

From: [Kimberly Sweetman](#)
To: [Karen Edwards](#); [Michael Behrendt](#); [Durham Town Council](#)
Subject: Concerns About Private Road Construction on Public Land
Date: Wednesday, May 12, 2021 8:25:54 PM

Dear Members of the Durham Town Council and Planning Board,

The proposed development of 91 Bagdad Road currently before the Planning Board includes a discussion of potentially building a private road on town owned land. As a Durham resident, I think this is a topic that needs to be fully explored. For instance:

- What are the legal implications for building a private road on town owned land?
- Is there precedent in the town of Durham for building a private road on town-owned land? If not, is there precedent in the county or state for building a private road on town-owned land?
- Who owns the private road? Presumably the HOA? Do they need to pay taxes on their use of that land?
- Generally when a building is built on land that is not owned by the developer, there is a land lease involved. Would the owners of the private road need to lease the land from the town? Town Planner Behrendt indicates there would be no fee for use. I wonder the basis for such a decision as it seems quite unfair to Durham tax payers.
- If it is legal to build a private road on town owned land, is the infrastructure related to the road (culverts, sewer line if it is pursued, etc.) also private, and if so, how is that documented for clear, future understanding?
- Are there legal liabilities involved with a decision to allow a private road on town-owned land?

These are just a few questions quickly thought of by a private citizen with no expertise in the the law or property development. Surely there are many additional important questions to be explored that experts would uncover, yet the response I received at the May 12th planning board was that this "was not complicated," and that although the Town Council would need to approve this use of town land, the approval would essentially be a rubber stamp if the planning board supported this use. It was also indicated that there would be no consultation with legal counsel before the decision to build a private road on public land was made.

I respectfully request that this issue be fully investigated prior to a decision on this matter.

Thank You,

Kimberly Sweetman
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