



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

**Town Planner's Project Review**  
**Wednesday, November 9, 2016**

XII. **Edgewood Road and Emerson Road Subdivision.** Request for extension to meet conditions for 4-lot subdivision. Jack Farrell, County Line Holdings, LLC, applicant. Map 1, Lot 15-0. Residence A District.

➤ I recommend approval of a one-year extension as shown at the bottom

Please note the following:

- 1) **Approval.** This 4 lot subdivision was approved November 18, 2015. See the enclosed approved subdivision plan (4 pages).
- 2) **Infrastructure.** The applicant has significant road infrastructure to build – widening the existing Edgewood Road and then building a shared driveway to access the 3 lots (The 4<sup>th</sup> lot fronts Emerson Road).
- 3) **Process.** For subdivisions like this where there is a new road to build, applicants generally pay a surety to cover cost of construction for the road and infrastructure. Then the plat is recorded and lots can be sold. Lots can be sold even though the infrastructure is not actually built. In the rare event that the developer fails to build the infrastructure, the Town can call the surety and build the infrastructure itself. Thus, lot buyers are never stuck with lots that cannot be accessed or serviced.

Alternatively, a developer may actually physically construct the infrastructure and thus not pay a surety. In that case, the plat is generally not recorded until the infrastructure is completed and deemed acceptable by the Town Engineer. Since the plat is not recorded yet there is no risk of people buying lots without infrastructure nor with a surety.

In this situation, Mr. Farrell wanted to convey one of the lots up front. This was the parent lot that already had access to Emerson Road and was not dependent on construction of any road or infrastructure. In order to accommodate this plan, we included special language in the subdivision approval. See **Note** below.

We included several conditions as part of that Note to ensure that the lot was not sold and then the developer failed to move on the rest of the subdivision. Mr. Farrell has been actively working on the site for many months now. The area for the road is cleared as is the site. He will continue working on building the road and preparing the site and the lots to be sold. Thus, he is meeting the intent of the Note.

Completion of the infrastructure will take a while so I recommend extending the timeframe one year. Alternatively, at any time, Mr. Farrell could post a surety for the value of the outstanding work and then record the release (see below) and sell lots. In cases where the developer actually builds the infrastructure himself it is not uncommon for the process to take several years from the time of the original Planning Board approval.

- 4) Photographs of site. These photographs show the site under construction. Note that the Public Works Department conducts periodic inspections of the site work.



View down Edgewood from Emerson



View down Edgewood Road, including Class 5 and Class 6 portions



View into site

- 5) Precedent conditions. All of the precedent conditions are met (or to be addressed as subsequent conditions) except for Surety, below.
- 6) Pertinent terms of approval. Here are pertinent terms from the November 18, 2015 subdivision approval:
- Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval - by November 18, 2016 - the board's approval will be considered to have lapsed and resubmission of the application will be required (unless an after-the-fact extension is granted by the Planning Board). ***It is the sole responsibility of the applicant (or his/her agent) to ensure that these conditions are met by this deadline.*** We urge the applicant to carefully track his/her progress in meeting the individual conditions. See RSA 674:39 on vesting.
  - **Note**. At the applicant's option, a plat may be recorded prior to meeting all precedent conditions in order to allow for the conveyance only of Lot 15-0. The applicant may pursue this option provided: a) all plan modifications and plan notes, above, are completed; b) items a, b, and c, under Recording, below, are recorded; c) a very prominent note on the plat is added and a separate instrument is recorded stating that the three new lots may not be conveyed until a release signed by the Town is recorded; d) The Town Attorney approves of this procedure; and e) in the event that the other conditions are not met by November 18, 2016 or by whatever date the Planning Board may grant an extension to meet precedent conditions, then the Planning Board shall review the status of the subdivision and take any appropriate action, including potentially combining the 3 remaining lots. Once the remaining precedent conditions are completed the applicant can record a release for the three new lots.
  - Surety. The applicant shall post a surety acceptable to the Public Works, Planning, and Business Departments to cover the cost of the improvements to Edgewood Road and the shared driveway and the installation of utilities and other infrastructure. Alternatively, the applicant may actually construct these improvements and infrastructure. The surety or related documentation should make clear that if the City needs to call the surety, the City may use the funds to install infrastructure and/or reclaim the site, as appropriate.

**NOTICE OF EXTENSION**

**Project Name:** Edgewood Road – Emerson Road Subdivision  
**Project Description:** 4-lot subdivision, boundary line adjustment, and conditional use  
**Applicant:** John H. Farrell, County Line Holdings LLC  
**Surveyor:** David Vincent  
**Engineer:** Neil Raposa, Civil Consultants  
**Property Owner:** County Line Holdings, LLC and Mark Morong 1991 Trust  
**Map and Lot:** Map 1, Lot 15-0  
**Zoning:** Residence A  
**Date of approval:** November 9, 2016

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The timeframe for meeting all precedent conditions, including completing the infrastructure in a satisfactory manner or alternatively posting an acceptable surety, is hereby extended to November 18, 2017.