



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
www.ci.durham.nh.us

Town Planner's Review
Wednesday, August 11, 2021

- VIII. **Public Hearing - Subdivision off Gerrish Drive**. Parcel at 91 Bagdad Road (address). Application for conservation subdivision for single family and duplex houses (19 units total) on 16-acre lot off Gerrish Drive including conditional use for wetland crossings. Marti and Michael Mulhern, property owners. Mike Sievert, Horizons Engineering. Robbi Woodburn, Landscape Architect. Mark West, Wetland Scientist. Map 10, Lot 8-6. Residence B District.
- I recommend that the board discuss the project and continue the review to a future meeting.

Please note the following:

Process

- 1) **Conditional use**. The Planning Board has voted to approve the conditional uses for activity within the wetlands and wetland buffers.
- 2) **Madbury**. The applicant will need to present the project to the Madbury Town board. A portion of the road and the trail would be in Madbury. The applicant is encouraged to present the application right away as the Durham Planning Board should not approve the subdivision until it has been approved by Madbury or at least there is a strong indication that there will be no concerns for Madbury.
- 3) **Final plans**. If the Planning Board moves toward approval of this subdivision, the next step would be for the board to clarify any changes that should be made to the drawings and the condominium documents and for the applicant to provide one new revised set for prospective approval. There would likely be numerous precedent conditions and then one final set for certification would be submitted after Planning Board action.
- 4) **Department signoffs**. We will ask for signoffs on the project soon from the Public Works, Building, Police, Fire, Economic Development, and Assessing Departments.
- 5) **Final action**. The Planning Board should be ready for final action soon. Would it be useful to go around the room and ask each board member for their perspective on the application at this point?
- 6) **NHDES permits**. The applicant will need several permits from the New Hampshire Department of Environmental Services. These will be required as precedent conditions.

Outstanding information and documentation

- 7) Maintenance fund. We will need a detailed financial layout showing the annual expected maintenance costs for the private infrastructure, itemized by each element of infrastructure and expected maintenance activity, and a long term rehabilitation/replacement estimate for specific items, notably the two wetland/stream crossings, along with estimated monthly payments for each owner that will provide for adequate reserves. The board will need to review the figures carefully and discuss what measures may be included to minimize the possibility of the association failing to maintain the facilities, especially the two crossings.
- 8) Maintenance plans. Related to the item above, a maintenance plan for the road and infrastructure and trails (sand, salt, SnowPro certified?) is needed. A drawing has been submitted showing key elements.
- 9) Construction management plan. A detailed plan with the construction sequence including each element of infrastructure and a strategy for protecting trees is needed.
- 10) School impact fees. A waiver request for school impact fees will be needed since the property is planned for 55+.

Condominium Documents

- 11) Condominium documents. Sharon Somers, the applicant's attorney developed a draft set of Bylaws and a Declaration for the project, called a condominium because the land will be owned in common. I provided comments as did James Bubar. We shared these comments with Ms. Somers. I forwarded all of the information to the Town Attorney and requested comments from her. I hope to have comments back in advance of this meeting.
- 12) Various issues. There are various issues to discuss related to the documents, a number of these are marked in the documents by James Bubar and me.
- 13) Stewardship account. The ordinance requires that a stewardship account be set up with a payment from the applicant for future monitoring. Presumably the Conservation Commission would be the appropriate party to monitor the open space so I do not know what funding would be needed. For the Mill Road subdivision the Planning Board specified a contribution of \$1,000.
- 14) Executory interest. The ordinance requires that the Town have executory interest in the open space to ensure that it remains as open space.
- 15) Utilities. Are private utilities adequately dealt with in the documents?
- 16) Exhibits. Exhibits for the Declaration are needed.

Private Road

- 17) Road waivers. Lorne Parnell suggested the board vote on the road waiver requests at the end. We received a memo from Rich Reine in support of the waivers with some conditions. He will get back to me about the request regarding the gutter. I don't believe that he has a concern. Regarding the sidewalk, we do not need a comment from the Public Works Director. I infer from discussions of the board that members do not think a sidewalk is appropriate along either section of the new road.

- 18) Town right of way. We will need to determine how best to handle the Town's right of way since it will carry a private road. The Town Council voted earlier to allow the right of way to be used for this subdivision provided the Planning Board approves the subdivision and all necessary permits (i.e. from NHDES) are obtained. Todd and I recommend that the right of way be conveyed to the applicant for \$1.00. The Town Council would need to vote to do this. This would be the simplest and most appropriate approach. The Planning Board should make a recommendation to the Town Council on this issue. I believe that charging the applicant anything more than a nominal amount would be inappropriate given that most subdivisions include a Town road which is much easier for a developer and if this were a Town road the applicant would not need to pay anything for use of the right of way. Use of a private road was not the applicant's choice but, of course, the Planning Board determined that use of a private road is the right approach given the inordinate cost that could be required in the long term for maintenance of the two wetland/stream crossings.
- 19) Town's role. The road will remain a private road in perpetuity. We will include prominent language in every deed about this and in the condominium documents. The Town will not be liable for any maintenance or rehabilitation/replacement costs. The question arises what might happen if the association fails to maintain the infrastructure, mainly the two large crossings leading to the loop road.
- 20) Road name. The Fire Department stated that Gerrish Drive would be the appropriate name for the new road. I think it should be a separate name to distinguish the subdivision from Gerrish Drive which has a very different character. At any rate, Gail Kelley's address will remain the same. I will check with the Fire Department.
- 21) Shoulder. The plans show a 1' gravel shoulder for the loop road but the cover memo mentions a 2' gravel shoulder. This should be clarified.
- 22) Kelley driveway. The plans show modifications to the Kelley driveway. The property owners will need to decide whether or not to grant approval for the applicant to do this work. If they do not, then the applicant will confine the work to the right of way. Ms. Kelley will be able to bring her trash to the existing Gerrish Drive where it will be picked up by the Town in similar fashion presumably to what she does now. The residents of the new subdivision will not have Town trash pick up.
- 23) Guardrail. Is a guardrail needed along the southwest section of the loop road? The only location it is shown is at the first wetland crossing.

Utilities

- 24) Water/sewer document. I sent a document about water and sewer responsibilities provided by the applicant's attorney to Rich Reine for review. He and Mike Sievert will coordinate about any questions.
- 25) Sewer line. We will need a final design for the sewer along the existing Gerrish Drive, clarifying whether stubs and what kind of stubs will be included for future tie in of owners along Gerrish Drive. Has Public Works confirmed that the project can tie in to the Sumac Lane manhole?

- 26) Water lines. The water lines for units 1 and 3 are under the driveway. Should these lines be relocated?
- 27) Water pressure. Has Public Works confirmed there is sufficient water pressure?
- 28) Septic tanks. It appears that the septic tanks for units 13 and 15 are located within 125 feet of the wetland so they will need to be pushed out some. Septic tanks for four units are located inside the path in the central green. Should these be relocated outside of this central area?
- 29) Electric service. The connection of the new line to an existing service needs to be shown on sheet C103. The service for units 1, 5 and 6 is under the driveway. Should these lines be relocated?
- 30) Mail kiosk. The location of the mail kiosk is shown on the plans. It may be sufficient for the applicant to coordinate with the Post Office on final location, design, and operation as a precedent condition.

Services

- 31) Fire hydrants. I see two hydrants on the plans, at 5+00 and 11+00 on the loop road.
- 32) Landscaping. On Sheet L100 clarify which Ilex shrubs (two are included) go where.
- 33) Landscaping maintenance. Who will maintain the landscaping? Will homeowners have control of landscaping and ground around the houses?
- 34) Senior services. The applicant has spoken to the state requirement for there to be services for the senior residents in a similar manner as was addressed for Fitts Farm – by providing a list of local resources. The list should be updated periodically. The Town Attorney thought this approach was acceptable. A reference in the documents may be appropriate.
- 35) Infrastructure and amenities. The approval will need to include detailed language about when all of the infrastructure, including the gravel and finish road surface, will be installed by the applicant.
- 36) Trash and recycling. The Town will not pick up trash or recycling on a private road. The applicant should develop a plan for trash and recycling if possible beyond expecting owners to take their own trash and recycling to the Town dump.

Houses/Density

- 37) Density. The density shown on the updated plans is 19 units (all senior units). **By my calculations the maximum is 18 units total** rather than 19. I used a different figure than Mike Sievert used in his table (43,560 square feet vs. a ratio of .91) but the 43,560 is more precise so that should be determining. By my calculations 18.86 senior units would be allowed but the ordinance calls for rounding down to the nearest whole number. (The density table is shown on sheet C107 on the October 28, 2020. A seeming discrepancy in the combined unsuitable areas is due to an overlap in the three subcategories shown.) Note that all units must have at least one resident who is at least 55 years old. Does the applicant want this restriction to apply to the existing single family house?

- 38) Architecture. Some kind of plan/templates the house designs should be submitted. This is appropriate here given the close proximity of the houses. The documents should provide for maximum house sizes so they are not unduly crowded. I recommend designs to make the rear of houses fronting on the green welcoming with decks, porches, and patios and paths leading to each house.
- 39) House locations. An approval should include language allowing for reasonable adjustments from the locations shown on the plans.
- 40) Land units. Is there a need to show land units on the plans? It appears they follow the building footprints. Is there a limited common area that the homeowner can maintain and control?

Drawings/Miscellaneous

- 41) Additional drawings. A number of earlier drawings will need to be provided in the final plan set, including the sewer plan along Gerrish Drive.
- 42) On Sheet C502, “Driveway Pavement Cross Section” should probably be changed to “Road Cross Section.”
- 43) On Sheet C503, change from “Typical Access Road Cross Section” to “Typical Main Access Road Cross Section.” Correct any discrepancy with detail on C502, above. Show width of each layer for “Typical Loop Road Cross Section.”
- 44) Show height(s) of MSE retaining wall on Sheet C503.
- 45) Playground. A simple plan should be submitted for dealing with the playset within the right of way owned by the Michael and Molly White.
- 46) Future changes. An approval should specify what kinds of changes would be amendments, Planning Board modifications, and administrative modifications.

****What other concerns do Planning Board members have?*