

To: Sherborn Zoning Board of Appeals (Zach McBride, Chair) 11/25/24

From: John Garrison, 33 Hunting Lane

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

This project, as presented, is not buildable under Title V.

A simple analysis shows that this project, as currently proposed, simply cannot be constructed to meet the requirements imposed by Title V for “Nitrogen Sensitive Areas” – as shown below. (This has been pointed out by both the Sherborn Groundwater Protection Committee and the Board of Health.) If this is the case, I believe that further discussion by the ZBA is not warranted.

Title V defines areas that are served by “both on-site systems and wells” as “Nitrogen Sensitive Areas”. (Title V: 310 CMR 15.214 (1) (a): “Public and Private Water Supply Protection Areas” – citation provided below.) This clearly applies to most of Sherborn – and particularly, the Town Center area.

For these Nitrogen Sensitive Areas, Title V stipulates that “No facility owner for New Construction.....shall install a system designed to receive or allow a system to receive more than 440 gallons of design flow per day per acre...” (310 CMR 15.215 (1))

The site plan for the proposed project covers two parcels, Lots A and B, totaling 7.24 acres, or 315,965 SF. Title V, however, defines an “acre” as 40,000 SF, rather than the standard 43,560 SF. Adjusting for this difference, the two parcels together comprise 7.90 Title V “acres” (315,965 SF / 40,000 = 7.90.)

Therefore, the maximum allowable discharge under Title V for this site is:

$$440 \text{ gal/day} \times 7.90 \text{ “acres”} = 3,476 \text{ gal/day.}$$

The proposed development is for 18 units: 56 bedrooms. Assuming a standard daily discharge of 110 gal/day/bedroom, the result is:

$$110 \text{ gal/day/br} \times 56 \text{ bedrooms}^* = 6,160 \text{ gal/day.}$$

...or almost twice the allowable wastewater discharge.

* The septic field shown on the plan is designated as a “shared” system. For this analysis, I have ignored the additional bedrooms, if any, in the existing 2 & 1/2 story wood-frame house on lot A – although I assume they should be included and would increase the gallons/day even more.

Based on this simple math, there is no way the proposed development could be built on this site.

There are three – *and only three* - exceptions to this requirement. They are listed in the statute below -- and described more fully in the Nov. 19, 2024 letter from the Board of Health. However, to date, the applicant’s team has not provided any indication of using any of these options – or even acknowledged the need for them. Nor have they presented any evidence of how the site could accommodate any of these alternatives or how they would be able to satisfy the current Title V requirements.

The Housing Appeals Court, in their August 15th Letter of Remand for this project, listed “wastewater treatment” as the number one issue to be addressed in the scope of these hearings. In spite of this, the applicant has continually claimed that they that they do not have to address Title V issues in front of this Board. After many hearings, the applicant has failed to provide any evidence that this project can even be constructed in conformance with current Title V regulations.

It seems to me that *lacking any additional information* – which the applicant has had ample time to supply – this Board would be entitled to conclude that the current development, as presented to this Board by the applicant, does not comply with Title V, and is therefore not buildable.....and that, on this basis alone, further discussion is not warranted.

Thank you,

John Garrison
33 Hunting Lane
jmarkgarrison@gmail.com
508-561-2162

(Citations provided on next page.)

Title V: 310 CMR, § 15.214

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

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

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

310 CMR, § 15.215

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

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

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