



TOWN OF DURHAM
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Town Planner's Recommendation
Wednesday, June 27, 2018

- XI. **27 Durham Point Road – Driveway and Conditional Use.** 1) Amendment to condition of approved subdivision to allow a new access and driveway and 2) Conditional Use for driveway, utilities, and accessory structures to be situated within 100 foot wetland and 125 foot shoreland buffer. Gregory Sancoff, property owner. Mike Sievert, MJS Engineering, Engineer. Map 11, Lot 34-1. RC District.

- Based on the information presented and the comments that have been made, I recommend approval as stated below.

Please note the following:

Underground electric. The electric utilities installed are above ground. I checked the record and the Durham Subdivision Regulations from 1991 required underground utilities (Section 127-15 (19)). The subject lot was created after that in 2002. Therefore, the requirement for underground utilities applies to the lot. A waiver would be needed to retain the above ground utilities. A reasonable compromise might be to require the front portion of the lot, nearest Durham Point Road to be buried but to allow the remainder to stay above ground.

Waiver. Per RSA 674:36 II. (n), The basis for any waiver granted by the planning board shall be recorded in the minutes of the board. The planning board may only grant a waiver if the board finds, by majority vote, that:

- (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or
- (2) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Conservation Commission. The Conservation Commission reviewed the conditional uses for 27 Durham Point Road and voted to convey to the Planning Board that the commission believes the 4 specific conditional use criteria are met (for both the wetland and shoreland overlay districts).

Conditional use. A conditional use is needed for the driveway, utilities, and structures to be located within the Wetland and Shoreland overlay districts. The applicant has addressed the 8 general criteria and 4 specific criteria in the application. Approval requires a vote of 5 Planning Board members. I believe that the applicant has adequately addressed the criteria.

Staff reviews. Staff has seen the plans several times and reviewed the project at one TRG meeting. Any concerns have been addressed in the plans/revised plans. A memo was submitted by the Police Chief.

Recommendation. I recommend approval because: a) the proposed driveway location is superior to the shared driveway in terms of access and sight distance; b) the proposed driveway is superior in terms of condition and geometry (wider and flatter); c) the shared driveway would impact several existing homeowners whereas the proposed driveway will impact only one abutter; and d) the proposed driveway is carefully engineered for access, use, drainage, and erosion control.

Draft
NOTICE OF DECISION

Project Name: 27 Durham Point Road Amendment and Conditional Use
Action Taken: APPROVAL
Project Description: Amendment to allow for a new, separate driveway to serve the lot and a conditional use for activity within the wetland and shoreland overlay districts
Applicant: Greg Sancoff
Engineer: Mike Sievert, MJS Engineering
Map and Lot: Map 11, Lot 34-1
Zoning: Residence C District
Date of approval: June 27, 2018

The application is approved as submitted with the following terms and conditions:

- 1) Application. This approval includes an amendment from the original subdivision approval to allow for a separate driveway to serve the subject lot rather than a shared driveway and a conditional use for the driveway, utilities, drainage, and other accessory structures to be located within the wetland and shoreland overlay districts.
- 2) Improvements. All of the improvements shown on the revised plans dated May 29, 2018 (received May 30) must be adequately completed prior to issuance of any additional certificates of occupancy for the lot.
- 3) Underground utilities: [to be determined]
- 4) State permits. The Alteration of Terrain, the NH Shoreland Impact Permit, and the state septic system permit have all been issued. No additional certificate of occupancy will be issued until/unless approval for filling the two wetlands is granted by NHDES.

- 5) Paved apron. The apron adjacent to Durham Point Road must be paved as specified by the Department of Public Works (The HDC approved the front portion of the driveway provided the apron is paved with asphalt or Belgian block).
- 6) Modifications. The applicant may apply for changes to the approved plans in accordance with Planning Board policy. It is not the intent of this approval to bind the applicant to the specific layout of the house and structures near the house unless any aspect of those structures is deemed to be related to the driveway amendment and conditional use.
- 7) Gate. The gate at the entrance must be removed unless the applicant coordinates retaining the gate with requirements of the Fire and Police departments.
- 8) Addressing. The address of the subject lot must be changed. It appears that 15 Durham Point Road is the appropriate address (adjacent lots on each side are 11-13 and 17 Durham Point Road, respectively).
- 9) Other requirements. The applicant should coordinate with the Building Official if he plans to keep horse on site and regarding other potential uses and structures on the lot for compliance with the zoning ordinance and building code and other Town regulations.
- 10) Execution. The project must be built and executed exactly as specified in the approved plans.

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 held a site walk and one public hearing on the application; **C)** The applicant revised and updated the plans pursuant to comments from the Planning Board; **D)** The Planning Board reviewed the application in accordance with all applicable law and found that the application meets all requirements (except where a waiver may have been granted); **E)** The Conservation Commission reviewed the application and recommended approval of the conditional uses; **F)** the Planning Board found that the eight criteria for conditional uses outlined in the Zoning Ordinance section 175-23 C. and the four specific criteria in the wetland and shoreland overlay districts are adequately addressed in the applicant's application for a conditional use; **G)** The Historic District Commission approved the application; and **H)** The Planning Board duly approved the application as stated herein, including the conditional uses. 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.