2-feet above seasonal high groundwater rather than the required 5-feet, with the use of an Eljen A42 GSF system, per MassDEP's "Remedial Use Approval", last revised 3/30/2022. A motion was made to approve this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

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

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

3. Section 13.0(1) – The engineer stated that he and the applicant wished to withdraw this request for variance, as it was not needed, and the Agent concurred.

**WITHDRAWN / Not Needed**

4. Title 5 Local Upgrade, 310 CMR 15.405(1)(h) – to allow the proposed soil absorption system to be installed 2-feet above seasonal high groundwater rather than the required 4-feet, in soils with a recorded percolation rate of >2-minutes/inch, provided the existing system is failed, there is no increase in design flow, and there is no reduction in setbacks from private wells. A motion was made to approve this variance as requested and it was seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the variance was approved.

**APPROVED 4-0**

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. Such a motion was made and seconded. By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

The motion passed and the plan was approved with conditions.

**APPROVED 4-0 with conditions**

10. **13 Course Brook Road, Veronika Bulkin – Septic Replacement #21-30 (approved 8/18/21)** (see Minutes of 8/18/21, 6/2/21, 5/19/21, and 5/5/21) – It was noted that Nathan Berkowitz has been corresponding with the Agent regarding the required installation of the replacement system. He had been invited to this meeting, but did not appear.

The Agent stated that the existing system (a pit made of cinder blocks) failed a Title 5 inspection on June 11, 2020, and MassDEP requires failed systems be replaced within 2-years of the Title 5 failure. The Agent checked with Claire Golden of MassDEP, who noted that the replacement is overdue and should be completed within 2-3 months. He noted that Mr. Berkowitz is looking for more time, but the Agent stated that he reviewed this requirement with him last year. The Agent stated that if the owner doesn’t show tonight, he will check with Ms. Golden again, stating that the Board might need to send an Order. Ms. Campe asked if it was necessary to go back to DEP, and the Agent stated that this could end up in court. Ms. Beardsley felt the town might have mechanisms for applying a penalty, such as a lien on the property, if necessary. Ms. Campe agreed, stating there is precedent for a lien. She felt the Board was taking the correct approach and stated that this cannot persist.

Later in the meeting, when Mr. Berkowitz had not appeared, the Agent stated that he would contact Ms. Golden at MassDEP regarding a standard Order and he will check within the town regarding other possible enforcement measures.

11. **195 Western Avenue, Silverwood Farm – Jonathan Hodson-Walker** – Food Inspector Thomas Curran began the discussion by noting that he and Mr. Hodson-Walker have had a good avenue of communication as it relates to a memorial gathering to be held at the Hodson-Walker residence, noting that is considered a private party and does not require a permit. However, since the barn is being advertised as an event venue online, Mr. Curran believes the Board should require an annual Food Establishment Permit so there will be another level of oversight to ensure food safety practices, as well as bi-annual inspections. He stated that he would like to arrange a site visit to the property and tour of the venue with Mr. Hodson-Walker, the Health Agent, and possibly include the Building Inspector.

Mr. Curran noted that with a Food Establishment Permit required, they would be required to have a Certified Food Manager onsite, as well as an Allergen Awareness Certificate and Choke-Safe training. Ms.

Beardsley noted that requiring this Food Permit would not be for food preparation onsite, but would be over-arching for all caterers who come in. Mr. Curran stated that the goal is to differentiate what are private parties onsite, again noting that the venue is advertising online as an event venue. Mr. Curran noted that the Federal Food Code, in the definitions of a “Food Establishment” includes “catered feeding location”, and stated that they require a permit.

Ms. Beardsley stated that private parties are often word-of-mouth rather than a notice in the paper, as was the case for the memorial, and she felt that because of the business nature of the property, people might think there is more oversight. Ms. Campe stated that if people are paying to rent the property for a party, it is a commercial venture. The Agent disagreed, stating that the cost does not matter if food is being served – they would still need a permit even if they weren’t paying to rent the venue. Ms. Campe asked about the criteria that triggers the need for a farm to obtain a food permit, and Mr. Curran responded that he would forward those sections of the Code to the Board. He noted, however, that he is more interested in the venue space.

Mr. Hodson-Walker stated that he has 3 categories of events:

- *Family events* – they host family, friends, or the community
- *Hosted events by the farm* – under “right to farm” regulations
- *Hosted events* – weddings, birthdays, etc. where people pay to access the property.

Mr. Hodson-Walker stated that he currently requires others (caterers) to have all of the required food permits. He stated that he understands it is not a straight-forward circumstance, but he does not want it over-done from a regulatory perspective.

Ms. Beardsley asked if the Board could review the 3 categories noted by Mr. Hodson-Walker, and she asked if the “family events” could be eliminated for the purpose of simplifying the discussion. Mr. Curran responded that if it is a private family event *in a private residence*, there is no problem and no permit is needed. But, if it is catered in the venue, it should be permitted and have oversight. Mr. Curran noted that caterers are required only to give notice (with copies of permits from their home base, a copy of the menu, etc.). That is all that is required of the caterer – no permit from Sherborn is provided. Mr. Curran stated that he wants the Board to have the ability to require and issue permits when necessary – he does not want to give a broad-brush approval just because it is being called a “family event”.

Ms. Campe asked if she threw a party for her husband, and it was catered, would a permit be required. Mr. Curran responded that such an event in a private residence does not require a permit, but the caterer is required to notify and provide documentation to the Board of Health. Once it becomes a public event, that is when a permit is required.

Dr. Bevers commented that a lot of events – and probably most of them – will require permitting. Mr. Curran agreed and stated that he believes an over-arching annual Food Establishment Permit for the venue was his recommendation. He again noted that a caterer just needs to give notice if it is a catered event. He noted that mobile food vendors always need their own permit, stating that regulations for food trucks differ from other food establishments, noting that a food truck has its own water system on the vehicle, as well as a waste system. In addition, the Fire Department must get involved with food trucks if there is propane on the truck. It is a self-contained unit and considered a “venue”.

Ms. Campe stated that she believes it would be easier for the owner to have a Food Establishment Permit for the venue rather than having to deal with each individual event. Mr. Hodson-Walker expressed concern over the issue of liability, asking if he is liable if someone gets sick (if he has a permit), since he would have some responsibility. Ms. Campe stated that if someone had an anaphylactic reaction to something, she believes it would be better for Mr. Hodson-Walker as the owner of the venue, as well as for the people paying him to use the property, to know there are safety mechanisms in place for emergency situations. Mr. Hodson-Walker stated that he happens to have a barn, and it is part of his farm. He stated that he’s had situations where people (who are friends) have asked him personally if they could have a wedding in his barn, and he’s allowed it and not charged them. He stated that the other situation is the



“farm events” where they are hosting a farm event – for the benefit of the farm. It is not a third-party paying him and they are not being subjected to any regulations that would be outside the “right to farm” regulations. He wondered if that would stray into the Board of Health regulations. He noted that there is not one single mention of the word “farm” in the entire Sherborn BOH regulations. Ms. Beardsley noted that we are working with Federal and State Food Codes, and she noted that this venue does fit the “catered feeding location” definition of a food establishment.

Mr. Curran asked if food is being served at the “farm events” noted by Mr. Hodson-Walker, and Mr. Hodson-Walker responded that there actually hasn’t been any yet, although they will be applying for food at one such event coming up. It is a “farm-to-table” dinner being hosted by Laura Robbins next month. They should have already applied for a permit, but if they haven’t, they will soon.

Ms. Beardsley stated that she believes there should be some coverage for some of these other events, because although they are personal, family-like activities, they are taking place at a commercial establishment. Therefore, if there is not an over-arching food permit, there might have to be individual food permits of some nature. Mr. Curran agreed, stating that there needs to be some sort of oversight, just by the nature of it being a catered feeding location. He noted that Mr. Hodson-Walker is actually obligated, from what is in the Code, to get a permit.

Mr. Hodson-Walker stated that he would appreciate input from the Board of Health on the venue and any advice they can give. He stated that he and his wife are not “event hosts”. They definitely host a lot of parties of kids and their family, but they are not putting on professional events. Mr. Hodson-Walker stated that they are learning as they go along, and he recognizes that they need a staging area for food. He stated that they do not allow food prep onsite unless it is through a licensed food truck or something like that. He stated that another question he has is, if there is someone grilling chicken onsite, for example, how does that need to be handled? He stated that there are not a lot of different circumstances, but there are a few. He wants to make sure the Board of Health is 100% on board and aware of what they are doing, and he wants to be compliant.

Mr. Hodson-Walker stated that if the Board is suggesting that getting an over-arching food permit is the way to move forward, great, but he needs to know who the person is that knows about anaphylactic shock or allergies, they will find a way of having that person onsite and charge people. He asked the Food Inspector to outline what his options might be. Mr. Curran stated that a food establishment, per the Code, is required to have one full-time equivalent food employee who is certified in Massachusetts Allergen Awareness. The other component to that is, any printed menu or placards – or anything that lists food on it having to do with the food being served, must have a statement on the menu that says “Before placing your order, please inform your server if you or anybody in your party has a food allergy”, so there is that disclosure.

Mr. Curran stated that, out of respect for the agricultural laws that Mr. Hodson-Walker mentioned, he will consult with Cheryl Sbarra, who is the attorney for local health boards, to see if there are any crossovers or intersections with the Food Code as far as that goes. He noted that he dealt with Ms. Sbarra on another issue last year and was able to come to a resolution with a local farm that was raising product and selling it and wanted to sell it from the farm. They were allowed to do that under the agricultural exemption. However, he is concerned with the Food Code and believes that if food is being either prepared or sourced or dispensed to the public, and it is advertised as such, he believes there is a requirement for a food permit, whether it is the annual permit or if it is broken up into multiple temporary permits.

Mr. Curran noted that Mr. Hodson-Walker earlier mentioned grilling chicken outside, and he stated that if that is something he would do, then it would require a temporary handwashing station, overhead protection (over where the food is being placed), a food thermometer, verification of final cooking temperature, etc. There are a number of different controls and food safety practices that we have as expectations to keep everybody safe. Oversight is necessary to make sure there is access to handwashing,

that there is access to potable water, and ample restrooms onsite. Mr. Hodson-Walker accepted that it is a complicated framework, and stated that there is going to be a lot more of this type of circumstance in town.

Returning to the upcoming memorial gathering, Ms. Beardsley suggested that they post a sign regarding the nature of the event. Mr. Curran stated that the sign should state: "This is a private event and is not permitted or regulated by the Board of Health". Mr. Hodson-Walker agreed to post such a sign. He asked the Food Inspector to send him an email after this meeting regarding what he needs to do.

Mr. Curran stated that he would reach out to schedule a site visit with the owner and Health Agent in the near future. Ms. Beardsley stated that site visits are helpful to understanding specific characteristics and challenges of venues.

Health Agent Oram then spoke about the outstanding status of the well and septic installation at the site, and Mr. Hodson-Walker stated that he will complete all outstanding issues. Mr. Hodson-Walker stated that he appreciated everyone's support and guidance.

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

By a roll call vote:

Member Dr. Bevers – AYE

Member Ms. Campe – AYE

Member Dr. Hunnewell – AYE

Vice Chair Ms. Beardsley – AYE

This virtual meeting adjourned at 8:38 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]

M22-0921.doc

**DOCUMENTS REVIEWED AT THE VIRTUAL 9/21/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **33 Wildwood Drive –**
  - Septic System replacement plan #22-62, drawn by DGT Associates, Inc. dated 7/26/22 and last revised 8/17/22
  - Variance request letter dated 8/17/22 from Joseph Losanno, P.E.
  - Application for Local Upgrade Approval (Form 9A)
  - Certified list of abutters from Assessors office dated 7/28/2022
  - Copy of abutter notification letter (undated) from Joseph Losanno P.E.
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
  - Title 5 Local Upgrade Approval (Form 9B)
2. **195 Western Avenue / 32 Pleasant Street – Silverwood Farm –**
  - 9/6/22 letter from Jonathan and Lisa Hodson-Walker addressed to the BOH regarding number of events held at the site
  - BOH meeting Minutes of 3/17/21, 6/19/19, 2/6/19, 12/5/18, 10/17/18, 10/3/18, 9/19/18, 9/5/18, 6/5/13, and 7/18/12
  - 9/16/10 letter from Health Agent to owner regarding outstanding water analyses for Well Permit #09-43 with copies of water analyses received
  - 32 Pleasant and 195 Western – Septic #98-61 (Revision to a previously approved plan) – construction as-built plan received 9/14/1999
  - Septic Alteration #19-55 for adding barn at 195 Western to system serving 32 Pleasant (using composting toilets in the barn)
  - Copy of 10/9/18 email from Tom Mahin at MassDEP regarding PWS question at Silverwood Farm
  - 2/16/21 letter from Creative Land & Water Engineering addressed to BOH Chair and Agent regarding function hall septic system design
3. **13 Course Brook Road –**
  - 6/5/2020 Failed Title 5 Inspection Report
  - Septic System Replacement plan #21-30, approved 8/18/21
  - 9/6/22 email from Claire Golden, MassDEP, addressed to Agent, Chair, and Vice-Chair re: 13 Course Brook Road
4. **MassDEP Notice of Responsibility letters –**
  - 9/12/22 letter from Environmental Analyst II Allison Williams re: 177 Lake Street (residential property)
  - 9/13/22 letter from Regional Planner Karen Stromberg re: 16 Western Ave. (Eversource Substation 274)
5. **Natick-Walpole Visiting Nurse Association –**
  - August 2022 COVID-19 invoice
6. **Jordan Bros. Seafood –**
  - 2022 Food Establishment Permit Application #F22-32
7. **Minutes –**
  - BOH meeting Minutes of 9/7/2022
8. **Farm Pond –**
  - Public Health Advisory “Caution” sign re: Harmful Algae Bloom
  - Secchi Disk transparency trends, YTD – slide shared by Tom Trainor (private resident) on behalf of the Farm Pond Advisory Committee
9. **Regulation Review –**
  - DB/MB proposals regarding Well Regulations (II)
  - LC proposal regarding deed recording

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
October 19, 2022**

**Members Present:** Matt Vitale, MD, Chair, Daryl Beardsley, and Matt Bevers, MD, PhD

**Members Absent:** Lisa Campe and Rebecca Hunnewell, MD

**Others Present:** Courtney Ek, Diane Moores, Sean Killeen, Gerard Vaio, Josh Ziskin, Laura Mastrobuono, Daniel McIntyre, P.E., Thomas Curran, Food Inspector, and Mark Oram, Agent.

By a roll call vote:

Vice Chair Ms. Beardsley - Present

Member Dr. Bevers – Present

Member Ms. Campe – Absent

Member Dr. Hunnewell – Absent

Chair Dr. Vitale - Present

This VIRTUAL meeting came to order at 7:01 PM via Zoom. It was noted that all votes shall be taken via roll call.

1. The Chair noted the members present and reviewed the agenda, and noted the following items not anticipated by the Chair 48-hours in advance of the meeting, and requested that they be added:

(1) Beaver dam location site visit

(2) Farm Pond Update

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

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

**APPROVED 3-0**

2. **Beaver dam location site visit** – Ms. Beardsley reported that a person from the Central Massachusetts Mosquito Control Project (CMMCP) is coming to town tomorrow to visit at least a couple sites to determine if they can help the town with beaver control using water flow devices. She noted multiple town personnel who also planned to attend this site visit.

3. **Farm Pond Update** (see Minutes of 10/5/22 and 9/21/22) – The Agent reported that he received notice from the state Dept. of Public Health (DPH) that DPH personnel could visit Farm Pond to take a sample of the water for testing for harmful algae bacteria (HAB) after the bloom had dissipated. He stated that they will visit tomorrow morning, and will call when they arrive so others can be present for the sampling. The Agent stated that he would update the Board at a future meeting when the results are received.

4. **Natick-Walpole Visiting Nurse Association – September 2022 COVID-19 invoice** – The Administrator reviewed that this invoice, in the amount of \$165.00, was previously approved for payment by the Vice-Chair. This covers the cost of the VNA to conduct follow-up calls to positive COVID-19



residents who are either over age 65, or the parents of young children/infants who have COVID-19. A motion was made to ratify the Vice-Chair's previous approval of this invoice, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Chair Dr. Vitale – AYE

The motion passed and the Vice-Chair's previous approval was ratified.

**RATIFIED 3-0**

5. **Minutes** The Minutes of October 5, 2022 were reviewed. Several minor edits/typos were previously provided. 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

Chair Dr. Vitale – AYE

The motion passed and the Minutes were approved as amended.

**APPROVED 3-0 as amended**

6. **Vacation** – The Administrator reported that she was scheduled to be away on vacation from October 27<sup>th</sup> – November 5<sup>th</sup>. Two graduate students from the Academic Public Health Corps (APHC) will be taking the meeting Minutes for the next meeting.

7. **Heritage of Sherborn** (see Minutes of 6/1/22, 10/20/21, 9/29/21, 7/21/21, 7/7/21, 6/16/21, and 6/2/21) – Josh Ziskin was present, as was Food Inspector Thomas Curran. The Chair stated that it appears, from the inspection reports for this establishment, that it is difficult for the owner to achieve and maintain compliance with the regulations, noting that as issues are identified and addressed, they also tend to recur. Dr. Vitale asked Food Inspector Thomas Curran how this establishment compares with food establishments he has inspected in other municipalities. Mr. Curran responded that, while this is an older building, the owner must prevent the rodent population from entering the building by being more diligent with monitoring the cleaning and sanitizing, and filling holes and entry points. He stated that Mr. Ziskin needs to work collaboratively with his Integrated Pest Management (IPM) provider or the pest control program won't work. Mr. Curran stated that Mr. Ziskin is trying of late, but he must be more diligent about insect control devices.

Mr. Curran stated that there are also intermittent food temperature issues, so temperature control is a concern. While some deviations in temperature are common, there should be immediate corrective action taken. He recommended that Mr. Ziskin hold a "round table" with his staff to review temperature control issues and to ensure they are addressed in a timely manner.

Ms. Beardsley stated that she heard the Sherborn Inn used to empty their dumpsters on a daily basis, and she asked if that was still the case. Mr. Ziskin responded that the dumpsters are now emptied on Tuesdays and Fridays. Mr. Curran stated that the Code addresses "frequency of removal", stating that trash must be removed at a frequency to prevent rodents. He stated that if more pick-ups are necessary, the owner should increase the frequency of rubbish collection.

Mr. Curran stated that while he understands the "ambiance" of the historic Heritage building, all windows and doors should be kept closed to prevent rodents from entering. Mr. Ziskin responded that he has moved highly perishable foods from on top of machines to underneath. He also stated that the front door has been replaced, and door sweeps have been installed. He stated that he will remove debris from underneath the pizza oven. Mr. Curran noted that the pizza oven was an older unit, and asked if it could be elevated to ensure a 6-inch clearance underneath for cleaning.

Mr. Curran asked if the owner had any plans to do mass trappings, noting that they are typically done overnight, and the business is cleaned the following morning with proper disposal of any catches. Mr. Ziskin responded that he has never heard of that, but expressed interest and stated that he would mention it to his pest control company.

The Food Inspector noted that this recent inspection was conducted due to a complaint received in the Board of Health office regarding heated air in the tent blowing up mulch resulting in debris landing on glassware and dishes. He stated that there must be parameters in place if Mr. Ziskin is going to continue to have these outside events. Mr. Curran noted that he also made a referral regarding the heating unit to the Fire Chief and the Building Inspector. Mr. Ziskin stated that the tent was taken down yesterday, and that he would look into other flooring for next year.

Mr. Curran then commented about the outdoor smoker, stating that standard operating procedures (SOP's) should be drafted and sent over for his review. There must be a temporary handwashing sink and a pop-up tent for cover so the food is protected. Mr. Curran requested product specifications for this unit, stating that while it is a custom-made unit, some details are needed. Mr. Ziskin stated that the Food Inspector previously talked about moving the smoker unit, but he stated that he wants to be sure the Fire Chief is OK with where it is located. Mr. Curran stated that it should be on a solid surface.

Ms. Beardsley expressed concern about repeated violations at the Heritage, and asked how the Board could better support them so they can do a better job. She stated that the Board needs to look at how the town is underwriting the cost for the Food Inspector's time. Mr. Ziskin stated that there are a lot of issues, and noted that Mr. Curran was there due to a complaint. He stated that typically, he is inspected, and then re-inspected, and later has another round of inspections. Ms. Beardsley asked what kind of compliance is being maintained between those bi-annual visits? Mr. Curran noted that although this inspection was initiated by a constituent complaint, the Heritage was also due for a routine inspection.

**8. 62 Green Lane, Robert Granara – VARIANCE HEARING – Septic Replacement/Expansion #22-64** – The Administrator reported that the certified list of abutters, a copy of the abutter notification letter, and the certified mail return receipts had been received, and all was in order. The Hearing was opened.

Daniel McIntyre, P.E. was present, representing the owner. He stated that this 3-bedroom house was built in the 1970's. There is a 1977 4-bedroom septic system design plan in the Board of Health files. The new owner would like to renovate the house and add the 4<sup>th</sup> bedroom. Mr. McIntyre stated that the owner is aware that he will be restricted to a total of 9-rooms. The variances were reviewed:

(1) Section 8.0(1) – to allow 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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 3-0**

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

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 3-0**

(3) Section 10.2 – to allow the proposed future reserve area to be located 121-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 Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Chair Dr. Vitale – AYE

The motion passed and the variance was approved.

**APPROVED 3-0**

The floor plans were reviewed:

- 4 rooms on 1<sup>st</sup> floor (kitchen, living/dining room, family room, and office)
- 4 bedrooms on 2<sup>nd</sup> floor
- 1 finished room in the basement

Dr. Vitale stated that he counted a total of 9 rooms, and Dr. Bevers agreed. Ms. Beardsley asked if the kitchen was an “eat-in” kitchen, but Mr. McIntyre didn’t know. She noted that in the past, the Board has counted “living/dining room” as 2 rooms, since it has two functions listed. Dr. Vitale asked if the home pattern of use could be clarified when the homeowner applies for the building permit.

The Hearing was closed.

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

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Chair Dr. Vitale – AYE

The motion passed and the plan was approved with condition.

**APPROVED 3-0 with condition**

9. **76 Whitney Street, Gerard Vaio – Building Application #22-56** – Mr. Vaio was present. The Agent reported that the applicant submitted a building application for a new sunroom with heat. The 1977 septic system was designed for 4-bedrooms, and the house already has 9 total rooms. The proposed floor plans were reviewed:

- 5 rooms on the proposed 1<sup>st</sup> floor (kitchen, living room, dining room, den, and sunroom)
- 3 bedrooms on the second floor
- 2 rooms in the basement (finished storage room and media room)

This results in a total of 10-rooms (including the heated sunroom). The Agent stated that he reviewed with the owner that the Board has previously allowed a deed recording for the finished basement rooms.

Mr. Vaio commented that he was not sure of the implications of a deed recording, and offered to show photographs of the rooms on the basement level. Dr. Vitale declined viewing the photos, noting the Board has reviewed similar floor plans on many occasions. Ms. Beardsley stated that she felt only the “media room” needed to be deed restricted in order to get to the maximum of 9 total rooms. Wording of the deed restriction was reviewed and amended.

A motion was made to approve the proposed deed recording as amended, and it was seconded. By a roll call vote:

Vice Chair Ms. Beardsley – AYE

Member Dr. Bevers – AYE

Chair Dr. Vitale – AYE

The motion passed and the proposed deed recording was agreed as amended.

**AGREED 3-0 as amended.**

10. **11/2/2022 Agenda Items** to date were listed:

- 7:15pm-7:45pm – Regulatory Review of the Well Regulations

- Beaver site visit update
- 13 Course Brook Road, Nathan Berkowitz – status of septic replacement installation
- 40B Application for Washington Street/Greenwood Street (Greenwood Homes)
- FY24 Budget – Preliminary discussion

11. **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

Chair Dr. Vitale – AYE

This virtual meeting adjourned at 8:04 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]

M22-1019.doc



**DOCUMENTS REVIEWED AT THE VIRTUAL 10/19/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **62 Green Lane –**
  - Septic Replacement/Expansion plan #22-64, drawn by McIntyre Engineering and dated 8/10/22
  - Property overview plan, drawn by McIntyre Engineering and dated 10/11/22
  - Variance Request letter dated 8/14/22 from Daniel McIntyre, P.E.
  - Certified list of abutters from the Assessor's office dated 8/16/2022
  - Abutter notification letter from Daniel McIntyre, P.E., dated 9/20/22
  - Certified mail return receipts (green cards) and/or usps.com printouts from abutter notification letters
2. **Heritage at Sherborn –**
  - 10/6/2022 Food Establishment inspection report
  - 10/12/2022 Braman Pest Services inspection report
  - IPM Pest Control information from Food Inspector
  - 10/13/2022 Food Establishment re-inspection report
3. **76 Whitney Street –**
  - Building Application #22-56 dated 9/29/2022 (available from the Building Department)
  - 1977 septic system design plan
  - 2022 floor plans
  - Proposed deed restriction document for existing basement rooms
4. **Natick-Walpole Visiting Nurse Association –**
  - September 2022 COVID-19 invoice
5. **Minutes –**
  - 10/5/2022 BOH meeting Minutes

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
November 2, 2022**

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

**Members Absent:** None

**Others Present:** Jeff Waldron, Michael Bulkin, Nathan Berkowitz, Mark Oram, Agent, “Davoud”, Marian Neutra

By a roll call vote:

Vice Chair Ms. Beardsley - Present

Member Dr. Hunnewell - Present

Member Ms. Campe - Present

Member Dr. Bevers - Present (came late)

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.

1. The Chair noted the members present and reviewed the agenda, and noted the following items not anticipated by the Chair 48 hours in advance of the meeting, and requested that they be added:

(1) 41 Woodland floor plans

(2) Information from DPH on RSV

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

Vice Chair Ms. Beardsley - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Chair Dr. Vitale - AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

**2. Beaver Deceiver Photo**

Received notice that the central Mass Mosquito Control Program would be visiting several areas of beaver activity along Sewall Brook, including adjacent to 69 Forest Street, to evaluate management options. The image shows piping going over the dam at Forest Street that keeps the water level at a reasonable level. A fence is placed around the invert, so the pipe goes through the street, and this helps keep the water at a reasonable level and prevents flooding onto the street.

### **The decision to release an emergency beaver permit - dated October 24th, 2022**

Also, a culvert was visited at Rt. 27, (near Goulding West) and a partial dam along Goulding East to look at another area of concern. This area appeared to be the most viable beaver dam and the attention that was needed was putting in a lowering control device to help eliminate some of the concerns. (Usually at the site once a year, due to requests from the town concerning the possibility of flooding or the street being damaged because the covert becomes blocked from the beavers). CMMCP was out there last Friday putting in the water-lowering control device.

Central Mass Mosquito Control in their off-season does this kind of work to help out towns, and there can be some benefits – mosquito-wise - they went downstream to a fourth location, and identified that water conditions there were blocked through a culvert underneath the railroad tracks ... With constant water on the roots of certain vegetation could support mosquitoes that carry diseases. (Also worked on one other spot).

#### **Meeting between the Board of Health (Mark, Daryl, and Matt B. were present)**

**Conservation Commission** - Courtney Eck was present and Sean Killeen from DPW and there were three representatives on the scoping day from the Central Mass Mosquito Control Program. Sites were reviewed and it appears that they each need some sort of a different kind of management strategy.

**Beaver Deceiver** - with the cage out in the water, it is designed so that beavers cannot get in. Maybe baby beavers could get in, but in general, they're not going to go in there and the end of the pipe also goes in there. (Beavers are driven by the sound of running water to dam up spaces, this helps keep the flow going.) The stream comes through the deceiver and the pipe.

They breached part of the dam (just a notch) so that they could put the pipe it runs through so that it continues to the culvert that goes under the street.

It is taken out, but not filled. They waited for the beavers to go and do their thing, and they did this overnight. (The beavers fixed it to their satisfaction because they could hear it running along the sides).

This means that they have their dam and enough depth of water out here because the property owner thinks that the beaver lodge is further upstream. So, the beavers have enough depth to survive the winter and will be able to get out under the ice and get the food that they need.

Mark agrees with Daryl that the Central Mass Mosquito Control with Conservation works well with the Board of Health and the same with the DPW. It was thought that the beavers were mostly removed from this area, but there's still beaver activity in this area, as well. Obviously, from what they did to rebuild the dam. That was the goal, to find a harmonious way to coexist with them and it was observed at the end of the drought when the water started flowing when they started building. The retention that they set up allows for maybe more water to infiltrate the soil and replenish the groundwater rather than rapidly running off the stream discharge to the Charles River about a half mile away.

DPW helped with clearing out brush and getting them access to the materials that they needed to get into this location.

**A motion to ratify the approval Mark granted on October 24<sup>th</sup>, 2022, was made and seconded.**

Vice Chair Ms. Beardsley – Aye  
Member Ms. Campe – Aye  
Chair Dr. Vitale – Aye

**Approved 4-0**

**The Conservation Commission also issued a separate approval because they had to approve the breaching of the dam.**

**3. DPH Letter sent to the BOH on November 1st, 2022**

Commenting on the uptick in respiratory infections being observed in children and infants this fall with RSV (particularly standing out) and offering some tips about how to reduce the risk. Including encouraging vaccination for children eligible for Influenza and Covid vaccines and reminding folks that those can be co-administered in the subset of infants where they are appropriate for productive antibodies. By continuing the management of that in conjunction with people's pediatricians, maintaining hand hygiene, clean surfaces and keeping children who are symptomatic at home, and avoiding social gatherings if you or your child is ill. (Lots of this is good general advice.)

Particularly this year they are seeing very high occupancy particularly related to RSV, which is occurring in a greater prevalence than in years past. Also, with higher rates of utilization of hospitals and ICU resources because of just overall increasing prevalence.

**Daryl** - read that there was some speculation that children who were born during covid did not get exposed to these things with the frequency that they might have so their immune systems are not as prepared. Are you seeing this in the hospital at all?

**Matt** - Does not see the younger children on the hospital side. He knows from a capacity management standpoint that overall occupancy is up. Does not have a good sense by age fraction about whether or not that is with very young children who were sort of in their early years in an environment with more masking. Though for the young kiddos who are six months old, masking that we did last year does not have any effect on what you are exposed to.

However, it is an above-average year overall and earlier than is typical for RSV. Also seeing adults with RSV on the upstream as well. However, he does not think that they have seen anything like the volume on the pediatric side.

**4. Water Supply – Regulation Review**

Decided to take out “domestic” because they have irrigation and farms with wells. Found the U.S. Environmental Protection Agency Manual of Individual Water Supply Systems but found that it is very old. (From the 1990s) - has not researched this further. Talked about referencing zoning regulations for definitions of driveways. Updated the USEPA manual.

Highlighted a section in 11.0 Well Specifications part 11.1 (well yield) because it was found peculiar that people must have a plan for well yield for any undeveloped area that could be made into a bedroom.

**Mark** - In most cases, people may come in with a four-bedroom septic system, but they only built three bedrooms for the present house and down the road may decide on a fourth bedroom. If



that's the scenario that would fit into this. Only one well could be remembered to meet the two-gallon flow for four hours total. Has not seen issues in recent years. Was a problem 20-25 years ago, in which there was an attempt to offer well deals 300 feet and back then they were not fracking as much either to open the fissures, so we used to see less yield when we did the well-pump test. But lately, I have not seen any issues with that concern.

Disconnect? If they need to consider what bedroom is for the room, count for the septic capacity. However, we want consistency in defining the number of rooms. Ambiguity is not a good thing, there needs to be a "definition" for the septic capacity. There needs to be a parallel and consistent idea of how many bedrooms these septic systems have.

Reference back to the septic regulations, both at title five and the State septic regulations, as well as our regulations and respect to the definition of a bedroom.

If somebody under sizes their well, that will only impact them. However, the only thing that is a concern is for the next person who comes in ... Only a four-bedroom septic - just because they were only using three of those rooms as bedrooms, that fourth bedroom is needed, and now they don't have adequate flow, they must go to the BOH to install a new well.

Well yield is only reviewed at the initial installation of the well. This is a part of the sanitary code that just wants to make sure that people have adequate water.

16.0 Pipes and Equipment More so for the plumbing inspector when it comes to the piping that connects to the house. Approved by the plumbing inspector or someone else.

Should be consistent with the public and private for the water quality of these wells. Do not define semi-public correctly. Does not treat public water supplies differently, depending on ownership, whether it's municipal or private, they have the same regulations.

Public and private are about how many entities are served.

Medfield regulations define semi-public water supplies as any water system serving or intended to serve water for human consumption or domestic use or purposes, including multiple dwellings, restaurants, dairy schools, institutions, motels, mobile home parks, following plans, campgrounds, recreational camps, or beaches.

Example: 59 North Main and Abbey Road both installed multiple wells, and then they have 24 people per well.

Need to focus on staying below the regulated level ... However, this is substantially different from the water supply for a single-family home.

Lisa disagreed: thinks that we should just know how clean the water needs to be.

Medfield claims that they need a permit from the Board of Health for the semi-public: "No semi-public water supply should be installed, altered, or repaired until a permit has been obtained from the Board of Health or its agents."

Anything needing a permit from the BOH - private/semi-public, etc. Tying it to the state is good because they do not have to constantly update regulations. 300 gallons comes from the state code. One overarching point would be that it is consistent with semi-public references in several places and try to make it consistent. Well drillers are now licensed by the DEP and no longer the Water Resources Commission.

**Replacement plan #21-30 (approved 8/18/2021) – status of installation) (see Minutes of 8/18/21, 6/2/21, 5/19/21, and 5/5/21)** - Nathan Berkowitz was present. Dr. Vitale provided background and context. The Agent confirms and says he invited the two owners. The Agent received an update a week ago that the owners are working with the installers but is unsure when the actual date of the installation will occur. The Agent was in contact with DEP, and they gave a 2–3-month leeway. Dr. Vitale confirms that the installation should've been completed in 3 months.

Mr. Berkowitz was invited to provide an update. Mr. Berkowitz explains the system was pumped two and a half years go by Scott Septic, but they failed. Scott Septic reported it, but they shouldn't have because Mr. Berkowitz only asked for a personal assessment.

Mr. Berkowitz states that the system works fine and that he began the process of engineering to rebuild the system. Mr. Berkowitz pushed forward to work with GLM.

Mr. Berkowitz has 2 bids in hand. They are \$9500 between these bidders: Irving Excavation and JC Parmenter. He explains 6 other interested bidders. He is waiting for the next step. He is ready to go. He inquires if there is a septic company that wants to submit a bid for it.

Dr. Vitale explains that this is not a shared problem. This is a state requirement. This is not the basis for either the regulation from the state or the board. Dr. Vitale expresses that Mr. Berkowitz needs to fix the system. For the last two years, the system has been potentially contaminating the groundwater, since it is known that the system (pit) intrudes into the groundwater as the basis for failure. Based on the failure of a Title 5 inspection, this isn't a failure of infiltration on the material used by Mr. Berkowitz, but a failure of keeping that infiltration out of the groundwater.

Dr. Vitale expressed that the system cannot remain out of compliance. A timeline needs to be set to get this corrected.

The Agent explains alternative steps. He confirms this is the first issue like this has occurred. The Agent suggests that the Board be provided with a definite date of installation. He confirms that this is not a specialized system that has winter installations, so this can be installed at any time of the year. The Agent expresses that legal action doesn't have to be taken. He stresses this is an environmental concern, there is a potential for groundwater contamination and with the neighborhood relying on private wells, this has to be done as soon as possible. He also confirms that winter installations can be done. There are no restrictions on winter installations.

Dr. Vitale emphasizes that we need to have a mechanism of enforcement because we are past the deadline. The Agent explains that an order could be sent to the owner to repair at once, with the opportunity for a public hearing, with a request within 10 days. If there's no reaction, then the town would seek further action in the courts. Dr. Bevers wouldn't be opposed to moving to order because no progress has been made.

Mr. Berkowitz interrupts the business of the board. Dr. Vitale called for a vote on the motion to authorize Ms. Beardsley and Dr. Vitale to work with the Town Council to figure out the next steps and including, if necessary, issuing an order of enforcement to ensure compliance with the State requirement of a Title 5 failure, and it was seconded. By 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 was passed.

**APPROVED 5-0**

Dr. Vitale invited Mr. Berkowitz to comment, but Mr. Berkowitz was no longer present in the meeting.

6. **41 Woodland — Floor Plans** — “Davoud”, the applicant, is present. The Agent provides an overview of the floor plan. He explains that the applicant wants to move the laundry room from its original room and convert it into a full bathroom. The Agent is concerned about the layout of the basement, specifically the location of the full bathroom concerning the family room and the office right next to it.

The Agent explains that septic plants and disposal construction permits could not be found when the house was built. We only have Assesses Records from 1970 that show it as a four-bedroom. There are no records indicating the capacity of the septic system.

Dr. Vitale recommends treating this as a four-bedroom, given the information provided. He recalls that the proposed full bath lines up with a variety of full baths that were previously approved with ambivalence. He confirms it is permissible, based on previous approvals and on the language of regulation that exists today.

Ms. Beardsley comments that this is very similar to a previous applicant, and cautions that it is one wall and a door away from becoming an in-law suite, accessory suite, master bedroom, or secondary master bedroom, which would make it out of compliance. Davoud confirms there is no plan to put up a wall that would close the open space.

Dr. Vitale confirms that a disposal construction permit was found for a four-bedroom floor plan. A septic plan is the only missing document.

A motion was made to recommend to the Agent to approve the plans provided, and it was seconded. By 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 was passed, and the plan was approved.

**APPROVED 5-0**

The Agent approves the plan as presented.

7. **Greenwood Homes 40B – review of site visit/discussion of comment letter (due 12/5/22)** — Ms. Beardsley and the Agent attended. Ms. Beardsley expresses a concern for the area where the septic may go because it has a great deal of either exposed ledge or very large boulders. A fair amount of removal will need to happen. The Agent says the applicant has

applied for additional testing and confirms it's just large boulders and not an exposed ledge that was hit by the excavator.

Ms. Beardsley expresses difficulty in moving forward without specific testing from the four proposed homes.

Dr. Vitale asks if each section of the four units of housing is being treated independently of each other for communication. Mr. Waldron confirms that he doesn't believe these are separate deeds. This has not been completely decided yet.

Jeff Waldron notices and Marian Neutra confirms that the due date should be December 3rd for the 30-day extension. December 3rd is the date to get the letter to the mass housing.

Ms. Neutra thinks this must be treated as separate 40B's, but the presence of another development right next door cannot yet be considered.

Dr. Hunnewell suggests looking into the state or federal regulation that considers this as one parcel or two because of the property.

Ms. Beardsley and the Agent will review the previous tests to understand the four plots better.

8. **Minutes** – The Minutes of 10/19/2022 were reviewed. Ms. Beardsley noted that she had submitted minor edits. A motion was made to approve the Minutes as amended, and it was seconded. By roll call vote:

Vice Chair, Ms. Beardsley - AYE

Member, Dr. Bevers - AYE

Member, Ms. Campe - Abstained

Member, Dr. Hunnewell - Abstained

Chair, Dr. Vitale - AYE

The motion passed and the Minutes were approved as amended.

**APPROVED 3-0-2 as amended**

Ms. Campe and Dr. Hunnewell abstained as they were not present at the 10/19/22 meeting.

9. **11/16/22 Agenda items** known to date were noted, and will include:

- 2 Variance hearings scheduled
- Well Discussion
- Greenwood Homes - response
- 13 Course Brook Road - follow-up
- FY2024 Budget

10. **FY2024 Budget – Preliminary discussion** — Ms. Beardsley mentions that we are asked to keep the budget as flat as possible, although there is need for more staff support. She and Ellen will meet with an HR consultant to talk about options for expanding staff, inquiring about the implications cost-wise and logistics-wise.

11. **Adjournment** – A motion was made to adjourn the meeting, and it was seconded. By 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 8:41 PM.

Respectfully Submitted,

Academic Public Health Corps Interns (AS and CT)

### **DOCUMENTS REVIEWED AT THE VIRTUAL 11/2/22 MEETING**

**(All items stored in the Board of Health files unless otherwise noted)**

**1. 13 Course Brook Road –**

- Septic Replacement plan #21-30, drawn by GLM Engineering and last revised 8/17/21 (approved 8/18/21)
- Minutes of 9/21/22, 8/18/21, 6/2/21, 5/19/21, and 5/5/21 when this property was discussed

**2. Minutes –**

- BOH meeting Minutes of 10/19/2022

**3. 10-Day Emergency Beaver Permit –**

- #B2022-02 – Town of Sherborn, culvert west of 69 Forest Street
- Photos of dam and beaver deceiver device

**4. 41 Woodland Street –**

- Building Application with floor plans

**5. BOH Well Regulations**

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
November 16, 2022**

**Members Present:** Daryl Beardsley, Vice Chair, Rebecca Hunnewell, MD, Lisa Campe, Matthew Bevers, MD, PhD,

**Members Absent:** Matthew Vitale, MD, Chair

**Others Present:** Jeff Waldron, Mark Oram, Agent, Nathan Berkowitz, Mary O'Hara Moore, Tom Trainor, "1508...000", Laurie Robinson, M.R. Powicki, Marian Neutra, Laura Mastrobuono, "Holly", Dan McIntyre, George Morgan 1961, "Lisa", Magnus Nicklasson, Ellen Hartnett, BOH Administrator

By a roll call vote:

Vice Chair Ms. Beardsley - Present

Member Dr. Hunnewell - Present

Member Ms. Campe - Present

Member Dr. Bevers - 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.

1. The Chair noted the members present and reviewed the agenda, and noted the following items not anticipated by the Chair 48-hours in advance of the meeting, and requested that they be added:

(1) Washington Street, Sherborn Homes 40B - Site visit

(2) Sweet Meadow Farm, 111 Coolidge Street - complaint received

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 Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Member Dr. Bevers - AYE

The motion passed, and the agenda was amended.

**APPROVED 4-0**

**2. 13 Course Brook Road - status (see Minutes of 11/2/22, 9/21/22, 8/18/22, 6/2/21, 5/19/21, and 5/5/21).**

It was discussed in the last meeting (11/2/22) that due to the fact that this is something that goes beyond the MassDEP required timeline for replacement of a failed system, that there needs to be something done to help move this along. Met with the Town Council and went over the various steps that the Board could take. The first being to send something formal to the property owners and stating what the issues were, and laying out a timeline of requirements. The

main requirements being: by December 1st there would be a contractor lined up to install the system, and that a pre-construction meeting would take place by then; and the system should be in by December 31st.

This afternoon the Board received notice that a contract has been initiated for this property for the septic system installation and the installer will be contacted tomorrow (by Mark) to set up the pre-construction conference. Mark did speak with the installer this afternoon, who mentioned that based on his schedule it looks like December (towards the end) he'll be able to start the installation. He did note that it is weather dependent, which is understandable. Although, hopefully if the grounds are not snow covered to a degree where you cannot work, that may be an ideal time to start it because the ground hopefully will be frozen. Soil testing was done in November a couple of years ago, and it was to their advantage that the soil was frozen to allow excavators or backhoes to operate in there without getting caught in any mud.

Sounds like the completion of the system might not make it by the end of this year but they think having the contract and preconstruction meeting so that it's ready to go whenever their schedule permits, and then also weather.

It was found reasonable by the Board to keep an eye on it to make sure that it does make progress.

### **3. Greenwood Homes 40B**

A letter is owed on this. Daryl was supposed to be working on this but her schedule has not permitted that. Should talk to Mark about some of the historical data that had been collected at the property. Mark agreed in the discussion (with the engineer) that they do not want to dig up the entire area used for the soil absorption system. So they are going to be starting work on Greenwood Street in the last week of November, November 28th for a few days. They are looking at the data provided by the soil evaluator, as well as some of Mark's data, so they can mark the pipes (engineers attempting to mark each monitor pipe) so that they can compare it to the data submitted by the soil evaluator. Then it will be decided on how many deep holes and perks will be needed additionally to what's been done out there. That is the status at this point.

Jeff stated that they may ask for an extension but will have to see if they need that extension, because they got an extension for the four homes on Greenwood already (being submitted on the 3rd of December).

Came in as two separate projects, even though they are on the same property. Going to be on the Select Board meeting tomorrow night to look at the integrated comments that were obtained from everyone and then they will meet again in two weeks on the 1st of December, so that they can have any final revisions by December 1st and then on the 3rd they will submit just for the four homes on Greenwood.

Marian is hoping to finalize more or less the letter tonight for the Select Board tomorrow. She is listening in on what the Board says and will incorporate the comments (if any) into the letter. Lisa made clear that for the four houses all of the regular bylaws and regulations apply. Marian stated that they will not because it is a 40B project, so the septic regulations are under the DEP. So the Board's regulations do not necessarily apply except for well because there are no state level private well regulations.

Matt Bevers commented that the four homes should be considered in the context of the larger project that's happening right next door and that the usual comments on the concerns about point source loading of the septic system need to be considered. However, there will probably be more detail throughout when talking about larger projects. Including the impacts on

the quality and quantity of water and then if bedrock disruption is needed, all the usual suspects. The state's regulations are a minimum and the minimum (for septic) does not account for a well being sited on the same property (huge distinction). If it is not a public water supply those individual houses (even if a 40B) would fall to the local regulations. Septic side will default to Title 5 unless someone can be convinced that extra protections are reasonable to apply to this project. In the context of the fact that there are fairly large one acre zoning district in Sherborn, where lots are on one acre and elsewhere in your regulations you point out that one acre is considered a minimum size for well and septic on the same property. (Mark added that the one acre requirement would fall under Title 5). The minimum that would be required for a four bedroom septic house would be 40,000 square feet, just shy of an acre. To meet Title 5 for the State regulation they would have to be at 40,000 square feet for a four bedroom house.

It was approved that Mark and Daryl could work on the letter.

On December 1st, it is going to be voted on to approve this letter. Have two weeks to finalize the letter after it is voted on at the select board meeting.

Motion to authorize Daryl & Mark to prepare the letter on the Board's behalf. Moved and seconded. By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Member Dr. Bevers - AYE

The motion was approved with one abstention

**Approved 3-0 1 abstention**

**Dr. Hunnewell abstained.**

#### **4. Variance Hearing for 28 Farm Road for Septic Replacement/Expansion #22-70 -**

All green cards were received and the Hearing was opened.

Dan McIntyre represents the homeowners of 28 Farm Road.

This house was recently sold and failed the Title 5 inspection so they were retained to design a new septic system. The existing system is a septic tank and leach pit. Age of the house is unknown, but there was a disposal where its construction permit was on file at the Board of Health and showed that it was from 1976 and was a replacement system of what was there originally.

They are proposing to put the system further back on the lot in order to gain better separation to the well which is up in the front yard. They are going to meet the 125 ft well set back and propose a septic tank and a conventional stone and pipe reaching twitches in the backyard. The soil was relatively good with some shallow bedrock in the area which is another reason they wanted to put it further back to get away from the bedrock and find some more soil which they were able to do. It is characterized by a relatively high ground water table at the three to four feet below grade, so they are mounting it up. They are asking for a couple of waivers related to the groundwater table only. But with all of the respects to the Sherborn regulations and Title 5V, they fully meet Title 5 because they are proposing a plus one bedroom on this particular house. So they are proposing a fully compliant Title 5 system with a reserve area. As mentioned, the disposal works, construction permit, stated three bedrooms, but the assessors have it down as four. So they thought it would be best to fix that issue now and design it for a four bedroom, because it appears to be used as a four bedroom home. Based on the Board of Health regulations, a three bedroom would not fly, so they need to make it a four bedroom.



They did go to conservation but the septic system is outside their jurisdiction, but the construction access is coming down an existing road, that's right next to the intermittent stream that flows under farm road. So they wanted to get conservation permission to use that road for construction. Other than that, there is no wetlands impact from the septic system. So overall Dan believes that it is a big improvement. They are increasing the well offset to improve that and they are fixing the bedroom issue between the Board of Health Records and the assessment records. The two variances they are asking under the Sherborn regulation are related to the ground water. One is the groundwater is less than five feet below grade and are asking for that variance and are asking for a variance for a four foot title five ground water upset in lieu of the five foot Sherborn offset, in order to, keep it a gravity system and keep the mounding down somewhat to a minimum, so they do not completely destroy the yard and the adjacent bar into the septic system.

Mark confirmed that it is the best location that could be found for this septic system at this home and its distance from the wetlands is more than 125 feet in the uphill and the well is more than 125 feet, and the perk rate was a four minute per inch rate the controlling perk rate.

Dan confirmed that the closest well with the property is over to the left hand side of the plan and that it is well outside 200 feet away.

Mary stated that she fully supports what Dan has presented and that it is the right answer for the septic proposal.

**Variance to 8.01-** 4-foot offset to groundwater versus 5-feet required. It was moved and seconded. By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Member Dr. Bevers - AYE

The motion passed and the variance was approved.

**Approved 4-0**

**Variance to 8.02-** maximum high groundwater less than 5-feet below natural surface grade. It was moved and seconded. By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Member Dr. Bevers - AYE

The motion passed and the variance was approved.

**Approved 4-0**

**Approval of Plan** – Motion to approve conditional to a deed recording for a garbage grinder prohibition and seconded. By a roll call vote:

Vice Chair Ms. Beardsley - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Member Dr. Bevers - AYE

The motion passed and the plan was approved with condition.

**Approved 4-0 with condition**

**5. Two Mobile Food Vendor Permits** – Applications were received, and the Administrator confirms of payment and that Tom has recommended approval from the Board. The Vice Chair called for a motion to approve the temporary one-day mobile food vendor permits for **Nirvana Tea House & Café** and **Like No Udder**, and it was moved and seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the permits were approved.

**APPROVED 4-0**

**6. Permits for Renewal –**

(A) **Disposal Works Installer – J. Hockman Inc.** of Norfolk – Permit is a renewal for 2023 for J. Hockman Inc. of Norfolk. The Agent, Mark Oram, confirms they are in good standing and have been actively working on Ash Lane. The Vice Chair called for a motion to issue the permit, and it was moved and seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the permit was approved.

**APPROVED 4-0**

(B) **Tobacco & Nicotine Delivery Product Sales Permit – Sherborn Fuel.** The Vice Chair called for a motion to issue the permit for 2023 for Sherborn Fuel, and it was moved and seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the permit was approved.

**APPROVED 4-0**

**7. Natick-Walpole Visiting Nurse Association** – The Vice Chair has authorized for payment. A motion was made to ratify the approval of the invoice for the month of October for VNA Walpole DNA services and seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the invoice was approved.

**APPROVED 4-0**

**8. Minutes** – The Minutes of 11/2/2022 were reviewed. Ms. Beardsley noted that she submitted edits. A motion was made to approve the Minutes as amended, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the Minutes were approved as amended.

**APPROVED 4-0 as amended**

**9. 29 Bear Hill Road, Lisa Mulcahy – VARIANCE HEARING – Septic Replacement #22-74**  
– The Administrator reported that everything has been received and is ready to open the hearing.

Daniel McIntyre, P.E. was present representing the owner. He stated that is a challenging site. There are wetlands running along the side and rear of the property that is fed by a storm drainage system that comes up to the property. The Engineer reports that he went to the Conservation Commission, which they have approved the plan as presented to the Board. He also reports that the current system is located behind the house and the well is in the front of the house. The Engineer is proposing to move the septic tank from the rear of the house to the side of the house, which is next to the garage. The septic tank, where it sits now, would have to be raised up because of the high ground and would require significant tree clearing. The proposed location would improve the setback to the owner's well, and the setbacks to the onsite well, and meets the Sherborn regulations for the well across the street. A couple of pine trees need to come down, but a proposal was made to the Conservation Commission to replace the trees as mitigation. The Conservation Commission approved and the Engineer planted a couple of trees in the 50 foot buffer to replace the two pine trees that are coming down.

George Morgan 1961 asked about the distance between the well at 43 Bear Hill and this location and Mr. McIntyre responded that it is over 200 feet from his well. Mr. Morgan also inquired about any mitigation that could be in place for against the proposed field for anything that could drain inadvertently into the creek. Mr. McIntyre reported that he walked with the conservation agent and they are proposing a full offset. The proposed breakout barrier will prevent any breakout affluent from getting into the wetlands. The proposal under the Conservation Commission condition is hoping to see the slope turns back into a wetland, rather than a managed lawn.

Dr. Bevers interrupts Mr. Morgan to redirect comments until after the Board can make comments first. Mr. Morgan agrees.

The Vice Chair addresses the issues brought up by Mr. Morgan. She states that those issues are usually handled by the Conservation Commission, as they would have more details. She acknowledges that another difference between this property and Mr. Morgan's is that this is a pre-existing home and that the Board is trying to make sure that this house can remain habitable with a new septic system in place. Ms. Beardsley also addressed the impact of the drainage channel on the system and notes that there will be a greater separation to groundwater at the location of the new system. The Engineer confirms. There are no questions from the Board. Dr. Bevers states that this is reasonable given the constraints of the lot. Ms. Beardsley asked Mark Oram, the Agent, to comment. The Agent believes that the Engineer has located the best location for the new system. Ms. Beardsley asked the Engineer for comments on the Elgin bed selection and he responded that they are proposing a leaching bed using an alternative technology, which are typically used for a reduction in the offset to groundwater table, which is not being done in this case. He says they have no choice but to ask for the setback to the wetlands. They will be keeping the 4-foot groundwater offset and the alternative technology treats the affluent better than a conventional system given the proximity to the wetlands. He reports that the Elgin system in a bed configuration is as close to a trench configuration as you can get. There is the soil in between each of the Elgins that makes it act as a trench system, but it's just much more compact.

Ms. Beardsley invites Mr. Morgan for further questions. Mr. Morgan asks about the main system and the leaching field it goes into. Ms. Beardsley confirms. Mr. Morgan asks about how the Elgin system differs from the older system, and Mr. McIntyre responds that the alternative technology is approved by MassDEP. It treats the flow to a higher degree than just a conventional crushed stone system. It is highly effective in treating effluent. Mr. Morgan then

asks about the nature of the erosion control for the outside border and Mr. McIntyre responds that that is a compost filter sock required by the Conservation. It is basically a limited disturbance with a contractor and prevents any erosion from the soils that are exposed during construction from getting into the wetlands. Mr. Morgan also asks about a barrier beyond the erosion control and the wetlands and Ms. Beardsley responds that the Title 5 specifies slopes and that will address the breakout issue. The Agent notes that a 3 to 1 slope will use erosion control matting until the vegetation takes place. Dr. Bevers has a question about the wording and if a variance is needed and the Agent responds that out of caution, it's suggested that a waiver is asked. Dr. Bevers is happy to move forward with it. The requested variances were reviewed: (1) Section 1.2 – to allow the proposed soil absorption system to be installed as a leaching bed, with the use of innovative/alternative technology and pressure dosing. A motion was made to grant this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the variance was approved.

**APPROVED 4-0**

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

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the variance was approved.

**APPROVED 4-0**

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

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the variance was approved.

**APPROVED 4-0**

(4) Section 10.2 – to allow the proposed soil absorption system to be installed 27-feet from bordering vegetated wetlands rather than the require 125-feet. A motion was made to grant this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the variance was approved.

**APPROVED 4-0**

(5) Title 5 Local Upgrade, 310 CMR 15.405(1)(e) – to allow the proposed soil absorption system to be installed 27-feet from bordering vegetated wetlands rather than the required 50-feet. A motion was made to grant this variance as requested, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE



Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the variance was approved.

**APPROVED 4-0**

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

By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

The motion passed, and the variance was approved.

**APPROVED 4-0**

Ms. Beardsley invites Mr. McIntyre to comment on the wetland offset question. Mr. McIntyre responded that anything within 100-feet of the wetland requires conservation approval for septic systems. Title 5 has a 50-feet offset for wetlands. The Town of Sherborn has a 125-feet offset to wetlands. Due to the location of the well, this variance is needed to get to the 27-feet offset as mitigation because the lot does not allow for either a 50-feet or 100-feet setback. DEP requires that a full foot offset of the groundwater is maintained. The alternative technology allows for greater treatment of the affluent to mitigate the setback reduction. Ms. Beardsley also noted that the other compromise would have been to move the septic system closer to the wells and there wasn't variance to the setback to the wetlands. Ms. Campe asks if this is an improvement or at least equal to current conditions, and Mr. McIntyre says it is an improvement. Ms. Beardsley asks Mr. Morgan if his question was answered, and he responded pretty much. The Hearing was closed.

The Agent recommended approval of the plan as presented, conditional to deed recordings for a garbage grinder prohibition and for the use of the innovative technology/alternative technology, and such a motion was made and seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

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

**10. Agenda items for 12/7/2022 meeting** – The Vice Chair stated that there is one variance hearing scheduled for 12/7/2022. There may be updates on Sweet Meadow Farm. The Administrator states there are Well application procedures scheduled for 7:15-7:45. The Agent mentions the NCP updates and the site walk at Washington.

**11. Continued discussion of Well Regulation proposed revision** (see Minutes of 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) – The Vice Chair asks if we should discuss the regulation without the Chair. Ms. Campe prefers we do not discuss this without the Chair. Dr. Bevers and the Vice Chair agree and state that it has been discussed when all members have been present, and that it's not an emergency item. Ms. Beardsley invites Mary

O'Hara Moore to comment and she encourages the Board to keep this as an agenda item moving forward.

**12. Preliminary discussion of BOH FY24 Budget** – The Vice Chair stated that she and the Administrator met with HR consultants to discuss personnel things. The consultants are asking to look at budgets over the last few years to identify trends. Ms. Beardsley replied that people weren't getting paid for overtime hours for a long time until COVID (that practice has since been changed) so she doesn't think historical budgets will be useful for the consultants' understanding of changing workloads. The Administrator states that she briefly looked at the budget to date and the Food Inspector is well over his budget. She strongly recommends that Jean receive more hours and to give her benefits. The region emergency preparedness region will no longer subsidize or pay for cellphones, so a budget increase should be discussed. The Administrator states that it will be very difficult to level the budget for the next fiscal year. The visiting nurses contract is also up for renewal and has increased. Ms. Beardsley will also follow up with Tom to see additional certifications he has received to consider a salary increase. The Agent notes that the budget review should also consider including expenses for continuing education unit requirements as part of his credentials, which is typically 2 days of conference work. Ms. Campe inquires if it is in state. Mr. Oram says most of them are in state.

**13. Adjournment** – A motion was made to adjourn the meeting, and it was seconded. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

This virtual meeting adjourned at 8:35 PM.

Respectfully Submitted,  
Academic Public Health Interns (AS and CT)

**DOCUMENTS REVIEWED AT THE VIRTUAL 11/16/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

**1. 28 Farm Road –**

- Septic Replacement/Expansion plan #22-70, drawn by Daniel McIntyre, P.E. and dated 9/6/2022 and revised 10/6/22
- Variance request letter dated 9/7/2022 from Daniel McIntyre, P.E.
- Certified list of abutters dated 9/19/2022 from Assessor's office
- Copy of abutter notification letter from Daniel McIntyre, P.E., dated 10/14/2022
- Certified mail return receipts (green cards) and usps.com print outs from abutter notification letters

**2. 29 Bear Hill Road –**

- Septic Replacement plan #22-74, drawn by Daniel McIntyre, P.E. and dated 8/30/2022 and revised 10/6/22
  - Variance request letter dated 9/20/2022 from Daniel McIntyre, P.E.
  - MassDEP Application for Local Upgrades, Form 9A
  - Certified list of abutters dated 9/22/22 from Assessor's office
  - Copy of abutter notification letter from Daniel McIntyre, P.E. dated 10/14/22
  - Certified mail return receipts (green cards) and one returned, unopened envelope from abutter notification letters
  - Local Upgrade Approval, Form 9B
3. **13 Course Brook Road –**
    - Non-compliance letter dated 11/10/2022 sent to owner via certified mail
  4. **Well Regulations –**
    - Draft re-line of proposed regulations changes
  5. **Minutes –**
    - BOH meeting Minutes of 11/2/2022
  6. **Natick-Walpole Visiting Nurse Association –**
    - October 2022 COVID-19 invoice
  7. **Nirvana Tea House & Café –**
    - Temporary 1-Day Mobile Food Vendor Application #TF22-35 for 11/20/22 at Unity Farm
  8. **Like No Udder LLC –**
    - Temporary 1-Day Mobile Food Vendor Application #TF22-36 for 11/20/22 at Unity Farm
  9. **2023 Disposal Works Installer Permit Renewal –**
    - J. Hockman Inc. of Norfolk - #I22-01
  10. **2023 Tobacco & Nicotine Delivery Product Sales Permit Renewal –**
    - Sherborn Fuel LLC - #T22-01

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
December 7th, 2022**

**Members Present:** Daryl Beardsley, Vice Chair, Rebecca Hunnewell, MD, Lisa Campe, Matthew Bevers, MD, Ph.D., Matthew Vitale, MD, Chair

**Members Absent:** None

**Others Present:** Tom Trainor, Courtney Ek, Mark Oram, Board of Health Agent, Jeff Waldron, Laura Mastrobuono

By a roll call vote:

Vice Chair Ms. Beardsley - Present

Member Dr. Bevers - Present

Member Ms. Campe - Present

Member Dr. Hunnewell - Present

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.

1. The chair noted the members present and reviewed the agenda, and noted that there were no items not predicted by the Chair 48 hours in advance of the meeting to be added.

**2. Disposal Works Installer Permit Renewal -**

(A) **DP & Sons Excavation of Millis - #I23-02** - Board of Health Agent Mark Oram noted they're in good standing. A motion was made to approve licensed conditional to a pre-construction conference. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved with condition.

**APPROVED 5-0** with condition

(B) **D.L. Atkinson Inc. of Needham - #I23-03** - Board of Health Agent Mark Oram noted they're in good standing. A motion was made for approval conditional to a pre-construction conference.

By a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Member Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved with condition.

**APPROVED 5-0** with condition

(C) **Irving Trucking Co. Inc. of Millis - #I23-04** - Board of Health Agent Mark Oram noted they're in good standing and a motion was made for approval conditional to a pre-construction conference.

By a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Member Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved with condition.

**APPROVED 5-0** with condition

(D) **Rodenhiser Excavating of Holliston - #I23-05** - Board of Health Agent Mark Oram was present, and he noted this installer has been doing work at 183 South Main. There are differences between the owner and this installer for the 183 South Main Street septic system replacement and at present the installer's certification for this work is pending. Claire Golden at the Northeast DEP has noted this matter is not a Board of Health matter and this installer and the owner of 183 South Main Street will need to legally work out their differences. Ms. Golden had noted that a Title 5 inspection of this replacement septic system can be conducted as a substitute to the need for the installer's certification if the installer does not submit his installer's certification. This installer's permit renewal request is a separate matter and is permissible with the requirement for pre-construction conference prior to any request to construct a septic system. Ms. Beardsley noted some issues we address through the pre-construction conference. A motion was made to approve the installer as presented and was seconded. By a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Member Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved.

**APPROVED 5-0**



(E) **Pasquale J. Teti of Sherborn - #I12-06** - Board of Health Agent Mark Oram noted he has not seen them in town for many years but they're in good standing. A motion was made for approval conditional to a pre-construction conference. By a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe- AYE

Member Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved with condition.

**APPROVED 5-0** with condition

(F) **W.C. Rowe Corp. of Weston - #I23-07** - Board of Health Agent Mark Oram noted they're in good standing. A motion was made for approval conditional to a pre-construction conference. a roll call vote:

Member Dr. Bevers - AYE

Member Ms. Campe - AYE

Members Dr. Hunnewell - AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved with condition.

**APPROVED 5-0** with condition

(G) **Paul Gouveia of Rehoboth- #I23-08** -

Board of Health Agent Mark Oram noted they're in good standing. A motion was made for approval conditional to a pre-construction conference. a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Member Dr. Hunnewell - Abstained

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved with condition **APPROVED 4-0-1 with condition**

Dr. Hunnewell abstained because she lost connection during the motion.

3. **Tobacco and Nicotine Delivery Product Sales Permit Renewal - Sherborn Wine & Spirits - #T23-02** – A motion was made for approval, conditional to review by Food Inspector Tom Curran.

By a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Member Dr. Hunnewell - Abstained

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed, and the permit was approved.

**APPROVED 4-0-1**

Dr. Hunnewell abstained because she lost connection during the motion.

4. **Minutes** - The Minutes of 11/16/2022 were reviewed. Ms. Beardsley noted that she had submitted and made edits. A motion was made to approve the Minutes as amended, and it was seconded.

By a roll call vote.

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Members Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - Abstained

The motion passed, and the Minutes were approved as amended. **APPROVED 4-0-1 as amended**

Dr. Vitale abstained because he was not present at the meeting.

5. **Regulatory Review - MV and MB proposals**

(A) **Regulation I - Sewage Disposal Section 4.0 Application Procedures** - Dr. Vitale noted that the goal of this revision is to harmonize the regulations with what has been our common practice and workflow and that revisions were made in consultation with Administrator Ellen Hartnett and Agent Mark Oram. Dr. Vitale then reviewed the language of section 4.0, highlighting the changes. Some time was spent on section A subsection b, and all agreed this was consistent with current practice. The board later circled back to this section, seeking to revise the well description to ensure it includes both drinking water wells and irrigation wells. After discussion amongst the board it was agreed to revise this section to state simply “from any private well” and remove “or other private source of water supply to be used for drinking purposes or culinary uses”. The Health Agent noted that this language is also in Section 10.1 of the regulations and the board agreed to revisit that section at later meeting to ensure descriptions are consistent.

Ms. Campe later asked if we should also require testing of water if replacing a failed system, Dr. Vitale suggests that such requirement shouldn't be included in the application description, but could revisit this when examining Section 10 at a later date.

Subsection A.b. was reviewed, and agreed that this appropriately covers the need for Conservation Commission review prior to acting on a septic application.

Dr. Vitale then reviewed subsection A.d, noting that the goal here is to ensure that we know the location of a well prior to approving a septic. Dr. Bevers agreed, stating that we wanted to

include both new wells and existing wells and the goal is to know either where the existing well is or where the new well will be prior to approving the septic plan.

Section C (was B) on Plan Submittal was discussed. Language was added here to include the need for a wet stamp and signature on all copies of the plans. There was discussion as to whether this was necessary or if electronic signatures would be accepted. Dr. Vitale proposed modifying to simply say “all with a stamp and signature” to allow for flexibility. Ms. Beardsley suggested modifications to ensure the signature was from the engineer who prepared the plans. Dr. Bevers suggested modifying to say “plans prepared by a qualified registered sanitarian, civil or sanitary engineer bearing their stamp and signature”.

**(B) Regulation II Domestic Water Supply- Section 1.3 Permit Application** – Dr. Vitale reviewed the section 1.3 permit application for Domestic Water Supply for construction. The board did not have questions or revisions to the language as presented.

Tom Trainor asked if it would be appropriate to include in this section a requirement to include the GIS location for the well. Discussion amongst the board ensued. Ms. Campe noted that once installed we could require that information, but may not need it for permit approval. Dr. Vitale agreed that this may not be the place for that as it is possible that the exactly location may change based on field conditions. Dr. Bevers also noted that it is possible applications may not be approved and then we would have coordinates for a well that doesn't exist. Dr. Hunnewell felt it wouldn't hurt to have the information at this stage. Other board members expressed concern that could lead to bad data and it would be better to base the GIS off the as built. Ms. Beardsley noted that we will not effectively use the GIS location at the permit-granting phase and that we could collect it when we collect additional information about well performance once the well is installed.

Dr. Vitale noted three topics for follow up:

- 1) Looking at section 10.1 to ensure language is consistent,
- 2) Handling of water testing in event of a failed septic system
- 3) Where we incorporate the GPS location requirement in our regulations

These topics will be addressed at a future meeting.

**6. Variance Hearing- 100 Maple Street, DAPZLLC – VARIANCE HEARING - Septic Replacement #22-71 (Engineer: Zenith consulting Engineers)**

Board of Health Agent, Mark Oram noted that the Board has seen this application before, but the applicant is now returning with a new engineer and a different system requiring additional waivers as well as previously approved variances. Ms. Beardsley noted it would be preferable to

go through all the variances again to clearly associate these approvals with the new plan. Dr. Vitale, asked Ms. Beardsley (in the absence of Ellen) if green cards had been received. Ms. Beardsley that there were a few that were undeliverable and needed to get back from the post office with the indications of that. We could meanwhile review and if appropriate approve the application contingent on receipt of those cards.

Jamie Bissonnette ZCE (a professional engineer) is present and introduces himself as part of a consulting team of engineers. In the Project, the property owner secures installation bids. There was difficulty in getting people to bid on the previous plan. They spoke with one installer and their concern was the retaining wall; the previous design included trenches and the wall was on a 100-foot buffer line. They visited the site and found the well which was an extension in front of the house and the basement but not part of the actual foundation. It's like a cavern that you can walk into. Because of this slight change in the precise location of the well, they could site the septic further away and get closer to the 125 feet setback distance from the wetlands but also maintain the 125 feet distance from the well.

The Presby system advantages include smaller footprint and the DEP waived the requirements of a 5-foot over dig. The breakout starts 15 feet from the Presby components. This was able to maximize separation distance in both the wetlands and keep the 125-plus feet to the well. Due to the arc reflecting the 125-foot distance to the well, the system is 11 feet from the property line. (Waiver request) With respect to distance from the wetland, the new design is about 121 feet, which is better than the previous plan for separation. The owner had a plumber come out and the existing plumbing could not meet the elevations needed to induce gravity septic system. The Presby system has a pump versus relying on gravity. To prevent freezing of water, we're burying the inch-and-a-half force main down 4 feet and on the ends, placing rigid insulation. The engineer felt that the Presby is a good fit. They only allow bed configuration in approval, not trenches. The engineer has designed several Presby systems in the last 10 years and has had no problems in the past. Mark Oram noted that the distance to the wetland is now 121.6 feet; the earlier plan, which was approved back on April 6, was 103 feet away.

The requested variances were reviewed.

(1) Dr. Vitale asked for a motion. The first waiver is from section 1.2 of the town of Sherborn Board of Health Regulations to allow the construction of a leaching bed that is not a pressure distribution system. A motion was made to approve, and it was seconded by a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Members Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed and approved.

**APPROVED 5-0**

(2) Dr. Vitale asked for a motion for a variance to section 10.2 to reduce the required setback from the property line which increases the distance to the drinking water well. A motion was made to approve, and it was seconded by a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Members Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed and approved.

**APPROVED 5-0**

(3) Dr. Vitale asked for a motion for a variance to section 10.2 to allow a reduction of the required setbacks between the proposed leaching field and bordering vegetated wetlands from 125 feet to 121 feet. Board of Health Agent Mark Oram noted that this is a greater setback to the wetlands compared to the previously approved plan. A motion was made to approve and it was seconded by a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Members Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed and approved.

**APPROVED 5-0**

(4) Dr. Vitale asked for a motion for a variance to section 8.0(2) to allow a subsurface sewage disposal system where the naturally occurring groundwater level is within 5 feet below natural surface grade. A reduction from 60" to 54" is requested. A motion was made to approve, and it was seconded by a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Members Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed and approved.

**APPROVED 5-0**

The Hearing was closed.

Board of Health Agent Mark Oram noted Joyce Hastings, Conservation Commission Agent, has sent an email asking to add that the Conservation Commission needs to inspect the erosion control barrier before the commencement of the work and Agent Oram asked to add this request as a condition of the Board of Health approval. The request for the approval of this septic plan is conditional to the deed recordings for the garbage grinder and IA technology, and confirmation of proper receipt and return of green cards, including records for those not delivered. A motion was made to approve conditional to a pre-construction meeting, the deed recordings for the garbage grinder and IA technology as well as conditional to include of review of the erosion



control measures by the Conservative Commission in the pre-construction meeting and the confirmation of proper receipt and return of green cards, including records for those not delivered. A motion was made to approve and it was seconded by a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Members Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The motion passed and approved.

**APPROVED 5-0** with conditions

**8. Julie Tofte, Sweet Meadow Farm, 111 Coolidge Street-Discussion Regarding the complaint received and corrections made**

Julie Tofte is not present. Dr. Vitale noted to try to interrupt at 8:05 pm to acknowledge that we will move this to a future meeting. Tom cannot join us tonight for the follow-up on the Sweet Meadow farm complaint and corrections that were made. Board of Health Agent Mark Oram noted that although Tom can't be at the meeting, he reported that the farm has made all the modifications and corrections. He is collaborating with the owner to ensure the avoidance of any repeat issues surrounding the findings of the inspection and the nature of the complaint.

**9. MCP Update** - Ms. Campe provides an update on oil releases from two sites under the Massachusetts Contingency Plan. Ms. Campe reports the site at **27 Oldfield Drive** had a release that took place last March. The contractor from Dorchester issued the release notification form to DEP and (allegedly) took responsibility for the clean-up. The form was out of compliance because it should've been submitted in August but was submitted in September. The release was from an unknown source to soil of maybe 20 gallons. She reports there is lack of information. The DEP issued to Barry Noon a Notice of Responsibility to assess it and either clean it up and close it out by September 2023 or do a Phase One report, hire LSP, etc.

Ms. Campe reports that the second site at **177 Lake Street** had a 2-hour reporting obligation. There was a sudden release of home heating oil. The theory was that there is a line and an oil filter that was connecting two 330-gallon above-ground storage tanks that were in the basement of a home that was unoccupied at the time of release. She reports that the Sherborn fire department were the first people on site and did the reporting to DEP. The responsible party hired an LSP, collected soil samples, performed soil borings and installed monitoring wells on the downgradient edge that is 165-feet from Farm Pond. There is no evidence of oil migrating to Farm Pond with surface flow and booms were placed as a secondary containment as a precautionary measure. No oil was found in the monitoring wells which were on the downgradient edge of the property. The house is vacant and they have been excavating soil, removed the tanks, pumped out the remaining oil into storage vessels, and will disposing soils off -property. She explains the Site is in compliance and doing everything adequately and in accordance with the regulations.

Dr. Vitale inquired about oversight and process under DEP. Ms. Campe explains Massachusetts is a privatized system and DEP issues the administrative pieces, but everything is done under the direction of a licensed site professional. DEP tends to only get involved if someone is not meeting deadlines and obligations or if they audit something and they believe it's not being done in accordance with the regulations. For the Lake Street site, DEP said the situation requires an immediate response action plan. Lake Street was able to provide the necessary items and Ms. Campe believes there is nothing concerning.

Ms. Beardsley asks for clarification about the number of days that have passed since the first release. Ms. Campe responds that the DEP notified the responsible party that an official release notification was not filed. The party submitted the 120 day release notification form late in September. DEP then issued a notice of responsibility to the performing party, stating an LSP needs to be hired. The work needs to be completed and closed out within a year of the notification date or additional reporting and tier classification needs to be done.

The Vice Chair inquires if the Lake Street site has been taking samples or analyzing the monitoring wells between the release and the pond. Ms. Campe responded that she is only aware of it being sampled the one time the monitoring wells were installed; however, a lot of removal of the potential source has been done. She also assumes that re-sampling will be done, but as of right now, she didn't see anything that was concerning. A status report will be issued soon, if not a completion report. Ms. Campe expects to see at least one or two rounds of monitoring of those monitoring wells.

10. **Washington St, Sherborn Homes 40B Update** - The Vice Chair reports that Ms. Campe and the Agent were present for the walkthrough. Ms. Campe reports that a plan was received with conceptual schematics for the building and the septic, but the details were limited. Basic site issues were discussed. Applicant explained their goals are to be very green, net zero carbon impact, and solar over the parking area. Details about the project were limited which is what we as BOH would be most interested in at this point. The party also had a gentleman from Massachusetts Housing speak because this is proposed to be low-income housing which is a lower income threshold than affordable housing. Ms. Campe expressed support for the goal of more economic diversity in our community. The Vice Chair mentions that the party is planning a public water supply because it will be rental units and not owned units which is good news as the routine monitoring would allow earlier identification of any issues. The Agent then reported on the status of soil testing.

The Chair then acknowledges Dr. Hunnewell to speak. Dr. Hunnewell asks if the Board could introduce precautions that might obviate potential problems with the public water supply. Ms. Campe responds that there is mandatory monitoring by the state and that the water supply has to meet all the potability regulations. Dr. Hunnewell clarifies that it does not matter. She explains the only recourse is litigation, but the Board understands the implications. The Board might be able to take some precautions prior to the construction. Ms. Beardsley asks if there is something Dr. Hunnewell can suggest. Dr. Hunnewell suggested that the EHIR should be done

in advance and be able to make requests that precede the construction. Ms. Beardsley recalls that the argument was made vigorously for the Fields of Sherborn. Although the EHIR was received, Ms. Beardsley explains that it might not have been mandated by the authorities for 40B because the local regulation can be waived. The EHIR for the Field of Sherborn was pushed by other advocates. Ms. Beardsley also explains that the Board has always advocated for the EHIR in all the letters for these projects, and requested that the requirement be backed up by the housing authorities in Massachusetts. ZBA has also worked to support that kind of evaluation. Dr. Hunnewell reports that she has spoken with one of the attorneys in the regulatory department of DHCD and that they believe it's a good idea to make sure drinking water is safe in affordable housing of all types. Ms. Beardsley responds that it would be great if DEP can get the Housing authority to support us on that. Dr. Vitale interjected that it's public water supply and he doesn't think that the Board can say that our untested well water is substantially safer than a regularly tested public water supply. It being a public water supply provides protections and an ability to monitor and evaluate it. Ms. Beardsley says that the testing being done isn't a true protection because it's not preventing the contamination of the water but rather is alerting people once the contamination has occurred. Dr. Vitale validates Ms. Beardsley's concerns that the project doesn't contaminate local resources, but he cautions the Board against suggesting that the public water supply isn't a safe water supply. Ms. Beardsley agrees. Dr. Hunnewell agrees but states that the ability to test doesn't protect anything adds that objective data is important for the board. If an EHIR was required before rather than after it was declared a public water supply, the objective data is available to make decisions that can inform our preventative decisions. Dr. Vitale says that a recommendation will be made to ZBA to include an EHIR as we have regularly done. He then addresses Mr. Waldron to speak. Mr. Waldron reports that the letter to Massachusetts Housing was made last week on 12/3/22 on the four homes on Greenwood., which reflected the Board's input and should lead to a comprehensive permit ZBA process. The due date for Sherborn Homes is December 23rd. This response is not to Massachusetts Housing but to Massachusetts DHCD. A submission was made for a 30-day extension for comments from all the boards and committee which would be January 23rd. Mr. Waldron also reported that Lynn Sweet the consultant to the developer submitted a letter to DHCD saying that 30 days was too much of an extension and would only accept a 15-day extension. The Select Board replied requesting the 30 day extension given the timing of the site visit and the Holidays. . As Ms. Campe has pointed out with lack of data, Mr. Waldron states that it will be hard to provide detailed comment.

Dr. Vitale asks Ms. Beardsley to adapt and tailor previous communications generally applicable to the Town of Sherborn from the other 40Bs that have come across previously. Ms. Beardsley accepts. In regard to EHIR, Ms. Beardsley says it's not driven by the public water supply or a private water supply. It's driven by understanding what the impacts to the water resources will be. She welcomes additional comments to consider. Dr. Vitale mentions that in the near absence of any specific details for the site, the content is most likely to be things that were previously considered. There can be a placeholder on the agenda for the meeting on the 21st if an extension is not granted. Ms. Beardsley responds that this is not unlike the Fields of Sherborn in

that there are extensive wetlands near the Washington Street property, and the presence of wetlands gives some indication about what groundwater levels might be. Dr. Vitale inquires if there is any information about waste treatment plans. Ms. Beardsley responds they are not currently planning a wastewater treatment plant. The ownership of the wells is driving the PWS. She asks the Agent if a mounding analysis is required because of the size of the Title 5 septic system and if there is a driver other than the EHIR. The Agent responds that the DEP requires groundwater mounding based on the fact the septic systems have a design flow greater than 2,000 gallons per day.

Dr. Vitale concludes the discussion and will plan to include it on the agenda for the Board of Health meeting on the 21<sup>st</sup>.

**11. BOH Postings on Next Door** - The Chair recirculated guidance around the social media policy and guidance of council. He states that it is not appropriate for the Board to comment on topics that are issues before the Board and can pose issues with the Open Meeting Law and the preservation of public records. Ms. Beardsley expressed confusion about the comment regarding lack of regulations for projects other than a single-family home. She believes the information was posted by a board member and it doesn't accurately represent our regulations. Dr. Vitale recommended against addressing these comments on social media. Dr. Vitale responds that the intent of the social media policy is to ensure the concerns are not expressed through social media but rather should be talked about in a public meeting and that social media is not an appropriate venue for those concerns to be addressed. He expresses that it is important that the Board doesn't do things that could violate or could be perceived as violating the Open Meeting Law or the retention of public records. Ms. Beardsley comments that a distinction should've been made that the Board has those regulations, but in the case of 40B's, it is not a guarantee that they will be implemented.

Dr. Vitale invites Dr. Hunnewell to comment. Dr. Hunnewell explains there is a loophole where the protections are not in the Board's regulations yet for multi-family units and shared wells when setback requirements can't be met. She expresses it would be difficult for residents to protect their own interests, so it is up to the Board to take on the challenge of trying to find a way to protect the individual rights of those residents because we do not have DEP to regulate. Dr. Vitale reiterates that it is a mischaracterization to say the regulations do not exist and we have talked about that. He does not plan on adjudicating that. Dr. Hunnewell responds that he is correct that regulations that don't apply do exist, but that doesn't protect the person. Dr. Vitale expresses that this conversation has been had previously and those regulations will not matter for the 40B process. Additionally, Dr. Vitale expresses frustration that it's been common for Dr. Hunnewell to express the lack of action from the Board, and he thinks that is inaccurate and reminds that the social media policy exists because it's not appropriate to have that be a venue to discuss the actions or the lack of by the Board. Dr. Hunnewell responds that there are attorneys at the State level including DHCD who are concerned about protecting drinking water in affordable housing and that the Board of Health is the only entity that has the authority to

regulate health regulations. She further expresses that the Board has to balance the need for housing with the need to protect the drinking water in that housing. There are discussion happening at the State level that have not been implemented yet that every well will be regulated by DEP, but not change has been made yet, so the Board has the burden of enforcing regulations. She further emphasizes that the Board has the ability to protect drinking water 10 years from now and only requests that the Board acknowledges the fact that we need to protect every single well, every single drinking water supply, and we need to do everything we can in advance to protect the individual. Ms. Campe interjects that this concern does not apply to 40B because it's part of the statute. Dr. Hunnewell reports that she has friends at the state level are aware of this situation. Dr. Vitale understands Dr. Dr. Hunnewell's concerns but believes it's factually incorrect and doesn't want to further adjudicate the topic tonight. He reinforces that the Board should not be posting on Next Door about topics before the Board because it is not appropriate and not compliant with the town policy.

**12. Continued discussion of Well Regulations - proposed revisions (see Minutes of 11/16/22, 11/2/22, 10/5/22, 9/21/22, 9/7/22, 7/20/22, 6/1/22, 5/18/22, 5/4/22, and 4/6/22)** - The Chair confirms with Ms. Beardsley that the changes reflected in "track changes" are that of Ms. Beardsley's and not of Town Council comments. The draft reviewed includes previous comments provided by Ms. Campe. Ms. Beardsley addresses the topic of "Sampling/Quality" and asks the Agent if the language makes sense as to who can collect the sample. The Agent responds that the water collection process is vague, but believes it is in our best interest to make sure it's a well management professional as noted. Ms. Campe comments that there a lot of people (like an environmental professional) that are not well management professionals who can competently collect a water sample. Ms. Beardsley suggests the language then reflect "a professional approved by the Board of Health." Ms. Campe inquires if the Board is approving the person or the protocol because she doesn't believe the Board should be involved in approving the person. Ms. Beardsley then suggests "collected by a qualified professional." The Agent asks if the language could exclude the person of interest because there could be potential conflict if the person of interest is a qualified professional. Ms. Campe wants to be sure that the regulation makes sure the person obtaining samples uses appropriate established protocols. Moving to section C, Ms. Campe also expresses that using specific "methods" is not a preferred language for our regulations because methods are always changing. She recommends that an example should be given or refer to EPA approved analytical methods. Ms. Campe recommends that the language should be "Chemical and physical analysis using approved EPA or State methods..." In regard to the list of specific concentrations, Ms. Beardsley is unsure if the list is necessary. Ms. Campe believes they are good to list because they're not MMCL's. Ms. Campe is ambivalent about keeping arsenic and lead included in the list. For the reference mentioned of MMCL's, Ms. Campe says it's tricky when it comes to decontamination of a well and the Board could discuss if the VOC should be stated as 0 but can't for PFAS because of background concentrations. If the Board relies on State numbers then it leaves no vulnerability because the



we are relying on the State levels and are not being more or less stringent. . Ms. Beardsley notes that we have not seen many hits of VOCs and often when seen have been associated with well installation and have resolved with flushing. Ms. Beardsley recommends that it should be “not detected” as opposed to “0”. She is also uncomfortable with referring to State levels because they are significantly higher and are geared towards systems that are testing regularly. Ms. Campe is comfortable with changing the language to “not detectable” for VOCs but keeping PFAS to referencing State regulations because there are background contributions. Ms. Campe favors aligning with the State when possible, given a variety of potential impacts of more restrictive regulations. Ms. Beardsley provides context to the VOC standard set by the EPA or the State. She reports it takes into consideration the health effects but also the cost of having to comply with a certain quality reached. Additionally, she reports that the EPA has “MCL goals.” that are not requirements. Sometimes the goal is the standard or it can be lower or even 0. Dr. Hunnewell requests to make a statement. She believes that the risks of VOCs is higher when it is aerosolized than consumed. Ms. Campe corrects her by saying there are different values that are based on how much toxicity exists in air versus water and it’s not a simple rule of thumb. There are also exposure intensities and duration. Ms. Campe believes that it’s not an important discussion to discuss right now and agrees with Ms. Beardsley that it makes sense to be more conservative with the VOC. She suggests saying something like “not be detected by analytical methods...” and invites Tom Trainor of Groundwater Protection to offer better wording. She also believes that PFAS should be tied to the State level and is open to modifying the language along the lines to non-detectable as long as it still encourages people to make sure they don’t have bacteria in their water. Mr. Trainor comments that he likes the MMCL paragraph. He prefers the Board never say “0”. He likes sticking to State regulations for MMCLs. He believes there might be conflict in saying “you can’t have detectable volatiles ...” because the state public water supplies have detectable volatiles but if they’re below MMCLs, then its considered potable water. Ms. Beardsley responds that public water supplies are being tested all the time, as opposed to home waters being irregularly tested. Ms. Beardsley asks if the Board should include something depending on the kind of disinfection or decontamination was performed and whether additional testing should be considered and refers to the Agent to comment. The Agent replies that previously, it’s been challenging to identify if the chlorinated compounds identified were caused by the decontamination process with the use of chlorine or drawn from somewhere else. Ms. Beardsley asks if it’s sufficient to say, “other parameters shall be evaluated on a case-by-case basis.” The Agent responds that previously the process went back to flushing out the well and proving it was erroneous or introduced, but there hasn’t been a need in the past several years for the Board to review a certain well. Ms. Beardsley turns to the Board to comment on the addition. Ms. Campe favors removing the addition because we still have the right to address on a case-by-case basis. Dr. Hunnewell inquires why the removal is necessary. Dr. Vitale clarifies that this is not a removal, it’s a non-addition. Ms. Beardsley affirms that it was not an accepted proposed addition and that the Board can invoke the “case-by-case basis.” Ms. Campe thinks this is a good catch-all. Moving on to “Water Conditioning” and the inclusion of bypass capability.

Ms. Campe believes it is good. Ms. Beardsley invites for additional thoughts and comments.. Ms. Beardsley refers to the Agent regarding section 17.6 and the phrase “to satisfy the manufacturer’s recommendation for proper equipment operation.”. The Agent provides context about when this becoming part me part of the regulation because a system was an open loop system drawing water and disposing of it after drawing it.. Ms. Beardsley clarifies the meaning behind the phrasing. The Agent agrees.

Dr. Vitale asks if the regulations are in a place to get Town Council to review or if additional circulation is needed. Ms. Beardsley confirms that she will clean up the text and will send around for additional review. Dr. Vitale suggests that this will be a 12/21 agenda item so it can be read for review for Town Council feedback and a public hearing can be scheduled.

13. **12/21/22 Agenda Items** - Ms. Beardsley inquires if reminders should be sent out for renewal of permits. Dr. Vitale loves the idea but is not enthusiastic about going through with it when Ellen is out. The Agent notes that another town has a late penalty fee of double the fee. Ms. Beardsley suggests it as an agenda item for the meeting on 12/21/22. Agenda items to date were listed:

- Budget Review
- Check of Section 10.1
- Washington St. 40B
- A discussion of well language as it relates to the GIS requirement
- Sweet Meadow Follow-up
- Discussion if permit applications are late

14. **Continued Discussion of FY2024 Budget** - Dr. Vitale inquires progress. Dr. Bevers comments that a general discussion about areas was had, but several members of the Board would like to see a detailed budget to get a better understanding of where priorities should lie. Ms. Beardsley adds that she has a copy of a document sent out by the finance director that could be reviewed and explains that a budget expansion needs to be considered to include Ellen’s position, Mark’s continuing education requirements, and Tom’s certifications.

15. **Adjournment** - A motion was made to adjourn the meeting, and it was seconded. By a roll call vote:

Member Dr. Bevers- AYE

Member Ms. Campe- AYE

Members Dr. Hunnewell -AYE

Vice Chair Ms. Beardsley - AYE

Chair Dr. Vitale - AYE

The virtual meeting adjourned at 9:30 PM.

Respectfully submitted, Academic Public Health Corps Interns (CT and NK)

**DOCUMENTS REVIEWED AT THE VIRTUAL MEETING 12/7/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

1. **Regulatory Review -**
  - (1) Regulation I – Sewage Disposal – Section 4.0 Application Procedures
  - (2) Regulation II – Domestic Water Supply – Section 1.3 Permit Application
2. **100 Maple Street -**
  - Septic Replacement/Expansion plan #22-71, drawn by Daniel McIntyre, P.E. and revised 9/12/22
  - Variance request letter dated 10/31/2022 from Daniel McIntyre, P.E.
3. **Well Regulations Letter -**
  - Draft red-line of proposed regulations changes
4. **Minutes -**
  - BOH meeting Minutes of 11/16/2022
5. **2023 Tobacco and Nicotine Delivery Product Sales Permit Renewal -**
  - Sherborn Wine & Spirits #T23-02
6. **2023 Disposal Works Installer Permit Renewal -**
  - DP & Sons Excavation of Millis - #I23-02
  - D.L. Atkinson, Inc. of Needham - #I23-03
  - Irving Trucking Co, Inc. of Millis - #I23-04
  - Rodenhiser Excavating of Holliston - #I23-05
  - Pasquale J. Teti of Sherborn - #I23-06
  - W.C. Rowe Corp. of Weston - #I23-07
  - Paul Gouveia of Rehoboth - #I23-08

**VIRTUAL  
SHERBORN  
BOARD OF HEALTH MEETING  
MINUTES  
December 21st, 2022**

**Members Present:** Daryl Beardsley, Vice Chair, Matthew Bevers, MD, Ph.D., Lisa Campe, Rebecca Hunnewell, MD, Matthew Vitale, MD, Chair

**Members Absent:** None

**Others Present:** Mark Oram, Agent, Thomas Curran, Food Inspector, Robert Truax, GLM Engineering, Mike Hugo, MA Assoc. Of Health Bds, Kay Petersen, Leonardo Rodrigues,

By a roll call vote:

Vice Chair Ms. Beardsley – Present

Member Dr. Bevers – Present

Member Ms. Campe – Present

Member Dr. Hunnewell – Late

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.

1. The chair noted the members present and reviewed the agenda, noting the following items not predicted by the Chair 48 hours in advance of the meeting, requesting that they be added to the agenda:

(1) 2023 Disposal Works Installer Permit renewal: Robell Inc. of Lunenburg – #I23-11

(2) 2023 Food Establishment Permit renewal: Sunshine Farm, #F23-12 (Framingham town water)

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

Member Dr. Hunnewell – AYE

Chair Dr. Vitale – AYE

The motion passed, and the agenda was amended.

**APPROVED 5-0**

2. **27 Harrington Ridge Road, Jesse M. Racicot** – The Chair presents the letter by Ms. Racicot seeking a variance from Regulation II, Section 2.3 which requires that the well and the use of the well should be on the same property, but the owner is requesting a water line to run from one lot to the other to support a spigot at the proposed barn. The Vice-Chair adds that the Board has been trying to revise the definition of property to be multi-lot, so the variance request would support the precedent trying to be set. The Agent recommends approval of this variance, conditional to the continued common ownership of the parcels and joint usage. Such a motion was made and seconded. An amendment was added to the previous motion, reflected as conditional to common ownership of one property of multiple contiguous lots, and if these lots were to leave common ownership, then the well connection across lots would need to be discontinued. The variance is as follows:

1. Regulation II, Section 2.3 – to allow a water line to be run approximately 120 feet from the house at 27 Harrington Ridge Road to the barn on an adjacent parcel which is under the same ownership, with one well on the lot of the house at 27 Harrington Ridge conditional to the common ownership of the two (2) contiguous parcels. If the lot on which the barn is located is ever sold and the parcels are no longer under common ownership, the water connection shall be terminated/disconnected. A motion was made to approve the variance, 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 request was approved with the condition.

**APPROVED 5-0 with condition**

3. **Heritage of Sherborn Foodborne Illness complaint** – The Food Inspector, Thomas Curran, reported that there was a follow-up inspection investigation in early November because a diagnosis of food borne illness. The source could not be confirmed as the person that had eaten at multiple locations including home, the Heritage and other restaurants. The Food Inspector requested all pertinent invoices associated with the food that was implicated, as well as a copy of their employee health policy, which was all provided upon request. The documents were then sent to the public health nurse, which was scanned along with the inspection report. The Food Inspector conducted a follow-up visit in December and reported that Heritage corrected all the issues that were cited on the initial inspection. The Chair asks if the Food Inspector would be comfortable approving a food permit renewal, to which he replied that he would be comfortable to approve. Ms. Campe inquires if the foodborne illness is limited to cross-contamination or if it could be a result of undercooked meats. Mr. Curran replies that it certainly could be from consuming undercooked meat, as well as improper handwashing or contaminated water.

4. **2023 Disposal Works Installer Permit renewals** were reviewed:

(1) **Scott Septic Inc.** of Hopkinton – #I23-09

(2) **Fred Swain, Wind River Environmental** of Marlboro – #I23-10

(3) **Michael DeCosta Jr., Wind River Environmental** of Marlboro – #I23-12

(4) **Nick Genesco, Wind River Environmental** of Marlboro – #I23-13

(5) **Curtis Septic Service** of Northboro – #I23-14

(6) **J.C. Parmenter Inc.** of Hopkinton – #I23-15

(7) **Robell Inc.** of Lunenburg – #I23-11

A motion was made to approve the above-noted disposal works installer permit renewals, all conditional to a pre-construction conference with the Health Agent before any installation begins, 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

5. **2023 Food Establishment Permit renewals** were reviewed:

- (1) **Sherborn Fuel**, 21 So. Main St. - #F23-01 (sodium posting 47 mg/L)
- (2) **Heritage Wine & Provisions** – #F23-04 (sodium posting 96 mg/L)
- (3) **Pagotini Inc. d/b/a C&L Frosty** – #F23-05 (sodium posting 74 mg/L)
- (4) **Pilgrim Church**, 25 So. Main – #F23-06 (sodium posting 217 mg/L)
- (5) **Northern Management Group d/b/a Dunkin'**, 21 So. Main – #F23-08 (sodium posting 47 mg/L)
- (6) **Rustic Pizza**, 21 So. Main – #F23-09 (sodium posting 47 mg/L)
- (7) **Table 15 LLC**, 1 No. Main – #F23-11 (sodium posting 182 mg/L)
- (8) **Sherborn Wine & Spirits** – #F23-07 (sodium posting 74 mg/L)

A motion was made to approve the above-noted food establishment permit renewals, all conditional to the required 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

(9) **Sunshine Farm**, #F23-12 (Framingham town water) - A motion was made to approve the food establishment permit, conditional to compliance with all applicable laws, 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

(10) **Sweet Meadow Feed & Grain** – #F23-10 - A motion was made to approve the food establishment permit, conditional to compliance with all applicable laws, 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

(11) **Heritage of Sherborn**, 33 No. Main – #F23-03 (sodium posting 96 mg/L, Annual VOC testing, water meter readings) - A motion was made to approve the food establishment permit, conditional to the required sodium posting, annual VOC testing, water meter readings, and compliance with all applicable laws, 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

**6. Pagotini Inc. d/b/a C&L Frosty – 2023 Ice Cream Manufacturing Permit renewal #IC23-01**

– A motion was made to approve the manufacturing permit renewal, conditional to receiving an updated application reflecting the ice cream manufacturing for the site, 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

**7. 2023 Catering Permit Renewal – LJM Hospitality d/b/a Heritage of Sherborn – #C23-01 –**

A motion was made to approve the catering permit renewal, conditional to compliance with all applicable laws, 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

**8. 2023 Tobacco and Nicotine Delivery Product Sales Permit Renewal – Tejas Patal d/b/a**

**Sherborn Wine & Spirits – #T23-02** – A motion was made to approve the product sales permit renewal, conditional to receiving an updated application reflecting the name of the business and compliance with all applicable laws, 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 renewals were approved with the condition. **APPROVED 5-0 with condition**

**9. 226 Western Avenue, Leonardo & Meiriele Rodrigues – VARIANCE HEARING – Septic**

**Replacement/Expansion / Well Replacement #22-82/83** – The Agent, Mark Oram, provides a background stating the site is being proposed as an upgrade and expansion. The house is currently a 3-bedroom house and the applicant and engineer are asking to expand to 4 bedrooms. He states the

applicant and the engineer are designing an Eljen alternative septic system for general use to meet all state codes for a new system because the State does not allow for the Eljen to be used under the remedial standard for additional flow. The Chair asks if we would need to approve an updated plan with the appropriate system reflected before moving forward with the variances. The Agent confirms that this is the updated plan and also includes a replacement well.

Ms. Campe inquires if the building expansion is more than 25%. The Chair confirms that the amount of change would trigger the need for the type of system to be compliant, but the context of replacement is due to a failed system. Ms. Campe agrees and asks the Agent to clarify why the system cannot be remedial. The Agent explains that the State approves the use of alternative technology under two categories. The remedial category is only for repairs and no increase in design flow. The other category is general use. For this case, the expansion of the house to an additional bedroom and additional design flow will not allow for remedial approvals. The plan is to raise the system an additional 2 feet to meet the State code of 4 feet to groundwater with general use for the Eljen. The Agent also says that the intent is to demolish the house. He explained to the homeowner that the house cannot be demolished until the system is installed and a certificate of compliance is received for both the septic system and the new well.

Ms. Campe then asked if the system failed Title V. The Agent replied that it failed back in September. The Chair then invites Robert Truax, GLM Engineering Consultant, to discuss the site layout. Mr. Truax provides a history of the site confirming that it is a failed septic. There was an old cesspool in the front, which has now been in the groundwater causing it to not pass Title V. There is an existing well behind the house that he is seeking to replace because of the new system is too close to the new septic system proposal. Mr. Truax is requesting an Eljen drain system to be installed for general use provided that he shows that a conventional system would fit on the lot. A plan has been submitted to show that the conventional system would fit, but a reduction in groundwater cannot be approved for general use unless the system is raised. There need to be 4 feet of separation between the bottom of the system and the groundwater for general use utilizing the Eljen septic system. The Eljen under general use allows for a reduction in field size, but there is no groundwater reduction. Mr. Truax says the house is currently unoccupied and they are getting ready to work on it. He says they did go to ZBA for a special permit to put the proposed additions on the front and back. They are planning to expand the garage on the front and replace the old porch on the back with a new one. Additionally, the house does not meet setbacks to the current zoning, so a special permit for pre-existing non-conforming. ZBA reviewed the request and they were approved. Mr. Truax is now seeking a variance request to have the soil absorption system installed in an area where the maximum groundwater level is less than 5 feet to natural grade. Additionally, a local variance to the maximum allowable percolation rate of 40 minutes per inch because the actual rate on the site is 60 minutes per inch. The third request that might be needed is the 5-foot separation under the local regulations that requires the bottom of the septic system to be 5 feet to the groundwater. The Agent confirms that the third request is to be requested. Mr. Truax says he can provide an updated plan for that addition. Health Agent Oram notes that if the waivers are granted, then deed restrictions would be necessary for the Eljen drain system and a restriction for the no garbage disposal in the house.

The Chair proposes the Board vote on the variances for the present septic plan. Ms. Campe inquires if it is predicated on the location of the new well and if a condition needs to be made for the vote. The Chair responds that it would need to be conditional on the proposed location and asks the Agent if the Board can add variances that were identified tonight and not requested in the letter. The Agent responds that it depends on the abutters notice and if they knew about the variance request. The Vice-Chair says

that in the past re-notification of abutters about additional variances has been required. Mr. Truax clarifies that the letter that went to the abutters was a request for groundwater reduction from 5 feet to 2 feet. The Chair confirms and clarifies that he wants to make sure that the right process is being followed. The Chair also adds that a variance to Section 10.2 needs to be granted.

Ms. Campe asks how far the distance is to the open drain. The Chair says it looks to be about 30 feet but thinks it is the best location for the system. Ms. Campe adds that it should also be conditional to citing the new well as proposed on the plan because it feeds into the setbacks. The Agent adds that if another variance hearing is required, then a vote for the well could be approved tonight because the location of the system will not change with the variance request for the catch basin or the 5 to 4 feet to groundwater. The Chair would feel comfortable voting on the existing variances and then schedule something for the follow-up variance. The Vice-Chair is comfortable with moving forward as suggested by the Chair and notes that MassDEP is adamant about abutters notification. She also asks that GLM present something about the dynamics of the open drain relative to the SAS such as an evaluation of the possible risks of effluent from the SAS reaching the drain given the specific circumstances of the site.

Mr. Truax asks for clarification about what the local regulations consider an open surface drain. The Chair explains that he wants to be fair in treating this property similarly to previous properties the Board has voted on. Mr. Truax responds that every catch basin in town eventually discharges to open water, so every catch basin in the street would fall under the same definition. The Agent clarifies to Mr. Truax that a discussion needs to be conducted since the close to being an open surface drain independent of the presence of a catch basin. There is grading off the street, coming towards the swale and land sloping both towards both sides of the swale. It is a swale and a catch basin as well. The Agent thinks the design offers a good thing because Mr. Truax includes a retaining wall as a barrier to the catch basin. After all, it would help prevent water from the septic system to get toward the swale.

Ms. Beardsley also adds she would like to hear more about the clay soils with respect to whether SAS discharge might tend to spread out towards the drain rather than percolating straight down.. Dr. Vitale adds that he wants to be consistent with following the process. He believes that Mr. Truax designed the best system with what he had to work with and does not expect there to be a substantial barrier to getting the plan approved. Ms. Beardsley asks for clarification regarding IA systems on page four item 6B. The Agent shares the confusion but believes that those regulations are from the State, and a conventional system would not be able to be put on the property without waivers from the local Board of Health. Dr. Vitale confirms with Mr. Truax that the Eljen would do better than a conventional system. Mr. Truax agrees because this Eljen system will provide 4 feet of separation from groundwater, which would mean more protection from the effluent.

The requested variances were reviewed and discussed:

1. Section 5.2 – to allow the proposed soil absorption system to be designed based on a 60- minute/inch percolation rate rather than the required 40 minutes/inch or less. A motion was made to approve this variance 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 – Abstained

Chair Dr. Vitale – AYE

The motion passed, with Dr. Hunnewell abstaining.

**APPROVED 4-0-1 abstention**

2. Section 8.0(2) – to allow the proposed soil absorption system to be installed in an area where the maximum high groundwater level is less than 5 feet below the natural surface grade. A motion was made to approve this variance 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 – Abstained

Chair Dr. Vitale – AYE

The motion passed, with Dr. Hunnewell abstaining.

**APPROVED 4-0-1 abstention**

It was noted that an updated letter is required that requests variance to Section 8.0(1), Section 10.2, and 310 CMR 15.284. A second Hearing was scheduled for **8:30 PM on Wednesday, January 18, 2023**. New abutter notification is required for this second Hearing.

The Agent recommends to the Board that the well shown on the plan be approved. It is 135 feet from the proposed soil absorption system and is conditional to the old well being abandoned by a licensed well driller. The Chair calls for a motion. That motion was made, and it was seconded. By a roll call voted:

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 plan for the well was approved with the condition. **APPROVED 5-0 with condition**

Regarding the building permit, Dr. Vitale identified two issues as it was currently laid out, and was looking to start with a room count. The proposal for a four-bedroom system means that the home can have nine rooms to be compliant with the state method of counting. Sherborn has additional regulations that determines how rooms will be counted as bedrooms that are different from the State. One of them is that any room connected directly with a full bathroom count as a bedroom. Dr. Vitale counted five rooms on the first floor, counting the dining room and living room as distinct rooms given two separate patterns of use and a sizable space. The exercise room in the plan looks to have a full bath and therefore would be counted as a bedroom, Dr. Vitale stated he would comfortable not counting it as a bedroom with a half bath. Ms. Campe agrees with changing the bathroom in the exercise room into a half bath to avoid the illusion of it being mistaken as a bedroom.

On the second floor, Dr. Vitale counted 4 rooms but was confused about the library study room and guest room and felt that the flow is more of a sitting room layout and does not offer to be a separate space that will offer privacy. Upon his initial review, Dr. Vitale counted 5 bedrooms on the second floor. He does not think this was consistent with other plans that the Board has approved for 4 bedrooms with the big issue being the conversion of the bathroom in the exercise room to a half bath. If the library study room is a larger opening without a doorway, then it would solve both issues. Ms. Beardsley noted she had similar views. The library study is almost like a non-bedroom room because it doesn't have a separate entrance. The door between it and the bedroom is complicating the issue and felt that without that door



she would be more comfortable. Ms. Campe noted that she agreed as well. Ms. Beardsley would not have counted it as 5 bedrooms, but 4 bedrooms and a room. The Agent added that once it is open, the wording “library study” should be changed to “guest room.” For Dr. Vitale, the library/study looks like a room because it offers privacy and has the requisite conditioned space. If we say this is a room above the first floor, then it is considered a bedroom, so the question is if this room can get converted into a suite. Dr. Vitale asks if others have a different point of view.

Dr. Vitale noted that the library study room being a joint space can resolve the piece of the issue on the second floor to be a total of nine rooms. Dr. Vitale asks the applicant if they have any questions. The Rodrigues family asked if they took away the door would that help? Dr. Vitale noted taking away the door would help and would recommend extending the space of the opening a little bit so it is more of a common space. He says removing the wall separating the two spaces would solve all the issues with the room count on the second floor. Dr. Vitale noted that 4 out of 5 members of the board feel that with those changes a vote can be made on the 18th to approve this plan to be consistent with the regulations. He suggested working with their architect to finalize the plan by the 18th. Ms. Beardsley noted to not make the opening any smaller than 6 feet for consistency with how other such room openings have been treated. Rodriguez asked about putting foundation due to worry about frost or do they have to wait for everything to be approved? Mark Oram noted that would not be consistent with current regulations. Dr. Vitale concluded that they cannot do the foundation, in the meantime, they can drill the well and the rest would have to wait until the plan is approved and the system replaced. The Agent noted that he will help Rodriguez through the steps before they can demolish the house.

10. **Mike Hugo, MAHB – Presentation about shared services** – The Vice Chair introduces the topic of needing more staff support at the Board of Health and Mike Hugo will be describing how Sherborn can receive supplemental aid. Mr. Hugo introduces himself and begins his presentation. He reviewed the challenges of de-centralized public health with variability between communities. In 2016, Special Commission on Local and Regional Health was created. The Special Commission met and concluded that many boards cannot meet statutory requirements and operate autonomously. While supportive of BOH tailoring to their local community – a benefit to cross jurisdictional sharing of services would enable communities to better meet their needs while sharing resources and costs. Mr. Hugo then introduces the history of the Public Health Excellence Program. It began as a bill brought up to legislature as SAPHE which stands for State Action for Public Health Excellence. The cities around Sherborn are in it. Beginning in FY20, \$1.3 million was given to the SAPHE program which was combined with Public Health Excellence to establish the Public Health Excellence program the following fiscal year. For FY22 and FY23 the level of funding is now a permanent line item in the Department of Public Health’s budget at \$15 million. As part of the program, the cities are divided into 50 groups and each group receives \$300,000. There is no requirement to decide where the money goes, but it **cannot** be used to replace existing programs. The money can only be used to supplement public health functions within the Boards of Health. Examples of how the money could be spent include hiring community health workers, nurses, grant managers, social workers, inspectors, etc. Mr. Hugo then explains how the coalition went to the Legislature and asked for \$250 million over 5 years to build a whole new infrastructure in Massachusetts for public health. The Legislature gave the coalition \$200 million which is broken down into \$98.85 million for data systems and performance tracking, \$30 million for workforce development, and \$71.15 million for capacity building of local and regional public health. Examples of how the program supports these themes were provided. Mr. Hugo asks if the Board has a full-time public health nurse or a full-time

inspector. Ms. Beardsley responds that the Board has been using visiting nurses' associations and are looking to expand under the public health nurse category.

Mike Hugo then described the CDC PLUS grant which will take over the 30 million work force development – more to come. A minimum of 40% of this money (\$52,607,000) will go to local BOH. The Chair asked what downsides if any exist for the program. Mr. Hugo shared the Letter of Commitment that must be completed as well as what obligations were incurred by the grantee.

Allowable costs were provided including staff salaries, benefits, dues. Prohibited costs include capital expenses or supplanting existing municipal funding for public health service. Services like GIS would be covered

He said anything that is a public health function is covered and paid for by the grant Mike Hugo ended the presentation and opened the panel for further questions and discussion. He recommended joining the group with Needham which includes Dover. Ms. Beardsley asked Mike if it would be possible for Dover and Sherborn to collaborate across two towns. And if so would they be able to hire someone to do that to specifically help them? Mike Hugo responded yes if you can provide a reason to have it. Dr. Vitale noted a pause for the board to understand what the next steps are and noted to Ms. Beardsley about running things by Ellen because she has wealth of experience. Ms. Beardsley asked how long it takes for a town to join in? Mr. Hugo noted that there is active time sensitive work and Tim McDonald who is the Director for Needham is eager to move forward quickly. Dr. Vitale noted to stay on track to take a straw poll for the board. The alignment with Dover makes complete sense for the town overlap Dr. Vitale asked the Board if anyone had any concerns about working with the program The Agent noted to include their administrative director in the meeting. A motion was made that they move to enter the Public Health Excellence Program 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 motion was passed and approved.

**APPROVED 5-0**

11. **Consideration of fee escalation for late permits** – The Vice-Chair noted that the current process right now is that Jean Greco starts sending reminders to potential applicants in the autumn about the upcoming permits, encouraging them to do water tests, in particular, early. Things are due by January first, and it has not been common to have people go beyond the beginning of February to get everything in. A discussion to be considered next time is what can the Board do when there is a permit that remains outstanding.

12. **Board of Health Budget FY2024** – Ms. Beardsley reviewed the budget. She noted necessary adjustments including to the Food Inspector and Health Agent. For this year the telephone expenses are going up due to Ellen's cell phone previously being paid by the regional emergency preparedness group and they are no longer funding. Another thing that will change is the nursing contract which is currently being negotiated. She also noted Mark Oram's education and conference attendance must now be covered entirely by Sherborn and the budget needs to reflect that. Dr. Vitale favors voting on the budget nothing

that a couple of areas that are above target but these are expected changes. Ms. Beardsley noted that Ellen's position had been changed by the Town from salaried to hourly in processing adjustments related to COVID. Other positions have since changed back to salaried but Ellen has not yet been returned to salaried. The current title of Administrator is poorly matched to the duties Ellen performs and more consistent with Director positions in other towns. The Vice Chair noted that we should either adjust the job description to a Director position with a commensurate change in salary or leave it as hourly and anticipate that overtime will be required. The Chair noted that even as COVID may subside, the current level of activity in Sherborn will increase BoH work. The importance of making an appropriate job title both for Ellen and for any future replacement was noted. The determination was made to continue to adjust the budget to a 40 hour schedule as well as the cost of living. Adjusted the rate for BOH Appointed Official to 18% which goes into 72,839 for the FY24 budget request. Dr. Vitale made a motion to approve the Budget as amended by our discussion tonight. 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 motion was passed and approved as amended.

**APPROVED 5-0 as amended**

13. **Review of BOH Comments on Washington Street 40B** – The Vice Chair checked with Marian, and they are still asking for an extension. Ms. Beardsley has prepared a letter, and it looks similar to the one for Farm Road noting that many general issues are the same and limited details have been provided. One objective is to explain to the Department of Housing and Community Development what it means to have a project with well and septic on site, with the most simplistic explanation being that people are going to be drinking their wastewater, although that is not how it is said in the letter. Ms. Beardsley asks for thoughts about the wording in the letter because she briefly referenced that there should be public health equity for affordable housing. This is a slight difference because the site is all rental units and it's affordable, which is a different population than the Board has seen in the past. They are proposing to do a public water supply because the residents are not the owners, and therefore Ms. Beardsley has not seen any kind of construct for renters being responsible for a public water supply. She made the point that the PWS should stand because a standard Title 5 septic system is not the best for a large volume in a concentrated area. Having a public water supply will be like having a sentry telling us what is happening with the groundwater. This is the best chance for having an idea of what might be happening, to protect the people there, and help understand what might be affecting the neighbors.

Dr. Vitale wants to make clear for the record that it would be fair to say that everyone in Sherborn drinks their wastewater and it's not specific to this project, but rather why the Board is so thoughtful with the regulations. Ms. Beardsley agrees that that is the point. He also echoes Ms. Beardsley's comment on public health equity and having people who live in affordable housing have an expectation of water quality that is commensurate with the community at large and the Commonwealth at large. He adds that the public water supply is a good strategy to ensure that it will be held to the same standards as it would be in other municipalities and an important protection that he would love to see emphasized in the letter. From a health equity standpoint, he thinks it's a good mechanism to add an important layer of protection there. She indicated that the letter is asking to treat this project as we treat all the others in town for the purposes of protection. Additionally, the letter notes that Title 5 is the minimum protection and we do not

have minimum risk conditions that we are protecting – we have the maximum with co-located well and septic. Ms. Campe emphasized that the point isn't that this is affordable housing but rather that this a shared resource and impacts need to be considered in the context of existing demands. Ms. Beardsley notes the Board's prior support for the Coolidge Street projects that were not dependent on local wells or septic.

Dr. Hunnewell asks if the Board will have the opportunity to read the letter and make comments. Ms. Beardsley says that is dependent on whether the extension is granted. Dr. Vitale adds that if the Board does that then it's a violation of the open meeting law. Dr. Hunnewell responds that there is a way to do so without violating that law. Dr. Vitale is fine with circulating the letter but doesn't want to get close to a violation of the open meeting law. He recommends that the Board follow up on the extension request, and if the Board can review the full draft, then that could be an added agenda item for January 4th, if not, then Ms. Beardsley is welcome to circulate the letter, but he recommends against people providing additional comment because he doesn't want an appearance of an improper deliberation.

Ms. Beardsley asks if there is a particular point that Dr. Hunnewell could relay to her now. Dr. Hunnewell responds no and thinks Ms. Beardsley is doing an excellent job. Dr. Vitale notes that for the next steps, Ms. Beardsley will let the Board know if the State provides an extension. If not, a letter will be circulated for review. If an extension is granted, this will be an agenda item on the fourth. He recommends that the letter be reviewed ahead of time and to come prepared to share those comments if they are made. Dr. Hunnewell asked whether this was a violation of the open meeting law. Dr. Vitale responded that it was not and invited Dr. Hunnewell to compose her questions to town counsel and provide it to the Chair of the Select Board and the Chair of the Board of Health.

14. **01/04/2023 Agenda items** known to date were noted, including:

- Discussion of methods to capture well GIS coordinates on Well logs, site plans, etc.
- Review of Well Regulation I, Section 10.1
- Final review of Well Regulation language
- 58 Oldfield
- Anti-Segmentation discussion by Planning Board

15. **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 10:07 PM.

Respectfully Submitted,

Academic Public Health Corps Interns – CT and NG

**DOCUMENTS REVIEWED AT THE VIRTUAL 12/21/22 MEETING**  
**(All items stored in the Board of Health files unless otherwise noted)**

**1. 226 Western Avenue –**

- Septic Replacement/Expansion / Well Replacement Plan 22-82/83, drawn by GLM Engineering, dated 10/26/22 and revised 12/19/22
- Variance request letter dated 11/8/2022 from Robert S. Truax, P.E.
- Certified list of abutters from the Assessor's office dated 11/17/2022
- Copy of abutter notification letter dated 11/17/22 from Robert Truax P.E.
- Certified mail return receipts and/or usps.com printouts from abutter notification letters
- Eljen GSF Modified General Use Certification, last revised 9/3/21
- MassDEP Standard Conditions for SAS with General Use Certification and/or Approved for Remedial Use, revised 3/5/2018

**2. FY2024 BOH Budget –**

- Budget guidance and documents received from Finance Director
- Budget proposal drafted by BOH Administrator, dated 11/19/22

**3. 27 Harrington Ridge Road –**

- Undated letter received 12/19/22 from Jesse M. Racicot requesting a variance from Regulation II, Section 2.3

**4. 2023 Disposal Works Installer Permit renewals –**

- Scott Septic Inc. of Hopkinton – I23-09
- Fred Swain, Wind River Environmental of Marlboro – I23-10
- Michael DeCosta Jr., Wind River Environmental of Marlboro – I23-12
- Nick Genesco, Wind River Environmental of Marlboro – I23-13
- Curtis Septic Service of Northboro – I23-14
- J.C. Parmenter Inc. of Hopkinton – I23-15
- Robell Inc. of Lunenburg – I23-11

**5. 2023 Food Establishment Permit renewals –**

- Sherborn Fuel – F23-01 (sodium posting 47 mg/L)
- Heritage of Sherborn – F23-03 (sodium posting 96 mg/L)
- Heritage Wine & Provisions – F23-04 (sodium posting 96 mg/L)
- Pagotini Inc. d/b/a C&L Frosty – F23-05 (sodium posting 74 mg/L)
- Pilgrim Church – F23-06 (sodium posting 217 mg/L)
- Northern Management Group d/b/a Dunkin' – F23-08 (sodium posting 47 mg/L)
- Rustic Pizza – F23-09 (sodium posting 47 mg/L)
- Sweet Meadow Feed & Grain – F23-10
- Table 15 LLC – F12-11 (sodium posting 182 mg/L)
- Sherborn Wine & Spirits – F12-12 (sodium posting 74 mg/L)
- Sunshine Farm – F12-12 (Framingham city water)

**6. 2023 Catering Permit renewal –**

- LJM Hospitality d/b/a Heritage of Sherborn – C23-01

**7. 2023 Ice Cream Manufacturing Permit renewal –**

- Pagotini Inc. d/b/a C&L Frosty – IC23-01

**8. 2023 Tobacco and Nicotine Delivery Product Sales Permit renewal –**

- Tejas Patel d/b/a Sherborn Wine & Spirits – T23-02

**9. Shared Services Presentation by Mike Hugo, J.D., Director of Public Policy and Government Relations, MAHB –**

- "Transforming the Delivery of Public Health Services in MA – A Blueprint for Excellence" PowerPoint