

Brem-319-10.05.2016

Date: Wed, 5 Oct 2016 16:00:24 +0000 [10/05/2016 12:00:24 PM EDT]**From:** Colin Higgins <colin@peincentives.com>**To:** "zba@carlisle.mec.edu" <zba@carlisle.mec.edu>,
"boardofhealth@carlisle.mec.edu" <boardofhealth@carlisle.mec.edu>**Cc:** "shinton@mindspring.com" <shinton@mindspring.com>**Subject:** Lifetime Green Homes' application to add 19 housing units at 100 Long Ridge Road

Dear Zoning Board of Appeals Members:

After attending Tuesday night's meeting, we have several comments that we urge the Board to consider concerning Lifetime Green Homes' (LGH) application for a permit to build 19 additional units on the 9.84 acres he owns at 100 Long Ridge Road. Since there is virtually no difference between LGH's and Jeffrey Brem's interests in this application we have used their names interchangeably.

1) **Connectivity.**

a. We all assume connectivity between the overburden and the bedrock or there would be no point in considering the nitrate level in the overburden. That is the reason for a 50 foot radius (a Zone 1) protected area around a public well. A similar restriction applies to private wells. Wells are assumed to be recharged from the overburden in the well's immediate area. If the overburden has a high nitrate content, it is reasonable to assume that wells with connectivity to that site, will have high nitrate levels also. Assumed connectivity is the reason the town initiated a water ban due to the drought. A local water shortage wouldn't affect a well if there was little connectivity. A statement made by a resident of Prospect Street provided data that supports the obvious assumption that lack of water in the overburden will affect the well level. It is also assumed that pumping from one well will affect other wells since there is connectivity in the bedrock. If there was little or no connectivity, there would be no reason for a Zone 1 or a water ban and we wouldn't be affected by a local drought.

b. Jim Vernon's main conclusions were that if there is connectivity between the overburden and the bedrock that it is likely that nitrates could flow to neighboring wells since the cracks in the bedrock act as highways for high nitrate carrying water to travel since the rock is impermeable in directions perpendicular to the cracks. "If a low permeability layer is present (which is assumed, since we are assuming connectivity) impacted overburden groundwater is more likely to reach a well drilled in the bedrock" per his Figure 4b. Additionally, "Present information suggests that wells located to the northeast (Higgins and Gryniewicz), northwest (#132 Long Ridge), southeast (public wells and #90 Long Ridge), or southwest (#132, Hanauer and Ringheiser) of one of the SDAs are more likely to be impacted than wells located in other directions".

c. LGH (Brem) has repeatedly refused to provide data to support the idea that the overburden is not well connected to the bedrock and that there is no connectivity in the bedrock.

d. Without evidence to the contrary, we respectively urge the board to assume connectivity and the fact that nitrates will flow to neighboring wells, even those located more than 100's of feet away along demonstrated cracks in the bedrock, warranting at least a substantial reduction in the massive amount of nitrates to be dumped.

2) **Nitrate level at the property line.** Joel of NGI has very cavalierly dismissed the regulation of a limit of 5 mg/l at a property line. Of course, that's what he's being paid to say. Without this limitation, anyone is in a position to pollute his neighbor's property. In a previous meeting, he maintained that this was acceptable because many other properties PROBABLY did it, without providing any proof of his claim. Even implying that this was good reason to waive the safety standard impunes his credibility. In Brem's case he wants to use the Gryniewicz, Chick, Hanauer and Ringheiser properties to dispose of the huge volume of nitrates he is proposing to dump into the overburden. We maintain this is grossly unfair and we urge the Board to reject this very biased position. Consider that if any of the owners had to relocate a well then a substantial part or possibly all of their respective properties would be off limits due to a high nitrate level caused by the huge volume of nitrates Brem wants to dump and disperse **on their properties.**

3) **Moral equivalency of Jim Vernon of Nobis and Joel Frisch of NGI.** While we wish to provide common courtesy to Joel and his firm, we cannot equate his moral position with Jim's. Jim is a neutral observer with "no dog in the fight". This is not true of Joel, he is being paid handsomely to provide an opinion favorable to Brem, while maintaining some appearance of objectivity. We believe that is why Brem hired him as opposed to his previous hydrogeologist who reported results somewhat unfavorable to LGH. To some extent he is not much better than a shill for Brem. We respectively suggest that his statements on the law should not be taken for granted as true and especially any opinions he might voice should be viewed very skeptically. He most definitely has "a dog in the fight" and is not an objective observer.

4) **Brem's position that he won't pay for additional tests or proper reviews.**

a. Brem's attorney was arguing against LGH paying \$6,500 to pay for a peer review as too expensive. This is insulting. Brem stands to make over a million dollars on the project as proposed but he has the nerve to refuse to provide the board

with data that would prove or disprove his position that the project will have no significant effect on neighboring wells or even provide information on the soils at the new location of SDA #2.

b. As pointed out by David Freedman during the meeting, the main reason for the high expense were Brem's previous position on private versus public wells and many other issues that violated local safety regulations, requiring extensive review. This is on him, not on the Board.

c. All of this in light of the fact that each and every neighbor has hundreds of thousands of dollar at stake and in many cases their entire financial future if their well becomes poisoned. We urge the board to weigh that against Brem's desire for profit, regardless of the effect it might have on his neighbors. His plan lacks any real remedy for any neighbors who would be financially ruined and family members sickened if Brem is wrong. We realize that you must follow the law but we ask the Board, when considering elements of doubt, to err on the side of safety and security.

d. Since Brem is unwilling to provide any data to the contrary, I respectfully ask the Board to come to the same conclusion as it previously did, the nitrate level must be reduced to the 5 mg/l level at the property line and any receptors.

e. 5 mg/l guideline. I believe it is helpful to remember why I believe this regulation was established:

i. local soil conditions are less favorable than state-wide conditions, as confirmed by Jim Vernon during the discussion;

ii. local rainfall and subsequent dilution, are less favorable, as confirmed by Jim during the discussion;

iii. to take into account the local conditions above and the inexact science of hydrogeology, 5 mg/l was assumed to provide a safe margin of error as compared to the state's and the medical profession's 10 mg/l guideline. It has proven to be so.

iv. We respectfully urge the Board to maintain this safe level and argue that local conditions and a margin for error warrant a tighter standard than might apply state-wide since there is no remedy if wells are poisoned. The ramifications of getting this wrong are severe. I

v. We don't believe any of the Board Members would like to see their own or anyone else's children or family poisoned. There is no provision for post-project monitoring of the surrounding wells so we wouldn't know there was something wrong until someone becomes ill or dies. One or more neighbors might be financially ruined. It doesn't appear that Brem shares our concern over poisoned children or the ruin of a neighbor.

5) **Failure to provide all the data.** LGH's new plan has virtually changed everything about the project except the number of bedrooms. Therefore, virtually everything is subject to review including his elimination of the fire cistern while substituting a 12,000+ gallon tank and moving houses closer together, increasing the fire risk. Where is the hydrogeological data on SDA #2? Where is the proposal for landscaping? We remain unpersuaded that Brem has provided all the information that the Board would need to make an informed decision and we ask the Board to review the information submitted to confirm it is adequate.

6) **Conclusion.** In the absence of data to the contrary, we urge the board to stipulate that the 5 mg/l be maintained and that all the previous conditions be imposed on this project which exhibits almost a total disregard for the neighbors, future residents and community of Carlisle. We believe Brem is trying to coerce the Board into granting waivers of regulations without providing the data to support his position that they should be waived. He is trying to do this project "on the cheap" (not wanting to spend \$6,500 for a peer review while potential profits exceed \$1,000,000) which is indicative of how we believe he will proceed with the project if waivers of key regulations are granted. We urge the Board to seek a full peer review of this almost completely new project, without which we are making too many assumptions. We believe that Brem should pay for this since HE has revised his plan significantly. If Brem refuses an extension to permit such a review then we urge the Board to come to the same conclusions it did before and require a good margin of error.

With best regards and our thanks for the time you have devoted to this project,

Carolyn and Colin Higgins

55 Suffolk Lane
