



TOWN OF DURHAM
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Town Planner's Review
Wednesday, December 11, 2019

- XIII. **Public Hearing - Subdivision off Gerrish Drive**. Parcel at 91 Bagdad Road. Preliminary conceptual application for conservation subdivision on 16-acre parcel off Gerrish Drive. Marti and Michael Mulhern, property owners. Mike Sievert, engineer. Robbi Woodburn, Landscape Architect. Map 10, Lot 8-6. Residence B District.
- I recommend that the board hold the public hearing, board members offer any preliminary comments, and the board close the conceptual review (unless determined that a site walk or continuing the conceptual review would be helpful).

Please note the following:

You can see the documents related to the application here:

https://www.ci.durham.nh.us/boc_planning/conceptual-consultation-91-bagdad-road-subdivision

Roads

- 1) **Gerrish Drive Access**. A key issue will be consideration of the proposed access into the property from Gerrish Drive. There is a paper right of way owned by the Town connecting the Gerrish Drive subdivision with the subject property. The applicant proposes to build a road there to access the subdivision. Some residents of the Gerrish Drive subdivision have expressed concern about this proposal (in the course of a lot line adjustment for a portion of this property on Bagdad Road that the Mulherns completed last year). The decision whether to allow use of this right of way rests with the Town Council. The applicant's request will be presented to the Town Council on January 13. Concerned residents will also have a chance to comment at that time (under Public Comments or in writing in advance).
- 2) **Old subdivision**. The right of way was approved as part of the Gerrish Drive-Ambler Way subdivision. That subdivision, then called Pine Ridge, was approved by the Planning Board on January 5, 1972. The applicant was Walter Cheney. The approved plat identifies the right of way as "Future Street". Unfortunately, we do not have a copy of the approval notice for the project nor the Planning Board minutes (board minutes from 1971 and 1972 are missing). The Subdivision Regulations in effect at the time had various references to "reserve strips" which are paper right of ways like this

one. Inclusion of a reserve strip is common practice when a subdivision is approved to provide potential future access to an adjacent tract of land when the adjacent tract is landlocked or simply to provide for interconnectivity of subdivisions to improve traffic movement and enhance neighborhood character.

- 3) Gerrish Drive ROW wetlands. A drawing by Bob Stowell of Tritech that was prepared when the applicant did a lot line adjustment on this property (approved July 11, 2018) showed about 8,000 square feet or two thirds of the right of way being wetlands. The applicant will need to have the wetlands delineated precisely if that has not already been done. Neighbors have expressed concern about putting a road in this right of way. Mike Sievert has stated that a road can be engineered without an adverse impact upon neighbors. He has not yet designed a road but will have a preliminary design to show to the Town Council on January 13
- 4) Traffic study. A traffic study will be performed at the appropriate time, whether as part of the design review or formal application.
- 5) Private roads. The application proposes a private road on site which would include two cul de sacs. These would be maintained by the Homeowners Association.
- 6) Private road concern. Mike Lynch, Public Works Director, has expressed serious concerns about private roads because future homeowners almost invariably seek Town services. I believe that the Town required a note on the deeds for other subdivisions with private roads and according to Mike Lynch, future homeowners still demand services. The Town would likely not want to accept the proposed roads as a Town road unless they were looped. The topography might not allow for that. The other advantage of private roads is that they can be built to a more rustic standard.
- 7) Road design. Mike Sievert has suggested private roads with 12-14 feet of pavement with gravel shoulders to a total road width of 20 feet. The Fire Department is receptive to such a design.
- 8) Other Access Points. Some neighbors have suggested that one of two other easements be used for access to the subdivision rather than Gerrish Drive (See three hashed areas on Sheet C1.0. These other easements appear to be unworkable for such access. An easement to Route 108/Dover Road straddles an adjacent private lot and there are already driveways serving two lots. Another easement at Bagdad Road is situated on a different lot owned by a different party. That lot was conveyed to the third party after the Mulherns completed a lot line adjustment in 2018. That easement is located far from the buildable area on the tract and any road would be built in close proximity to the large wetland complex on the tract.

Process

- 9) Subdivision Regulations. The regulations provide for a three-part process for conservation subdivisions: a preliminary conceptual review, a design review, and a

formal review. Notices must be sent for each stage. The preliminary conceptual application is complete in accordance with Sections 5.02 A. and 7.01 of the Subdivision Regulations.

- 10) Next steps. The applicant has noted that they do not wish to invest significantly more in the project until they have an indication from the Town Council about the road access issue, being presented to the council on January 13. Therefore, it probably makes sense to close the conceptual application after the public hearing on December 11. When the applicant is ready they will submit the design review application.
- 11) Site walk. The board could schedule a site walk now or wait for the design review phase. It is possible that the Town Council would want to schedule a site walk.
- 12) Conditional use. A road through the Gerrish Drive right of way would cross a wetland. Mike Sievert is confident of obtaining NHDES approval for this crossing. A conditional use would also be needed to cross the wetland and the 75 foot wetland buffer. It is possible the design would include an interior road and even private driveways crossing the wetland buffer so a conditional use would be needed for that.
- 13) Conservation Commission. A conditional use application would be reviewed by the Conservation Commission. It is also recommended that conservation subdivisions be presented to the commission for its input.
- 14) Technical Review Group. The applicant met with Town staff on November 19 to provide some direction prior to submitting the application. Therefore, we did not present the application to the Technical Review Group (but the information was forwarded to all members). We will present the design review application to the TRG in the next phase.
- 15) Madbury. Two acres of the parcel is located in Madbury. Depending on what if anything is proposed for that land, an application may need to be presented to the Town of Madbury.
- 16) Lot line adjustment. The applicant completed a lot line adjustment for the portion of the parcel situated near Bagdad Road in 2018. Board members may recall that some neighbors expressed concern about a future subdivision at that time. You can see the documents related to the lot line adjustment here:
https://www.ci.durham.nh.us/boc_planning/93-bagdad-road-boundary-line-adjustment-application
- 17) Neighborhood meeting. The applicant invited neighbors to their house for a neighborhood meeting about the proposal on December 4.

Pocket Neighborhood

- 18) Pocket Neighborhood. The applicant proposes a pocket neighborhood design. This is an attractive layout for smaller developments oriented around a common green. Ross Chapin

has promoted the idea around the country effectively. The Planning Board has discussed several times the desirability of pocket neighborhoods and whether any zoning changes are needed to accommodate them. The conservation subdivision ordinance allows them since much flexibility is allowed in that ordinance. Note that individual lots are not proposed. This simplifies matters in not having to deal with lot sizes and setbacks. Rather the tract would remain largely or wholly unsubdivided. Land would be owned in common by the association though there may be limited areas controlled by each homeowner. This website provides more information: <http://pocket-neighborhoods.net/>

- 19) Housing types. The houses would be single family and maybe some attached units. Duplexes and multiunit dwelling units are allowed for senior housing. The applicant is considering restricting all or some of the site to senior houses (55+). There is a density bonus for senior housing.
- 20) Architecture. The applicant is receptive to including some architectural controls, such as specifying a range of harmonious styles (bungalows, small Victorians, etc.). This would greatly enhance the quality and value of the project and is strongly recommended as part of any pocket neighborhood.
- 21) Driveways. Driveways and garages need to be handled carefully so as not to undermine the character of the development. Garages should be set back and, where room allows, turned 90 degrees so they do not face the road. Single width driveways are better than double width. Special surface treatment such as with pavers could be included.
- 22) Central Green. It would be valuable to have as large and open a green as possible in the middle. Much of the green would be cleared to provide a pleasant open space. The applicant will coordinate with NHDES to try to fill the wetland finger in the middle. The quality of the project could be significantly enhanced if this wetland finger is filled as it would provide a much more coherent buildable area. Perhaps filling the finger could be mitigated in some manner.
- 23) Paths. An interior path could be included around and through the green linking the houses. Plus, there should be a pedestrian path, preferably of asphalt, linking the two cul de sacs.

Utilities and Services

- 24) Drainage. Stormwater flows north generally into Madbury, to an unnamed tributary to Gerrish Brook in Madbury which flows to Johnson Creek which flows to the Oyster River. Mike Sievert will need to ensure that filling any wetlands and the development itself does not aggravate any drainage concerns. It is often possible to mitigate existing drainage problems on neighboring properties. There is no flood zone on site.
- 25) Septic systems. There is no Town sewer near the site. Septic systems must be located at least 125 feet from wetlands. Mike Sievert says there will be multiple leach fields

serving the development. One leach field is not possible due to required setbacks for nitrates.

- 26) Water. Town water is available to the site, about 250 feet away. According to Mike Lynch the line in Gerrish Drive is big enough but there is a question about pressure.
- 27) Trash. If the road is private there will be no Town trash service. Homeowners will need to take their trash to the transfer station. The Homeowners may need to contract with a private hauler. It would not be appropriate to have a permanent dumpster on site.
- 28) Electric. All new electric would be underground. Granting a waiver to keep above ground utilities for existing house would probably be in order.
- 29) Police memo. The Police Chief submitted a memo about the conceptual application. He does not have any concerns at this point.

Miscellaneous

- 30) Existing house. It would make sense to place the existing house on the parcel on its own lot. A variance would probably be needed because of frontage requirements. That house would be considered in the density analysis if it remains part of the parcel.
- 31) Density. It appears under the zoning ordinance that the land in Madbury would count toward project density, even for units in Durham. I am confirming this interpretation with the Town Attorney.
- 32) Subdivision parameters. From my review of the application, the applicant's calculations for density, open space, usable area, etc. is correct.
- 33) Impact fees. School impact fees of \$3,699 per single family house would be due when a certificate of occupancy would be issued. However, a waiver could be requested for any senior units.

See the subject parcel on the map below – Lot 8-6

