



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

NOTICE OF DECISION

Project Name: 30 Old Piscataqua Road – 3-lot subdivision
Action Taken: APPROVAL
Property Owner: John and Judith Churchill
Engineer: Tobin Farwell, Farwell Engineering Services
Map and Lot: Map 11, Lot 9-4
Zoning: Residence A
Date of approval: February 26, 2020

[Office use only. Date certified: _____ ;

“Applicant,” herein refers to the applicant and his/her/their/its agents, successors and assigns.

CONDITIONS PRECEDENT

All of the conditions precedent below must be met by the applicant prior to the plans being certified by the Town Planner. Certification of the plans is required prior to recording of the plans. Once these conditions precedent are met and the plans are certified the approval is considered final.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board’s approval - by August 26, 2020 (or as extended) - the Planning Board's approval will be considered to have lapsed. Extension(s) may be granted by the Planning Board for reasonable cause. It is the sole responsibility of the applicant (or his/her agent) to ensure that the conditions precedent are met by this deadline. See RSA 674:39 on vesting. No changes to the plans that were reviewed and approved by the Planning Board on February 26, 2020 may be made except for the specific required changes that follow.

Plan Modifications

- 1) Plan modifications. Make the following modifications to the plans/plan set that were reviewed and approved by the Planning Board (Items do not need to be physically constructed as a precedent condition):
 - a) Water and sewer. Incorporate the plan from February 4 with any new details, once approved by the Town Engineer, into the plan set.

- b) Electric line. Obtain approval from Eversource for the electric plan.
- c) Lot #'s. Confirm Map and Lot #'s shown on the plans from the Assessing Office;
- d) Dock easement. Add note to plan and/or clarify detail in drawing explaining the easement more precisely. Inclusion of a written easement in the deeds or separately is recommended.
- e) Wetland line. Relabel 75' building setback line as "Required buffer – 75 feet from wetland". Make the buffer line continuous and extend throughout Lot -4-2. Explain or delete additional wetland line that runs through the existing house.
- f) Shoreland line. Relabel 125' setback line as "Building setback line - 125 feet from HOTL under Shoreland Ordinance."
- g) Easements. Include basic language on the plans about water, sewer, electric easements; easements for use of the shared driveway; and maintenance of the shared driveway. Coordinate with the Town Planner on exact language and details on the drawing. The purpose is mainly for reference as there will be precise language in other documents. Include metes and bounds tied to monumentation in the field.
- h) Approval block. Change the approval block on each page of drawings to read:
"Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner _____ Date _____"
- i) Addressing/Street name. Establish addresses for each of the lots to be approved by the Fire Department. Show the addresses on the plat on each lot. Coordinate with the Fire Department on using Old Piscataqua Road or establishing a new street name as specific by the Fire Department.
- j) Right of way lines. Revise right of way lines and related annotations on appropriate plan sheet(s) as specified by NHDOT.

Notes on Plans

- 2) Notes on plans. Add the following notes on the plans:
 - a) Additional information. For more information about this subdivision, or to see the complete plan set, contact the Town of Durham Planning Department, 8 Newmarket Road, Durham, NH 03824. (603) 868-8064."
 - b) School Impact Fee. The school impact fee is assessed as part of this project for the two new lots – Lot 9-4-1 and 9-4-3 - in the amount of \$3,699 for each lot. The fee must be paid in full prior to issuance of a certificate of occupancy for the subject lot."

- c) “Site Constraints. The new lot, Lot 9-4-1, and the lot with the existing house, Lot 9-4-2 are subject to the Town of Durham Wetland and Shoreland, and Overlay Districts. No new construction or ground disturbance may occur within the wetland buffer located 75 feet landward from the wetland nor within the shoreland buffer located 125 feet from the HOTL (highest observable tide line), except as may be allowed under the Town’s ordinance. The buyer of lot 9-4-1 is encouraged to visit the Town of Durham to review the plans and for an explanation of site and environmental constraints.”
- d) “Shared driveway. Access to all lots will be from the shared driveway. **This driveway is privately owned and maintained by the owners of the three lots shown in this subdivision. The Town of Durham does not maintain the driveway.**” [Show in bold]
- e) “Additional information. For more information about this subdivision, or to see the complete plan set, contact the Town of Durham Planning Department, 8 Newmarket Road, Durham, NH 03824. (603) 868-8064.”
- f) “Erosion plan. An erosion and sedimentation plan shall be provided for the construction of a house on Lot 9-4-1 to be approved by the Town Engineer.”

Other Conditions Precedent

- 3) Infrastructure. The infrastructure for the subdivision includes the shared road which will be 12 feet of pavement with 4 foot gravel shoulders on each side. A cross section shall be provided to be approved by the Town Engineer and Fire Department. The road includes an apron for each of the two new lots that new lot owners will tie into and installation of the 12” culvert shown on the plans. The infrastructure includes the shared electric line and transformer, such that new lot buyers will be able to connect readily. Infrastructure includes any portions of the water and sewer systems which must be built to allow for new lot buyers to be able to connect readily. All individual electric, water, and sewer lines shall be built by the individual lot owners. The infrastructure includes burying the existing electric line and removing poles no longer in use as shown on the plan for utilities dated February 14, 2020. The developer must physically construct infrastructure as a precedent condition or place a surety to cover the cost of infrastructure with the amount to be approved by the Town Engineer. It is preferable that the road be built after the two new houses are built to minimize damage. Infrastructure includes any drainage (e.g. headwall and culvert) and other improvements for the private road that may be specified by NHDOT or the Durham Department of Public Works. The infrastructure must be completed within 2 years of when the plans are recorded or 3 months of the date at which the certificate of occupancy is granted for the second new house, whichever occurs first. The Planning Board may revise or grant an extension to this timeframe. (If the Durham Department of Public Works agrees then one shared water line may be used leading to the individual water lines.)

- 4) Quonset hut. The Quonset hut shown on Lot 2 must be physically removed.
- 5) NHDOT Excavation permits. The applicant will obtain all excavation permits required by NHDOT, including driveway construction, underground electric installation, and water services.
- 6) Easements/Maintenance. Provide easements for placement of water, sewer, and electric utilities across lots and for use of the shared driveway. Include agreement for shared maintenance of the common driveway. The easements/maintenance documents shall be approved by the Town Planner to ensure effectiveness only.
- 7) Utility connection. A utility connect permit application with necessary plans and specifications shall be submitted to DPW for approval by the Town.
- 8) Electric service approval. Obtain written confirmation from Eversource Energy that the plans for electric service on the site are acceptable.
- 9) Boundary markers. Set boundary markers (actually physically set in place in the field) and note on plans (“marker set” or equivalent) or provide a certificate of monumentation to the Planning Department.
- 10) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town Planner: a) two large sets of black line drawings (one set is for recording); b) one set of 11"x17" drawings; plus c) one electronic version by pdf. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the plans.
- 11) Signature. Signature by the applicant below acknowledging all terms and conditions of this approval herein.

CONDITIONS SUBSEQUENT AND GENERAL TERMS

All of the conditions below are also attached to this approval. All work shall be completed and all required conditions shall be met prior to issuance of a certificate of occupancy unless otherwise specified or a surety acceptable to the Town is posted.

Conditions to be met prior to issuance of any building permit

- 12) Easements. Evidence of recording of all easements at the Registry must be provided (as separate documents or in individual deeds).
- 13) Erosion control. Erosion and sedimentation control as indicated in the plan for Lot 9-4-1 (plan referenced in note on plan) shall be in place.

Conditions to be met prior to issuance of any certificate of occupancy

- 14) School Impact Fees. The School Impact Fee must be paid in full for the subject lot.

- 15) Other applicable requirements. All other applicable requirements of this subdivision must be satisfied prior to issuance of a certificate of occupancy (except as otherwise noted).
- 16) Addresses. The street address shall be posted prominently as specified by the Fire Department.

Other terms and conditions

- 17) Recording. The plat, this notice of decision (per RSA 676:3 III), and the easements must be recorded at the Strafford County Registry of Deeds within 14 days of when the plat is certified. See RSA 478:1-a regarding plat requirements. Failure to comply with this requirement herein shall render the subdivision null and void. If the easements are included in separate deeds they may be recorded later but they must be included in the deeds.
- 18) Trash collection. Trash and recycling will be collected by the Town of Durham one Old Piscataqua Road at the end of the shared driveway.
- 19) Houses on plans. The houses and driveways shown on the subdivision plan for Lots 9-4-1 and 9-4-3 are prospective only. However, the driveways shall begin at the locations shown on the plans unless other locations are approved by the Town Engineer with input from the Town Planner.
- 20) No further subdivision. There is to be no further subdivision of any of the lots since a conservation subdivision would have been required to create four lots. Lot lines may be adjusted but no subdivision shall be permitted which would yield additional buildable lots.
- 21) Minor changes. Minor changes to the approved plans may be approved in accordance with Planning Board policy.
- 22) Execution. The project must be executed exactly as specified in the approved application package unless changes are approved by the Town.
- 23) Waivers. The Planning Board granted the requested waivers for test pits, percolation tests, ledge outcrops, and HISS soil mapping (intended more for conservation lots and lots with private leach fields) and to allow for a driveway to serve more than two lots and to not have a 30 foot right of way (which will be addressed in the easements)

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The Planning Board reviewed a *conceptual application* on September 25, 2019 and held a site walk on October 18; **B)** The application was presented to the *Technical Review Group* on September 17, 2020 and the formal application was presented on February 4; **C)** The applicant submitted an application, supporting *documents*, and plans for the

project; **D)** The Planning Board accepted the application as complete on February 12, 2020; **E)** The Planning Board held a public hearing on the application on February 26, 2020; **F)** The applicant revised and updated the plans and other documentation several times pursuant to questions and comments; **G)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Subdivision Regulations, and other applicable law and found that the application meets all requirements (except where waivers may have been granted); and **H)** The Planning Board duly approved the application as stated herein. Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed.

Signature(s). As the applicant(s), I/we accept and acknowledge all of the terms and conditions of this approval herein.

Signature of applicant

date

Printed name of applicant

Signature of applicant

date

Printed name of applicant

Signature of Planning Board Chair

date

Printed name of Planning Board Chair