

**SHERBORN BOARD OF HEALTH
SPECIAL MEETING
MINUTES
Thursday, March 22, 2018**

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

Members Absent: Lisa Campe

Others Present: Eric Dickinson, Paul Saulnier, Ben Stevens, Agent Beth Hallal, and Agent Mark Oram

The meeting came to order at 7:09 PM in the Sherborn Police Station meeting room. The meeting was not televised live or taped by Dover-Sherborn Cable TV.

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) 46 Western Avenue, Dongran Han – Septic Alteration #17-117
- (2) Food Establishment Inspection reports
- (3) BOH Attendance at ZBA meeting
- (4) General Chemical – discussion on if Selectmen still want to engage TRC
- (5) Discussion of ledge removal and its impact on water

A motion was made to amend the Agenda as stated, and it was seconded and approved.

APPROVED 3-0

2. **46 Western Avenue, Dongran Han – Septic Alteration #17-117** (see Minutes of 5/17/17 and 5/18/16) – Agent Oram presented the plan, stating that it is for a line from the house to the barn for a half-bath in the barn. The Agent noted that he has already approved a 960-square-foot “family room” connecting the house and the barn. He noted that the building pipe is 140-feet in length (more than the required 50-feet or less), so a cleanout and a waiver is needed. The Agent stated that the applicant is requesting approval of this plan. Ms. Beardsley stated that she would not be in favor of approving the plan without the necessary waiver being granted. The Board was in agreement that the applicant must either apply for a waiver or the pipe could go through the structure. **AGREED 3-0 / No action taken**

3. **59 North Main Street, Sherborn Village (40B)** (see #15 of these Minutes and the Minutes of 3/12/18, 2/13/18, 12/20/17, 12/4/17, 11/13/17, 11/1/17, 10/18/17, 7/19/17, 7/22/15, 12/17/14, 11/5/14-#14(2), 10/1/14, 9/24/14, 9/10/14-#3, 12/3/08, 5/7/08-#14, 9/5/07-#12, and 8/15/07) – The Chair noted that the ZBA was holding their Hearing on this project in the Town Hall. The Board agreed that they would relocate this meeting to the Town Hall when all other business was finished so they could attend the ZBA Hearing. **AGREED 3-0**

4. **Food Establishment inspection reports** were received from the Food Inspector for Walgreens and Dunkin’ Donuts, and they were reviewed. There were no critical violations at either establishment.

5. **General Chemical Corporation, Framingham** (see Minutes of 12/4/17, 11/1/17, 9/6/17, 5/3/17, 2/15/17, 2/1/17, 4/6/16, 3/16/16, 1/6/16, 9/16/15, 8/19/15, 8/5/15, 7/22/15-#3 and #13, 6/17/15, 6/3/15, 5/20/15, 3/18/15, 1/21/15, 1/17/14, 8/20/14, 6/18/14, 4/3/14, 12/4/13, 11/6/13, 7/17/13, 6/19/13, 6/5/13, 7/18/12, 6/19/12, 6/6/12-#6 and #20, 5/2/12, 4/11/12, 3/21/12, 3/7/12, 2/15/12, 2/1/12, 1/18/12, 1/4/12, 12/21/11, 12/7/11, 11/16/11, 8/18/10, 1/19/07, 12/20/06, 11/15/06-#20, 11/9/06-#32, 11/1/06, 10/18/06, and

7/19/06) – Ms. Beardsley reported that MassDEP has chosen the type of clean-up they are going to do at this site, and they are going to move forward. The Chair felt that it would be in Sherborn’s best interest to have Agent Mascoop and Drew Smythe from TRC review reports and provide guidance about what requests Sherborn should make about the clean-up to advocate for its residents’ health. She stated that she would contact the Town Administrator to find out if the Selectmen will still pay for TRC. A motion was made to authorize the Chair to contact the Town Administrator to investigate whether the Selectmen will pay for TRC for their services, and it was seconded and approved.

AGREED 3-0

A motion was made such that, if the Selectmen will *not* pay for TRC’s services, to authorize the Chair to contact TRC and Agent Mascoop to schedule a meeting to discuss next steps, and it was seconded and approved.

AGREED 3-0

6. **Library Update** - Agent Hallal stated that there will be a sink and a refrigerator in the new community room area, and that Ms. Johnston reported that events would be held in the room (i.e. Garden Club, Book Club, etc.), but that disposable plates and cups would be used. No drinks shall be prepared in the Community Room. Agent Hallal noted that homemade cakes, brownies, and desserts (i.e., non-perishable, not needing refrigeration) would be OK for a charitable event. Agent Hallal also discussed the use of this room for “crafts” and that she discussed paint disposal and clean-up methods that would protect the septic system with Ms. Johnston.

7. **28 Meadowbrook Road, Pearl Yip – VARIANCE HEARING – Septic Replacement #18-07** – Eric Dickinson and Paul Saulnier of CIVILized Solutions 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) had been submitted, and all was in order. The Hearing was opened.

Mr. Dickinson presented the plan, noting that the owner is selling the property. The existing 4-bedroom septic system is in failure, and the replacement system is a GeoFlow with FAST system. Site constraints were noted. The requested variances were reviewed and discussed.

(1) Section 1.2 – to allow the proposed soil absorption system to be designed in “bed” configuration rather than the required trenches with the use of FAST treatment with a GeoFlow drip system. A motion was made to approve this variance as requested and it was seconded and approved.

APPROVED 3-0

(2) Section 8.0(1) – to allow the proposed soil absorption system to be installed 2-feet above seasonal high groundwater, with the use of a GeoFlow drip system and FAST treatment system, rather than the required 5-feet. A motion was made to approve this variance as requested, and it was seconded and approved.

APPROVED 3-0

(3) 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 high groundwater, and in an area where groundwater is less than 5-feet below grade. A motion was made to approve this variance as requested, and it was seconded and approved.

APPROVED 3-0

(4) Section 10.1(A)(C) – to allow the proposed soil absorption system to be located 102-feet from the onsite, uphill well rather than the required 150-feet. A motion was made to approve this variance as requested, and it was seconded and approved.

APPROVED 3-0

(5) Section 10.1(B)(C) – to allow the proposed soil absorption system to be located 154-feet from the downhill abutter’s well rather than the required 150-feet. A motion was made to approve this variance as requested, and it was seconded and approved.

APPROVED 3-0

(6) Title 5 Local Upgrade Approval, 310 CMR 15.405(1)(h) – to allow a reduction in the required 5-foot separation between the bottom of the proposed system and high groundwater (in soils with a recorded percolation rate less than or equal to 2-minutes/inch) to 3-feet, provided the following requirements are

met: the existing system has failed, there is no increase in design flow, and there is no reduction in the size of the soil absorption system or setbacks from private wells. A motion was made to approve this variance as requested, and it was seconded and approved.

APPROVED 3-0

(7) Title 5 Local Upgrade Approval, 310 CMR 15.405(1)(j) – to allow a reduction of the requirement for a 12-inch separation between the inlet and outlet tees to high groundwater, provided that 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 approve this variance as requested, and it was seconded and approved.

APPROVED 3-0

The Hearing was closed.

The Agent recommended approval of the plan as submitted, conditional to verification of the invert at the house, and conditional to the garbage grinder deed restriction and the DEP Notice of Alternative System deed restriction. Such a motion was made, seconded, and approved.

APPROVED 3-0 with conditions

8. **21 Green Lane (Lot 2), Trask Development – Revision to a Previously Approved Plan #18-12** (see Minutes of 6/21/17 and 4/5/17-#12) – Agent Oram stated that this revision is due to a new house location. The previous plan, under #17-08/09, was approved on June 21, 2017. Agent Oram stated that additional testing in the new house location is required, and the applicant has asked what the fees would be. The Administrator stated that the fee for soil testing – up to 3 deeps and 2 percs – is \$300.00.

Mr. Stevens stated that this will be a “ledge hole” and that he hopes to work off 1-foot above high groundwater. There is no soil in the new house location – the ledge will be hammered; no blasting. Agent Oram stated that if the applicant cannot propose a deep hole to determine groundwater (for separation between the floor of the basement and high groundwater), it will be 2-feet above something – it should be above high groundwater, but he wondered how groundwater would be determined. The Agent stated that the engineer might need to hire a geologist. Mr. Stevens stated that there is a full walkout basement at this house. The house is on ledge, but the septic pipe is coming in about 2-feet below the basement floor.

Ms. Beardsley felt that this is a flooding of basement issue, and stated that a hydrogeologist, combined with the Agent’s witnessing onsite, is needed. The Agent agreed that the engineer should have a hydrogeologist to help with this matter. Mr. Stevens stated that they could find good soils, but that they are in the area of the septic system.

The Chair asked the Agents to research to see if they could find any regulations from other towns that dealt with this issue of building directly on or into ledge. It was noted that the Board might consider a deed restriction stating that the determination of groundwater in the house location was made in this way so that future owners are made aware of the possible risk of water intrusion into the house.

Mr. Stevens noted that every lot has a “daylight basement” and perimeter drains. The Agent stated that when deep hole testing is conducted for septic systems and ledge is found, the top of ledge is “refusal”, and that is used as the water table. Agent Oram stated that use of a hydrogeologist would be the best bet. Dr. Vitale agreed that a hydrogeologist would be needed to provide additional help in translating how the testing is used for house location testing versus how it is done for septic systems.

9. **9 Green Lane (Lot 4), Trask Development – Revision to a Previously Approved Plan #18-08** (see Minutes of 6/21/17 and 4/5/17-#12) – Ben Stevens was present. The Agent presented the revised plan, noting that the lot size was reduced from 6.25-acres to 2.80-acres, and the lot line change was reviewed. The Agent recommended approval, stating that the 4-bedroom septic system design has not changed. A motion was made to approve this revised plan as presented, and it was seconded. The Chair noted that although a new Lot 3A is shown on this plan, the Board was *not* voting on or considering that lot today. Dr. Hunnewell expressed concern with disruption in the overburden. Dr. Vitale noted that the footprint is

exactly the same for both the house and septic system. This is strictly a lot line change and setback requirements have been met.

APPROVED 3-0

10. **Ledge disruption / manganese** (see Minutes of 2/13/18-#5 and 12/4/17-#23) – Ms. Beardsley noted that Ms. Campe had previously indicated that she would further research this topic and draft a possible regulation for discussion. Ms. Beardsley stated that, as an interim regulatory approach, the Board could consider a requirement that prior to any ledge disruption, an applicant would be required to notify the neighbors in order to allow them to get a baseline water test.

Dr. Hunnewell asked if the Board could be setting themselves up for liability if something is not done to protect the residents. She stated that today she called Tom Mahin, the Director of Private Water Supplies at the Northeast Regional Office of MassDEP and asked him if policies or procedures exist that address risks associated with crushing rock to bedrock wells. Potential risks of contamination of groundwater is important to individual residents as well as liability protection for the Town as a whole. Mr. Mahin recommended that the Board communicate with Town Counsel, stating that it was in the realm of litigation.

Dr. Vitale responded that this is a piece the Board is planning to work on, and he stated that the Board should have this conversation once. He felt that, as the Board crafts a regulation(s), they should engage the Selectmen and also get the advice of Town Counsel. Dr. Vitale agreed that the Board should be cognizant of any legal ramifications.

Dr. Hunnewell stated that the Board should also act in the context of the resident who has already come before the Board with a problem, but Dr. Vitale stated that the Board does not have any baseline data for that matter. He stated that he felt the Board is in no position adjudicating what happened there. Dr. Hunnewell stated that her question was whether or not the Board should be concerned with ledge disruption, and what the boundaries are for what the Board should or should not be doing. Dr. Vitale felt the Board was in no position to add rules or regulations after the fact. He felt the Board needs to discuss the issue, and he noted that Ms. Campe was going to draft something for discussion at a future meeting. Dr. Vitale stated that it should be done on the basis of a specific regulation that will fill an existing gap. Dr. Hunnewell stated that instead of something also being remediation, the Board needs something to prevent the problem from occurring.

Ms. Beardsley stated that the Board's discussion of preventive measures is already underway; it hinges on whether there is scientific information to link ledge disruption and manganese contamination. She stated that she would like to get the easiest measure in place first – notification of neighbors so they can get a baseline test – and then do something more (such as the type of regulation Ms. Campe is researching and will draft).

11. **Town Counsel** – The Board noted receipt of a 3/19/18 email from Town Administrator David Williams advising that Barbara Saint Andre is leaving K-P Law. Atty. Darren Klein will become Sherborn's primary counsel.

12. **Warrants/Payroll** – The Board reviewed and signed Payroll #19.

13. **4/11/18 Agenda items** – No specific agenda items were yet scheduled. It was noted that Dr. Vitale would not be able to attend this meeting.

14. **Minutes** – The Minutes of 3/12/18 were reviewed and discussed. A motion was made to approve these Minutes as amended, and it was seconded and approved. **APPROVED 3-0**

[The Chair stated that the Board would move to the Town Hall to attend the ZBA meeting, and would adjourn following that discussion. The Board relocated to the ZBA meeting in Room 204B in the Town Hall at 8:35 PM.]

15. **59 North Main Street, Sherborn Village (40B)** (see also #3 of these Minutes and the Minutes of 3/12/18, 2/13/18, 12/20/17, 12/4/17, 11/13/17, 11/1/17, 10/18/17, 7/19/17, 7/22/15, 12/17/14, 11/5/14#14(2), 10/1/14, 9/24/14, 9/10/14-#3, 12/3/08, 5/7/08-#14, 9/5/07-#12, and 8/15/07) – Agent Oram noted that the testing report was just received via email at 6:08 PM tonight, so he has not been able to thoroughly review it. He did state, however, that the analysis testing showed that Toluene, a volatile organic compound, was detected. The applicant has indicated that they believe that detection was due to the type of tape used.

Wells: Peter Bemis presented to the ZBA and Board of Health, noting that the water analysis test results were not received from R.I. Analytical until late today. He stated that the pumped wells average 5.4-gallons/minute, and that they were pumped simultaneously for 24-hours. Abutting wells at the Clancy residence at 58 North Main Street and the Marthinson well at 61 North Main Street were monitored and they were tested in advance of the pump test and again afterwards. Mr. Bemis reported that Provencher Engineering analyzed the quantity testing and based on the pump tests has determined that the onsite wells meet the criteria consistent with public water supplies. He stated that there was a slight influence at the 61 North Main Street and 58 North Main Street wells, but it does not adversely affect those wells. In conclusion, he stated that they have the ability to pump almost 9 times what is required.

Agent Oram stated that the testing was conclusive per the requirements that were set up for the applicant to follow. He stated that he felt having continuous readings were a benefit. Agent Oram stated that he felt the testing was sufficient. He questioned the analysis results reports, noting that “page 8 of 8” was not provided, but Mr. Bemis later stated that page 8 was the Chain of Custody, which was provided. Mr. Oram stated that he could not locate analysis results for Heterotrophic Plate Count (HPC) or coliform bacteria testing for both Wells #1 and #2, noting, however, that he has only quickly reviewed the reports. He stated that the Board of Health requires two (2) additional, subsequent consecutive Toluene (VOC) tests because the Board has a zero tolerance for volatiles. Ms. Beardsley noted that another reason the local regulations have a zero tolerance for volatiles is because private wells are not monitored regularly, as a public water supply is monitored – this is a one-time chance to determine that the water is clean.

Mr. Oram noted that the local “Well Pump Test Data Form” and the State “Well Driller Completion Report” are both required and have not yet been submitted.

Mr. Bemis stated that they retained a 3rd party to collect the water samples. He stated that the toluene was detected at parts per billion – a very small amount. He noted that they are saying that detection was caused by the well tape used, but he stated that they would do the required additional testing, believing that it will go away. Mr. Oram stated that is why the Board allows them to proceed with a letter of agreement. Mr. Bemis stated that the level of sodium is high in one well and fluoride is high in the other.

ZBA Chair Novak reviewed that the procedures that were supposed to be followed during the quantity testing were followed, and the quantity of water is good. Some contaminants (toluene) were found, but it is expected that it will be found erroneous or introduced, and will go away. The sodium level of 34 mg/L will require a deed recording and notification to the owners. Bacteria testing is still outstanding.

Agent Oram noted that the Board of Health requires a tap test for each unit, and Ms. Beardsley commented that such tap testing evaluates the distribution system. Dr. Hunnewell stated that, while it might be inconvenient, Sherborn is unlike 98% of the other towns in Massachusetts in that we are all private wells – that is why we have these regulations.

Septic System: Agent Oram stated that the septic system design plan was received on 2/15/18, and he noted that the applicant is proposing a “leaching bed” system. He stated that the State does not recommend this type of system, and the local Board of Health does not allow them (per their regulations) and he explained the performance reasons for why the State does not recommend leaching beds. Following questioning, it was noted that the peer reviewer, Tom Houston, did not review that aspect of the plan. Mr. Bemis stated that he did propose a “bed” system, which he called “standard technology”. He stated that he prefers the layout proposed, stating that leaching trenches would require the system to be raised. ZBA Chair Novak requested that Mr. Bemis and Agent Oram get together to discuss this and come up with a solution. Mr. Oram stated that he would have a letter out on his full review of the plan within the next week.

The meeting adjourned at 9:05 PM.

Respectfully Submitted,

Ellen J. Hartnett
Administrator

cc: Town Clerk; Board of Assessors; Fire Chief; Building Inspector; Mark Oram, Agent; and File. [cc: via email to: Planning Board; Conservation Commission; Selectmen]

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DOCUMENTS REVIEWED AT THE 3/22/18 MEETING
(All items stored in the Board of Health files unless otherwise noted)

1. **Minutes –**
 - BOH Minutes of 3/12/18
2. **Warrants/Payroll –**
 - Payroll #19 and #20
3. **28 Meadowbrook Road –**
 - Septic Replacement Plan #18-07 drawn by CIVILized Solutions and dated 1/25/18
 - Variance request letter dated 2/1/18 from Eric Dickinson
 - Application for Local Upgrade Approval (Form 9A)
 - Certified list of abutters from Assessor's office dated 2/1/18
 - Copy of abutter notification letter dated 2/14/18 from Pearl Yip
 - Certified mail return receipts and/or usps.com printouts from abutter notification letters
4. **9 Green Lane (Lot 4) –**
 - Septic Revision to a Previously Approved Plan #18-08, drawn by Bruce Saluk & Associates, dated 1/11/17 with latest revision date of 2/17/18
5. **46 Western Avenue –**
 - Septic Alteration #17-117 (Septic Tank Connection Plan), drawn by CIVILized Solutions and dated 12/18/17
6. **Food Establishment Inspection Reports –**
 - Walgreen's
 - Dunkin' Donuts
7. **21 Green Lane (Lot 2) –**
 - Septic Revision to a Previously Approved Plan #18-12, drawn by Bruce Saluk & Associates, dated 1/11/17 with latest revision date of 2/15/18
8. **Town Counsel –**
 - 3/19/18 email from Town Administrator David Williams, subject: "Re: Town Counsel – Barbara Saint Andre is leaving KP Law"
9. **59 North Main Street (40B) –**
 - 3/22/18 email from Peter Bemis, subject "59 North Main St Well Monitoring Report" with attachments