Zoning Board of Appeals  
September 17, 2019

Members Present: Rick Novak, Ron Steffek, Jonathan Fitch

Mr. Novak called the meeting to order at 8:00 p.m. in the Sherborn Town Hall, Room 204A and read the agenda. Next meeting was scheduled for November 6, 2019 at 8:00pm.

Petition #21910 for 21 Morse Road was presented by the homeowner Edward Coppelman. He explained that he had an existing accessory building that he wanted to convert to an accessory apartment under Section 3.2.2 of the Zoning By-laws. He went over the plans for the apartment with the Board. Mr. Steffek questioned the amount of floor space which was listed as 1200 square feet. The floor space allowed is calculated as gross floor space which measures from exterior walls. With this apartment, measuring from the exterior walls places it at more than 1200 square feet. There was discussion on how to fix this issue. The Board suggested that Mr. Coppelman ask for a continuance of this petition hearing which the Board requested. Hearing continued to November 6, 2019 at 8:00pm.

Petition #29111 for 136 South Main Street was presented by Mr. Naaz Scheik, homeowner for a Special Permit under Sections 3.2.2 to allow for a room with a full bath and kitchen in an existing accessory building. Mr. Scheik explained that he bought the property with the existing barn and wished to convert it to a room with a full kitchen that he could hold family parties in. The room space is under 1200 square feet. The Board asked about the outside measurements of the barn and whether the measurement from the exterior wall would be larger than 1200 square feet. Mr. Scheik did not believe so but the Board said that it would need to be measured. Discussion followed about the access to the second floor which is unheated and said that it needed to be closed off from the staircase so not to have open access to it. It was suggested also that the stairway be separated off from the first floor room. A condition of getting a building permit to finish the 1st floor room would be getting the correct measurement of the outside of the building to the Building Inspector.

Mr. Fitch made a motion to grant the special permit for the accessory space at 136 South Main Street on the conditions that the square footage of the outside of the accessory building is verified by the Building Inspector as to being not more than 1200 square feet and the stairwell will be walled off at the top of the staircase. The permit shall expire 10/1/2023. Mr. Novak seconded the motion, all in favor.

The Fields at Sherborn: Ben Stevens, Trask Development, minor modifications to his Comprehensive Permit Plan. He presented a new plan dated July 23, 2019 that showed the relocation of some affordable units, the mail center and bus stop and the plan for the irrigation well. He went over each modification with the Board. Mail kiosk had to be moved due to the turning radius of the fire trucks if needed. Several parking spaces also needed to be moved. The best location was at the front entrance of the development where the mail kiosk could also be used as a bus stop building for any children living in the development. Mr. Trask asked for clarification that the irrigation well was part of the Comprehensive Permit decision and that this is not a change. Ellen Hartnett, Admin for the Board of Health had also asked in an email to Mr. Novak for the
Zoning Board to confirm the well. If the Zoning Board approves these modifications to the Comprehensive Permit, then a public hearing is not required.

A motion by Mr. Novak was made to approve the modifications as not substantial and (1) that all changes set forth in a plan dated July 23, 2019 with includes the mail structure and parking spaces relocation and as included in the letter dated July 23, 2019 and (2) that the irrigation well shown on the plan dated November 19, 2016 is still included on the current plan and that Conditions 2 & 3 of the email dated September 5, 2019 sent by Ellen Hartnett of the Board of Health are implemented, and (3) that the set of condo documents provided comply with the changes made under the direction of Mr. Novak dated September 17, 2019. Seconded by Mr. Fitch, all in favor.

Discussion of bonding release provision. It was suggested that Mr. Stevens contact Sean Killeen, Director of DPW.

Mr. Novak made a motion to adjourn. Meeting adjourned at 9:00pm.

Respectfully submitted,

Jeanne Guthrie

Attachments: email from Ellen Hartnett 9/5/19
Plan dated 7/23/19
Letter dated 7/23/19 from Trask Development

Approved November 6, 2019
July 23, 2019

Mr. Richard S. Novak
Chairman, Zoning Board of Appeals
Town of Sherborn
19 Washington Street
Sherborn, MA 01770

Dear Chairman Novak:

Attached please find the final documents and updates needed in order for the release of final occupancy for units within the Fields of Sherborn per the Modified Comprehensive Permit.

1. Final draft versions of Condominium Trust, Master Deed, proposed Condominium Budget;
2. Final Long Term Pollution Prevention, Operation and Maintenance Plan;
3. Sheet entitled “Minor plan and submittal adjustments”;
4. Site plan showing updates per above sheet;
5. Revised unit break down chart shown adjustments to affordable locations per MassHousing;
6. Draft version of proposed bus stop/mail center with email approval from Sherborn postmaster.

We anticipate that we will need to request final occupancies for at least 7 units in late September, at which time all systems including drainage, septic and Public Water will be complete and accepted by jurisdiction body.

Landscaping will be complete along entrance roadway and around buildings G, H and I including required buffer plantings and activity fence line as shown on plan.

Main site drainage along with unit drainage system behind buildings G, H, I will be complete.

All common roadways and driveways for approximately 20 units will be to binder.

We request that your board review the enclosed and comment as needed so that we are prepared for pending closings this September.

If you have any questions, feel free to contact me.

Sincerely,

Benjamin T. Stevens
Hi Rick,

Ben Stevens came to the Board of Health meeting last night regarding their proposed irrigation/fire suppression well. Mr. Stevens noted that #7 in his Comprehensive Permit (filed with the Town Clerk on 5/5/16) states:

7. The units will be serviced by one on-site septic system. Each of the nine buildings will have its own separate on-site well for potable water. There will also be one irrigation well. The applicant maintains that these will be nine separate private well systems, with the condominium owners of the units in each building being responsible for the well servicing that building.

Mr. Stevens informed the Board that in a modification to the Comprehensive Permit, he dropped the private wells and went to a Public Water Supply, but that he kept the irrigation well.

The Board of Health approved the irrigation/fire suppression well, conditional to:

1. Confirmation from the ZBA that the irrigation well is still included in the Comprehensive Permit (modification) and is still valid, as indicated by Mr. Stevens,
2. Inclusion of a backflow preventer after the pump. The BOH Chair noted that pipes used for fire prevention have a lot of oil in them, and it was agreed that a backflow preventer should be required. Mr. Stevens stated that he had no problem with this condition, and
3. Water quality testing of the irrigation well per the local Board of Health regulations.

The applicant is looking to pick up the Board of Health permit for this well, but it cannot be issued until we receive confirmation from the ZBA of #1 above.

Can you provide this confirmation, or does it need to be reviewed by the full ZBA (perhaps at the 9/17/19 meeting)?

Thank you
Ellen

Ellen Hartnett, BOH Administrator
Sherborn Board of Health
508-651-7852
Ellen.hartnett@sherbornma.org

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Hi Ellen:

Thanks for passing this along. Off the top of my head (and I am not Town Counsel) here is how I think the legal rules parse here:
1. If TFAS were a new non-40B project starting in May 2019, they would be fully subject to your April regs and BOH could enforce the regs vs Trask, the same as against anyone else.

2. IF TFAS were a new 40B project starting in May 2019, they would be subject to your regs, and Trask could apply to the ZBA for an override under 40B’s overall presumption against local regs in the “local regs vs Affordable housing” balancing scales.

3. Trask has an existing 40B permit for the project, modified for 2 PWS wells per the settlement. The new well isn’t in the existing permit.

4. The 40B process allows a 40B developer with a permit to come back to the ZBA with proposed “minor modifications” and there is a slimmed down 40B process for that. (Whitney Farms is still coming back, and their permit will be old enough to drive, soon!)

5. Trask is coming before the ZBA in September with a proposed TFAS Minor Modification for moving the mail kiosk. (Jeanne, see if this well is in that notice – I did not see it there – Trask probably wants to add the well as a site change and get that noticed for the the ZBA hearing.)

6. So, my guess is Task is trying to do what I would do if I were his lawyer: try to get the new well blessed by the applicable local board (BOH) and, failing that come to ZBA, but then at least Trask can tell ZBA “we went to BOH and here’s what they said”

Thanks to all, Rick

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**This message originated outside your organization**

Hello Mr. Novak and Jeanne –

The Board of Health, at their meeting held on August 21, 2019, reviewed a request by the Fields at Sherborn for Board of Health approval of a Fire Protection/Irrigation Well on the property. This well is in addition to the public water supply wells already onsite.

While the Board noted that the proposed location of this additional well does meet the required setback requirements, they would like a clear rationale from the developer for this irrigation well. The Board feels that irrigation could be done using the existing PWS wells onsite.

Noting that this project is a 40B and under the ZBA, the Board has requested guidance from the ZBA on how this new request should be handled, and/or any recommendation(s) from the ZBA. The Board notes their recently adopted regulation II, Section 7.0 regarding the number of wells (see attached.)

Thank you,

Ellen Hartnett, BOH Administrator
Sherborn Board of Health
508-651-7852