

**Application for a lot-line adjustment involving lots 17-53-3, 17-53-10 & 17-53-11**

**Richard H. Lord, 85 Bennett Rd., Durham, NH (603) 659-2721**

The applicant, Richard H. Lord, has had a lifetime commitment to conservation, and has served over 30 years as Durham's representative to the Lamprey River Advisory Committee. He lives adjacent to the Lamprey River on Bennett Rd and has owned land on both sides of the river for many years. The Durham town land at Packers Falls was once part of the property that he inherited from his parents. In 1988 he entered into an agreement with Lawrence and Jane O'Connell in a land swap that created the Sullivan Falls Rd. subdivision and made it possible to access his property on the south side of the Lamprey from Sullivan Falls Rd. The subdivision divided the applicant's Sullivan Falls property into two fully conforming house lots, lots 17-53-10 and 17-53-11, each of approximately 5 acres (the "Property"). For the last 31 years the Property has been enrolled in the state's Current Use program as wild undeveloped land and has been preserved in its natural state.

In the interests of protecting this natural habitat in perpetuity, last year the applicant (henceforth referred to as "I" and "me") contacted The Nature Conservancy, owners of the abutting riverfront land to see if they would be interested in acquiring the Property. The Nature Conservancy subsequently agreed to purchase the Property for its appraised value of \$280,000, and has obtained commitments for funding the acquisition from the Durham Conservation Commission and several other sources.

The survey of the Property prepared for the Conservancy revealed an issue that needed to be addressed in order for the Conservancy to acquire the Property. Lots 17-53-10 and 17-53-11 were created as porkchop lots along with lot 17-53-3, and the frontage for lots 10 and 11 was created by having these lots cross at an oblique angle in front of part of lot 17-53-3. In accordance with the covenants attached to the subdivision, a right-of-way for a shared driveway was granted across these narrow portions of lots 10 & 11, and the then owner of lot 3 built his home with a driveway crossing lots 10 & 11 in accordance with the requirements, that would be shared if lots 10 and 11 were developed.

The problem comes from the fact that in addition to the driveway that crossed these narrow strips of lots 10 and 11, the owner of lot 3 over the years also extended his lawn and landscaping onto this portion of lots 10 & 11. The home on lot 3 was sold last year, and the new owners, Jessica and Sandeep Sobti, were unaware of the issue until the surveyor for The Nature Conservancy ran lot lines across their lawn. The Nature Conservancy is unwilling to acquire land that is being encroached upon, and Mr. & Mrs. Sobti don't wish to abandon half their lawn.

After several meetings between me, the Sobtis, and The Nature Conservancy, the three parties arrived at a solution that would allow TNC to acquire the Property without the encroachment. The portion of the Property encroached upon by the previous owners of lot 3 (approximately 0.40 A) is of no particular conservation value to The Nature Conservancy, but was required to be part of lots 10 & 11 in order to satisfy the zoning requirement for frontage on a town road in the Rural district in accordance with the provisions for a porkchop subdivision in section XX – O of the ordinance. The solution that was

acceptable to all three parties was for the encroached upon portion of lots 10 and 11 to be conveyed to the Sobtis and the remainder of lots 10 and 11 to be conveyed to The Nature Conservancy, to be added to their abutting property. Once this proposed solution was established, I then applied to the ZBA for a variance seeking to extinguish the requirement for frontage on Sullivan Falls Rd. for lots 10 and 11, conditional on the acquisition of the resulting parcels by The Nature Conservancy and the encroached upon portion to the owners of lot 3. Conjoining with abutting properties would satisfy frontage requirements.


The variance was granted at the September 10, 2019 meeting of the Durham ZBA. I have since had the property re-surveyed to delineate the proposed lot-line adjustment that would divide off the encroached-upon property from the remainder of lots 10 and 11 with the intent of conveying the encroached-upon property to the owners of lot 3 and the remainder of lots 10 and 11 to The Nature Conservancy.

I now come before the Planning Board to seek authorization for this proposed lot line adjustment that would protect an important part of the Lamprey River shore land (approximately 1500 ft.) in perpetuity through ownership by The Nature Conservancy, and would preserve the scenic view of the Lamprey River from Bennett Rd., while also providing the owners of lot 3 with clear title to the front part of their property.

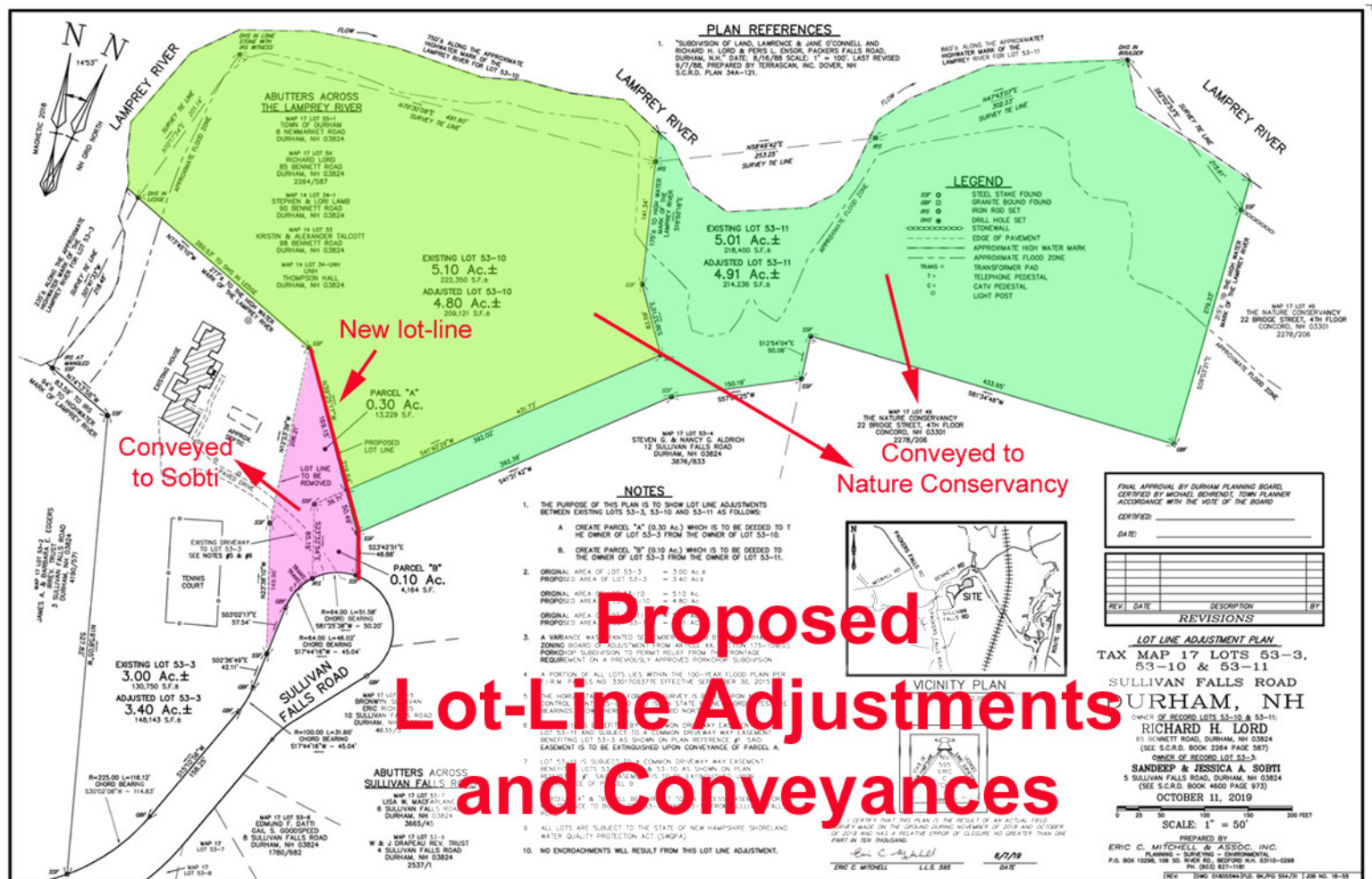
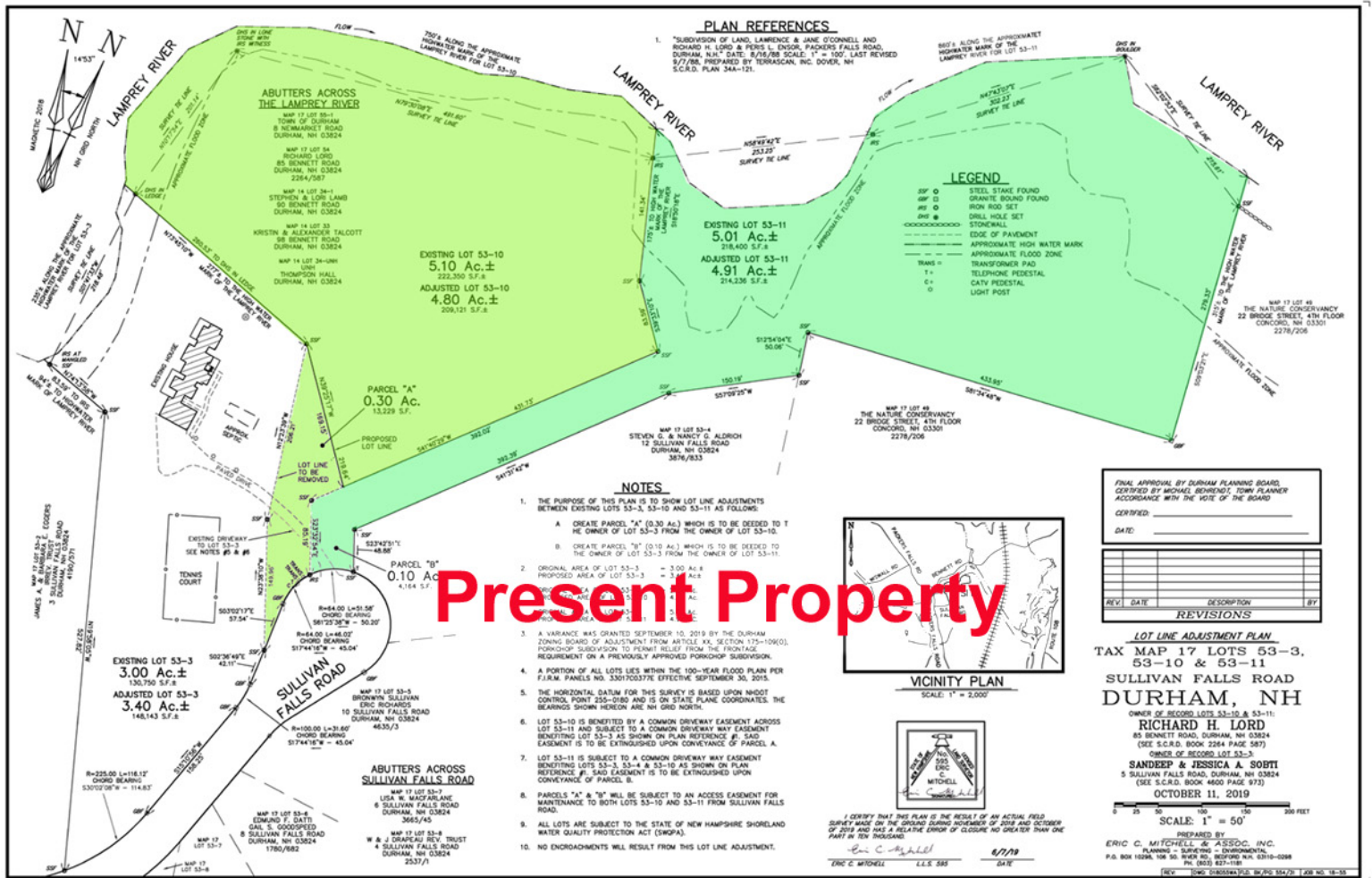
The portion to be acquired by The Nature Conservancy will be conjoined with their existing abutting property with frontage on Packers Falls Rd, so the granting of this lot-line adjustment will result in all properties remaining in full compliance with the zoning requirements for the Rural district. The portion of lots 10 and 11 to be conveyed to the owners of lot 3 will include an access easement to the remainder of lots 10 and 11 for the purpose of stewardship and maintenance of the properties by The Nature Conservancy, but not for use by the general public, who can access the property through the trailhead on Packers Falls Rd.

Granting of this lot-line adjustment will provide significant benefit to the Town and its citizens through permanent conservation of an important and highly visible portion of the Lamprey River shore line.

Respectfully submitted,

 10/21/2019  
Richard H. Lord

85 Bennett Rd., Durham, NH







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*Property Referenced:*  
**Tax Map 17, Lots 53-10 & 53-11**

## ZONING BOARD OF ADJUSTMENT

RE: PUBLIC HEARING on a petition submitted by Richard H. Lord, Durham, New Hampshire for an APPLICATION FOR VARIANCE from Article XX, Section 175-109(O), Porkchop Subdivision, of the Durham Zoning Ordinance to permit relief from the frontage requirement on a previously approved porkchop subdivision. The properties involved are shown on Tax Map 17, Lots 53-10 & 53-11, are located at 9 Sullivan Falls Road and 11 Sullivan Falls Road respectively, and are in the Rural Zoning District.

### DECISION OF THE BOARD

After review of the pertinent sections of the Zoning Ordinance of the Town of Durham, and after full consideration of the evidence submitted by Richard H. Lord and testimony given at a Public Hearing on September 10, 2019, a motion was made and seconded:

*that the Zoning Board of Adjustment approve a petition submitted by Richard H. Lord, Durham, New Hampshire for an APPLICATION FOR VARIANCE from Article XX, Section 175-109(O), Porkchop Subdivision, of the Durham Zoning Ordinance to permit relief from the frontage requirement on a previously approved porkchop subdivision contingent upon the fee simple transfer to the Nature Conservancy.*

The motion PASSED on a vote of 5-0-0 and the application for variance was granted.

12 SEP 19  
Date

Chris Sterndale  
Chris Sterndale, Chair  
Durham Zoning Board of Adjustment

NOTE: Any person affected by this decision has the right to appeal this decision. If you wish to appeal, you must act within thirty (30) calendar days from the date of the hearing. The necessary first step before any appeal may be taken to the courts is to apply to the Zoning Board of Adjustment for a rehearing. The motion for rehearing must set forth all the grounds upon which you will base your appeal. See New Hampshire Statutes, RSA Chapter 677, for details.

As per RSA 674:33 Variances and Special Exceptions shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

Any questions should be directed to Audrey Cline, Zoning Administrator/Code Enforcement Officer.

