

Dear Planning Board and Conservation Committee members,

Thank you for the extensive time and effort you have put into our proposed project. We recognize the complexities and controversies of this development and would like to take this opportunity to present our perspective, particularly as it pertains to access. Above all, we want you to hear our visions for the subdivision we are presenting to you.

We purchased the original 15+ acre parcel in 2005 and our deed description contained the "New Parcel" area of plan 49-99, which included the driveway. When we approached the Town about building on the undeveloped land, we were told that we could extend the existing gravel driveway, (which ended just past 91 Bagdad) to build a single house since there were 2 existing homes on the drive. We were granted a Driveway Modification Permit, which included the condition, "the width of this access drive will not exceed the width of 12'." We were never told the driveway could be a road. Having bought such a large parcel, we hoped to eventually build on the back portion of it. Our attorney and other experts gave us the opinion that our only access was through the Gerrish Extension. This road was specifically deeded by Walter Cheney to the Town of Durham to be used as a "future road" that leads to only our land.

In 2013 we bought the house with 2 acres at 91 Bagdad Road, which abutted our property at 93. It also shared the common driveway and we wanted to control who was renting the house (families instead of college students.) Shortly after our youngest son graduated from ORHS we started the subdivision process. It was taking longer than we expected and we were anxious to downsize, so our engineer at the time, Bob Stowell, suggested a lot line adjustment so we could sell 93 Bagdad and move into 91 while continuing with the subdivision process.

Rather than just the immediate abutters, the entire Ambler/Gerrish neighborhood was notified of our lot line adjustment meeting because of our plan to subdivide in the near future. We didn't know so many people were notified until we arrived at the meeting. We were caught off guard when a few people opposed our lot line adjustment and were unprepared to address their concerns. At some point, someone argued that by conveying the driveway with the parcel at 93 Bagdad, we were giving up an opportunity to build a road. Bob Stowell said little and we remained mute. In retrospect, we wish we had stood up and explained that what was authorized by the Town was a driveway of no more than 12' in width, which by its nature is not a road. After much debate, the lot line adjustment was approved.

Soon after the approval, we listed 93 Bagdad and it quickly went under contract. The title search unearthed the error with the driveway and our title insurance company stepped in. We were in the final days of packing up 93 Bagdad and the driveway ownership posed two legal issues. First, the driveway was part of the new, 93 Bagdad Road parcel approved by the Town. Second, the description in the P & S with Dr. Imbrie also included the driveway. The simplest resolution was to ask our neighbors, Amanda and Juan Nieves at 95 Bagdad, to convey their driveway ownership rights to us so we could immediately transfer them to Dr. Imbrie, along with the sale of the house. The Nieves agreed and we created a driveway maintenance agreement at the same time. We are so grateful to Amanda and Juan. However, signing over their rights changed nothing about how the 3 households use the driveway and the Nieves had no reason to own a driveway that extended hundreds of feet beyond their house.

We are now three years into the subdivision process. We have followed Town regulations, procedures and referenced the Town's Masterplan. We have hired professionals to do everything asked of us, which has cost us a considerable amount of time and money. We attend every meeting, and sit and listen to a handful of abutters who continually take facts and weave them into fiction. They refer to us as "developers" but we are merely long-time Durham residents who have raised a family in this community, on this land. We are hard-working, honest people. We want to build a new home in a 55+, pocket neighborhood. Our plan involves net zero houses that will provide clean energy for decades. Our conservation neighborhood will provide reasonably priced homes with back porches that lead to a community garden and spaces to gather. All the while leaving 13+ acres of preserved wetlands and woods for all to enjoy.

Thank you for listening and please let us know if you have any questions.

Sincerely,
Marti & Mike Mulhern