

Paul Bochicchio
41 Hunting Lane
Sherborn, MA 01770

May 14, 2021

BY EMAIL

Town of Sherborn
Zoning Board of Appeals
19 Washington Street
Sherborn, MA 01770
Attention: Mr. Richard Novak, Chair

Re: 40B Application Submitted for 31 Hunting Lane

Ladies and Gentlemen:

On behalf of the abutters and other residents of the Town of Sherborn, we wish to point out that in its April 30, 2020 Project Eligibility Approval letter, MassHousing specifically listed several areas of concern which needed to be **“fully explored in the public hearing process”** with the ZBA, prior to the submission of the applicant’s application for Final Approval under the 40B Program.

Among the areas of concern which MassHousing listed as needing to be “fully explored” were the following (a partial list):

- 1.) “The Applicant should be prepared to discuss the impact of the Project on water resources and private wells in the area and respond to reasonable requests for mitigation.”
- 2.) “The Applicant should continue to engage with the Municipality to discuss alternatives for increasing buffering along the abutting single-family homes on Hunting Lane, including opportunities to potentially relocate some of the proposed duplexes to other areas of the Site.”

Our contention is that neither of these issues has yet been “fully explored” by the applicant during the public hearing process.

Specifically:

1.) **“The Impact of the Project on Water Resources and Private Wells in the Area”:**

Although the ZBA hearings began at the end of October 2020, not until over four months later on March 2, did the applicant present revised site development plans for the proposed 31 Hunting Lane project. Initial stormwater, wastewater and water supply presentations by the applicant were dated between March 22 and March 24. Updated site plans were later presented on April 9. Town Peer Reviewer comments and applicant responses were made thereafter and continued through the first

week of May right up to the latest ZBA hearing on May 6. Our hydraulic engineer and certified wetland specialist submitted his report dated April 23 and a supplemental report dated May 6.

In particular, the Town's hydrogeological consultant, Nobis Group, only received its assignment in late April, and rushed to submit what it termed its "preliminary results" to the ZBA prior to the most recent ZBA hearing on May 6th. Nobis acknowledged that this preliminary report was just the first step of a hydrogeological assessment of the two proposed projects. It also noted that it was not scoped to perform a peer review of the April 23 report submitted to the ZBA by the abutters' hydraulic engineer and wetland specialist or the applicant's response thereto but would do so upon the ZBA's request.

In its summary of its preliminary opinions, Nobis repeatedly said that it needs additional information. In its comments before the ZBA on May 6, the Nobis engineer noted that he had only received the applicant's well pumping data the day before the hearing and stated "I don't have enough information yet to say" whether the project is feasible as designed.

In its recommendations, Nobis requested additional information and to be allowed to continue its investigations begun in Phase 1 and do some specified investigations in Phase 2. Its last recommendation is:

"Regardless of Mass DEP requirements and timing, Nobis recommends that a sustained pumping test be conducted on the new wells soon. If sustainable quantities of potable groundwater cannot be obtained from these wells, the project will not be feasible as designed."

In summary, Nobis should be allowed to continue its Phase 1 work and to perform its Phase 2 work and submit a final report to the ZBA prior to the end of the hearing process. This report will be critical for the ZBA to determine the feasibility of the proposed projects and their effect on the health and safety of the surrounding neighbors. If Nobis is not allowed to finish both Phase 1 and Phase 2 of its work, then MassHousing's directive for a full exploration in the ZBA hearings of the impact of this project on water resources and private wells in the area would be thwarted.

Clearly, there are still significant water resource issues outstanding. In addition, important wetland issues were recently raised by our water engineer and the Town's Peer Reviewer and discussed at the ZBA's May 6 hearing. During that hearing, the ZBA decided to hire a wetlands peer reviewer to look at some of these wetland issues but with a very limited timeframe and scope because of the current May 31 deadline to close the public hearing.

Creative Land & Water Engineering, the hydraulic engineer and wetland specialist hired by the abutters, concluded his April 23 report as follows:

"Conclusions: The applicant has provided very limited or no data and analysis to the ZBA on many of the concerning issues described above and so the recommendations above are necessarily preliminary and subject to change as more data is obtained. Nevertheless, projects of this sort in such a sensitive area with competing needs for water quantity and water quality, which is a serious public health and safety issue, should, at a minimum, require some additional analysis and testing as suggested above, which is commensurate with the scale of the project.

It is our professional opinion, based on our review of all of the available information and our extensive experience in the Town of Sherborn, that the recommended testing will likely support our conclusion that these projects are much larger than the environment can support (5 times larger than a conventional project that would be supported by the size of the land). These projects will cause serious public safety and health issues as well as serious detrimental environmental impacts on wetlands, other protected environmental resources and on the residences and small commercial buildings in the watershed including the abutters if not designed and implemented based solid in field testing data and information regarding water quality and quantity related issues.”

Throughout the discussions of these stormwater, wastewater and water supply issues at the ZBA hearings, the development team has repeatedly stated that those issues are beyond the jurisdiction of the ZBA and the Town boards and should be left to the Massachusetts Department of Environmental Protection. That response is not consistent with MassHousing’s statement requiring that “the impact of the Project on water resources and private wells in the area” must be “fully explored in the public hearing process” including requiring the applicant to “respond to reasonable requests for mitigation”.

MassHousing obviously carefully reviewed the comment letters which it received from the Sherborn Select Board, the Sherborn Board of Health, the Sherborn Conservation Commission, and others concerning the important environmental concerns raised by the proposed project given Sherborn’s almost total reliance on private wells and septic systems. MassHousing was evidently persuaded by the environmental concerns raised in those letters to state in its approval letter that such concerns needed to be “fully explored” during the ZBA hearing process and not left solely to a post-ZBA hearing review by the Massachusetts Department of Environmental Protection. Presumably, MassHousing felt that the state agency does not have the local knowledge and expertise to analyze these issues as thoroughly as can be done by the local Sherborn boards and committees having jurisdiction over these issues.

We strongly believe that the applicant should supply the necessary data, analysis, modeling and testing as recommended by our water engineer to enable all the relevant experts to make a determination as to how the proposed project would impact water resources and private wells in the area as requested by MassHousing. This will then allow the ZBA to determine whether there is a serious public safety and health concern with the proposed project and whether reasonable mitigation is possible.

We are particularly concerned about the Peer Reviewer’s comment about post development runoff being conveyed to 39 and 41 Hunting Lane (where two of us live). The Peer Reviewer mentions that the proposed project will create 1.8 acres of impervious surfaces, an increase of 0.9 acres (105%) over existing conditions (although our water engineer stated that the increase is 243% in his report.). The Peer Reviewer noted that “Impacts to adjacent properties caused by discharge of runoff must be authorized by ownership, i.e., drainage easements (RRPB [Section]3.4.2.19).” The applicant has not approached any of us for an easement. It appears to us that this important issue has not been addressed by the developer and is still a very significant open issue. This important issue needs to be resolved during the ZBA hearings.

We submit that if all the above work (which includes obtaining data, analysis, modeling and testing) is not performed, it is incumbent upon the ZBA to refuse to grant a Comprehensive Permit to the applicant.

2.) **“Alternatives for increasing buffering along the abutting single-family homes on Hunting Lane, including opportunities to potentially relocate some of the proposed duplexes to other areas of the Site”:**

With respect to the other issue mentioned by MassHousing, as you recall, the abutters asked to meet with the applicant outside of the public hearing process to discuss neighborhood concerns as suggested in the Chapter 40B Handbook for Zoning Boards of Appeal. Among the topics which we wanted to discuss were the specifics of the proposed buffering plan and the possibility of relocating the residences to other areas of the site.

As you know, despite MassHousing’s directive to the Applicant to “continue to engage with the Municipality” to discuss alternatives for siting the housing units, the applicant has refused to meet with us and had excluded us and the rest of the public from the recent site walk where we might have seen first-hand where the proposed buffering was planned and precisely where the residences are currently planned to be located. The specifics of the proposed buffering plan have never been discussed during the ZBA hearings. And, despite our repeated requests at the hearings to discuss moving some of the residences to other areas of the site, this issue has definitely not been fully explored during the hearings.

At your suggestion, attached hereto is one proposal to relocate some of the residences away from the abutters to other areas of the site. We would also like to discuss the possibility of placing all the residences lower on Hunting Lane across from the wells on non-wetland property. We recall that one of the applicant’s previous non-40B proposals to the Town was to site all the then proposed residences in that area of 31 Hunting Lane. We would, of course, be pleased to discuss these proposals and to listen to any proposals from the applicant to address this issue and to fully explore buffering and relocation possibilities during the ZBA hearing process.

We believe that these two issues must be “fully explored” during the ZBA hearings to address MassHousing’s directive. We believe that the ZBA cannot make a fully informed decision on the applicant’s application without this additional input.

If the applicant refuses to provide additional and sufficient information to satisfy MassHousing’s directive, we believe that the ZBA should refuse to grant a Comprehensive Permit. We would also need to consider informing MassHousing that these two issues were not fully explored during the hearings and that it should not issue its Final Eligibility Approval for this project.

As with our previous letters, although I have signed this letter individually, all the abutters and other concerned residents cited in the previous letter fully support the contents of this letter.

Thank you for considering these important issues.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul Bochicchio", with a stylized, cursive script.

Paul Bochicchio

cc: Zoning Board
Town Planner
Town Counsel
Jeanne Guthrie
Kathleen O'Donnell, Esq.
Craig Mills
John Garrison
Desheng Wang