



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
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NOTICE OF DECISION

Project Name: Former Mill Pond Center Subdivision
Project Description: 2-lot subdivision
Address: 50 Newmarket Road
Applicant: Seacoast Repertory Theatre
Surveyor: Matt Faginger-Auer for Doucet Survey
Engineer: MJS Engineering (for shared driveway)
Map and Lot: Map 6, Lot 9-8
Zoning: Residence B
Date of approval: April 8, 2015

This project has been approved as stated herein. "Applicant", herein, refers to the property owner, business owner, individual(s), or organization submitting this application and to his/her/its agents, successors, and assigns.

PRECEDENT CONDITIONS

[Office use only. Date certified: _____ ; As-built's received? _____ ; All surety returned: _____]

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Planning Department. Certification of the plans is required prior to issuance of a building permit or recording of any plans. Once these precedent conditions are met and the plans are certified the approval is considered final.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval - by September 25, 2015 - 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.

Plan Modifications

Plan modifications. The plan drawings are to be modified as follows:

- 1) Road profile. Obtain approval for the slope of the new pavement at the mouth of the shared driveway from the Department of Public Works and NHDOT, if approval from the latter is required.

- 2) Street name and addresses. Determine a street name for the shared driveway and addresses for the 2 lots to be approved by the Fire Department. Show the name and street addresses on the plans. (Use of a historical name is encouraged, though not required. The applicant is encouraged to check with a representative of the Historic District Commission for suggestions.)
- 3) Utilities. Show new location of above ground electrical utilities along the shared driveway/driveway to the rear lot or clarify that the existing utilities are to remain and add an appropriate note to the plan. If the latter, provide an acceptable easement for the rear lot to use the utilities.

Plan Notes

- 4) Plan notes. Add the following notes (or equivalent) to the plan drawings:
- 5) Access easement. Add additional sentences to Note 13: “The access easement allows for a potential broad range of commercial and residential uses on the rear lot, including but not limited to single family residence, elderly single family, duplex and multi-unit housing, eldercare facility, adult daycare center, childcare center, nursery school or preschool, bed and breakfast, recreational playing fields, forestry and temporary sawmill, religious facility, governmental facility and governmental uses. The terms of the easement, as approved and as recorded herein may not be changed without the express approval of the Durham Planning Board.”

Other Precedent Conditions

- 6) Addressing. Develop a numbering system for the two lots to be approved by the Fire Department.
- 7) Easement. The Planning Department shall approve the final maintenance and access easement. The access easement shall allow for access to the rear lot for a potential wide range of uses. Add language that the owner of the rear lot may make any improvements to the shared driveway that are approved by the Town as part of any approved use/development of the rear lot.
- 8) NHDOT permit. Obtain driveway access permit from NHDOT for the increased use and changes to the shared driveway.
- 9) Signature. Sign this notice at the bottom.
- 10) NHDES approval. Obtain NHDES approval for the subdivision.
- 11) Boundary markers. Set boundary markers for the new lot (actually physically set in place in the field) and note on plans (“marker set” or equivalent) or place an acceptable surety with the Planning Department to place them at a later time.
- 12) Indemnification form. Submit draft indemnification form per RSA 674:41 for approval to the Planning Department (to be recorded below) for the rear/residual lot (It is not needed for the new front lot). This form is required under state law for lots that do not take direct access from a public or comparable street. The purpose is to clarify that the Town does not maintain the shared driveway and to indemnify the Town of Durham in the event that the

property owner fails to properly maintain the shared driveway, thereby impacting access for emergency vehicles.

- 13) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town, including all 5 sheets: (a) one large set of mylars; (b) one large set of black line drawings; (c) one set of 11"x17" drawings; and (d) one electronic version by pdf or CD. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the plans.

GENERAL AND SUBSEQUENT TERMS AND CONDITIONS

All of the conditions below are attached to this approval.

- 1) Erosion and sedimentation. All erosion and sedimentation control structures alongside the road improvements shall remain in place and be maintained until vegetation is established and the ground surface is stabilized.
- 2) House location. The location of the house shown on the topographic plan is for illustrative purposes only. The house may be located anywhere within the setback lines subject to other applicable requirements, including HDC approval. However, the house may not be located in the steep part of the lot, anywhere within the 224DH, 224EH, nor 343DH soil areas.
- 3) Shared driveway improvements. The buyer of the new front lot is responsible for construction of improvements to the shared driveway. The shared driveway shall be satisfactorily completed prior to issuance of a certificate of occupancy for any building on the front lot. An appropriate surety, to ensure either completion of the improvements or reclamation of the driveway should the improvements not be completed, shall be placed with the Planning Department prior to issuance of a building permit. The amount shall be approved by the Department of Public Works and the Town Business Manager shall approve the form of surety.
- 4) Building permit and recording. No building permits on the new lot shall be approved until there is proof of the items below having been recorded at the Registry of Deeds.
- 5) Street sign. A street sign, if required and as approved by the Department of Public Works, bearing the name of the approved street name, above, shall be installed prior to issuance of a certificate of occupancy for the front lot.
- 6) Recording. The plat (2 pages labeled "Subdivision Plan"), this notice of decision (per RSA 676:3 III), all easements/deeds, and the indemnification form (above) must be recorded at the Strafford County Registry of Deeds within two (2) calendar months to the date the plat is certified (e.g. if certified September 9th it must be recorded by November 9th). See RSA 478:1-a regarding plat requirements. Failure to comply with this requirement herein shall render the subdivision null and void.
- 7) Waivers. The Planning Board granted a waiver to allow for above ground utilities.
- 8) Execution. The project must be executed exactly as specified in the approved application package unless modifications are approved by the Town.

- 9) Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
- 10) Shared driveway and HDC. The Durham Historic District Commission approved the improvements to the shared driveway as presented to the HDC, including the gravel shoulders, grading, removal of five trees as shown, and the pavement changes at the mouth. The applicant shall coordinate with DPW and NHDOT on plans to relocate the stone walls along Route 108 and inform the HDC of those plans once they are in place.
- 11) Other permits. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project.

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting documents, and plans for the project; **B)** The Planning Board accepted the application as complete; **C)** The Planning Board held one or more public hearing(s) on the application; **D)** The applicant revised and updated the plans and other documentation numerous times pursuant to comments from the Planning Board, public, and Technical Review Group, and other Town boards and committees; **E)** The application was first reviewed under the Design Review process; **F)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Subdivision Regulations, and other applicable law and found that the application meets all requirements (except where waivers or variances may have been granted); **G)** This project is considered to not be a Development of Regional Impact; **H)** The Planning Board duly approved the application as stated herein; **I)** Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed; **J)** Zoning Compliance. This application complies with zoning requirements in terms of lot area, frontage, and other requirements. The frontage in the RB zone is 150 feet. Both lots meet this along Newmarket Road; **K)** As a 2-lot subdivision this is exempt from the Conservation Subdivision requirements.

Signature of applicant

date

Printed name of applicant

Signature of Planning Board Chair

date

Printed name of Planning Board Chair