

6/7/2014

Town of Durham
15 Newmarket Rd. Durham, NH 03824-2898

RECEIVED
Town of Durham
JUN 11 2014
Planning, Assessing
and Zoning

Dear Mr. Behrendt,

In accordance with NH RSA 674:39-aa, Richard and Susan Renner of 28 Newmarket Rd., Durham, NH are requesting that the lots on our parcel (06-9-6) be restored to their pre-merger status and that all zoning and tax maps shall be updated to identify the pre-merger lots as recorded at the Strafford County Registry of Deeds.

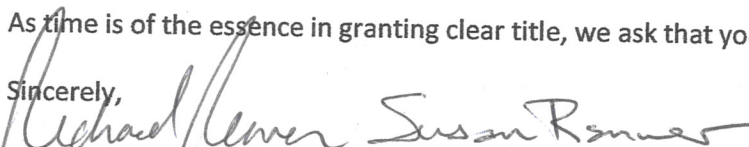
- a. Submission is on time
- b. There are no records (see Karen Edwards email) of a voluntary merger. The municipality recognizes that there is no voluntary merger. (Burden of proof)
- c. Town Council has the opportunity to review.
- d. The restoration of the lots shall not be deemed to cure any non-conformity with existing land use ordinances.

The current deed is attached in addition to the updated survey by Adam Fogg, Atlantic Survey (Durham, NH) showing an approved 4 bedroom septic design by Tom Johnson, CEO. Additionally, there is a copy of the deed of William C. and Ruth K. Chamberlin recorded at the Strafford County Registry April, 1957. There is a warranty deed of the Ruth K. Chamberlin to the previous owners, Sharon Griffin and Paul A. Dubois as recorded Jan. 26 1996. A list of the abutters is attached.

Additionally, I have included a copy of an email from Mr. Michael Behrendt, date Feb. 14, 2014 recapping his conversation with Mr. Adam Fogg and myself, outlining the process of appeal. Any easements for driveway access and maintenance would be submitted to Mr. Johnson if the property is sold and a building permit is requested by the new owner(s). I appreciate that the DOT plans on widening the road to Newmarket and have purchased an easement in which they will be repairing any driveway damage as stated within their agreement. In that the driveway has been existing for both parcels, I appreciate your reference to the unnecessary permits required by the Town Council (permits and indemnification) as the lots are 'existing', the 'driveway' is existing and the 'vacant lot' has frontage on Newmarket Rd. Mr. Behrendt states, "I would not consider a shared access for two lots to be a "private road." <http://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-41.htm> Any future buildings on Parcel 1, if sold, would require the new owner to abide by any and all rules of the Town of Durham and the Historic Commission.

As time is of the essence in granting clear title, we ask that you expedite this process

Sincerely,


Richard and Susan Renner



TOWN OF DURHAM
15 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
FAX 603/868-8033
www.ci.durham.nh.us

Application for Restoration of Involuntarily Merged Lots

Pursuant to RSA 674:39-aa

Property Location/ Address 28 Newmarket Rd Durham, NH 03824

Existing Tax Map Number (Map-Block-Lot) 06-9-~~8~~6

Property Owner(s) Richard Rennek Property Owner Phone 603 397 5350

Property Owner(s) Susan Rennek Property Owner Phone SAMS

Property Owner Fax _____ Property Owner Email Renner 44 @ COMCAST.NET

Property Owner Mailing Address 28 Newmarket Rd, Durham, NH 03824

Agent (if different from Property Owner) _____

Agent Phone _____ Agent Email _____

Agent Phone _____ Agent Mailing Address _____

Instructions & general information for submitting Application:

In accordance with NH RSA 674:39-aa, any owner of lots merged by municipal action for zoning, assessing or taxation purposes prior to September 18, 2010 and without the consent of the owner may request that the lots be restored to their pre-merger status and all zoning and tax maps shall be updated to identify the pre-merger boundaries of said lots or parcels as recorded at the Strafford County Registry of Deeds, provided:

- a. The request is submitted to the Durham Town Council prior to December 31, 2016
- b. No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.
- c. All decisions of the Town Council may be appealed in accordance with the provisions of RSA 676.
- d. The restoration of the lots to their pre-merger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

TOWN OF DURHAM N.H.
APPLICATION FOR RESTORATION OF INVOLUNTARILY MERGED LOTS
PURSUANT TO RSA 674:39-aa

The undersigned applicant requests that the Town of Durham, New Hampshire, hereby restore the following parcels of land to their pre-merger status for the purposes of being assessed and treated for regulatory purposed as separate tracts or parcels of land:

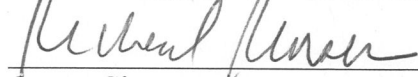
Please identify, with reference to an attached recorded plan or survey which the Applicant believes may depict the "pre-merger" configuration of any lot, and to have existed prior to any "Involuntary Merger" (See, RSA 674:39-aa(I)), which the Applicant(s) wishes to restore to separate assessment.

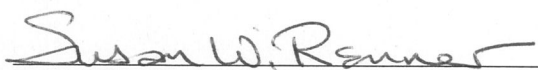
Recorded Plan Name & Identified as: Warranty Deed - Richard W & Susan W Rensok
Drawn Date: Nov. 10 2010
Recorded Plan #: 0018931

Acknowledgment: By submitting this application, the Applicant(s) acknowledge they wish to have an existing parcel on the Durham Tax Map divided into two (2) or more previously existing parcels. Such action will be effective for tax purposes following approval of this Application. Such action may result in increased tax assessed value or supplemental tax liability for the current tax year. In addition, the Applicant(s) understands that the separate lots may not conform to existing zoning requirements, and that if any subsequent request for zoning variance is made by the Applicant or a subsequent owner, the fact that the parcel was previously part of other premises may affect one (1) or more factors which are considered when considering a variance (e.g., substantial justice).

If granted by the Town, the Notice of Decision and plan will be recorded at the Strafford County Registry of Deeds.

Dated this 11th day of June, 2014.


Owner Signature

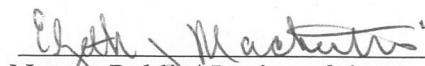

Co-Owner Signature

Richard W. Rensok
Print Name(s)

Susan W. Rensok
Print Name(s)

STATE OF NEW HAMPSHIRE
STRAFFORD, SS

Then personally appeared the above names owners and acknowledged the forgoing to be his/her/their free act and deed, before me,


Notary Public/ Justice of the Peace
My Commission expires: 12-14-2016

ELIZABETH J. MANCHESTER, Notary Public
My Commission Expires December 14, 2016

THE FOLLOWING FEES SHALL BE SUBMITTED WITH THE APPLICATION

Application Fee - \$50.00
Abutter Notice - \$7.00 per abutter
Newspaper Notice - \$150.00

Staff Use Only

Received by: _____ Date: _____

Fees received YES/NO _____ Date of Town Council Meeting _____

Disposition of the Application (For use by Selectmen/Assessor)

EXISTING PARCEL IDENTIFICATION

06-9-6
Map-Block-Lot

28 Newmarket Rd
Street Address of Parcel

NEW PARCEL IDENTIFICATION

Map-Block-Lot

30 Newmarket Rd
Street Address of Parcel

Map-Block-Lot

Street Address of Parcel

Map-Block-Lot

Street Address of Parcel

Map-Block-Lot

Street Address of Parcel

Map-Block-Lot

Street Address of Parcel

Great Bay Animal Hospital, LLC
31 Newmarket Rd.
Durham, NH 03824

Scott M. & Lori Ann Jenkins
49 Old Country Rd., North
Francestown, NH 03043

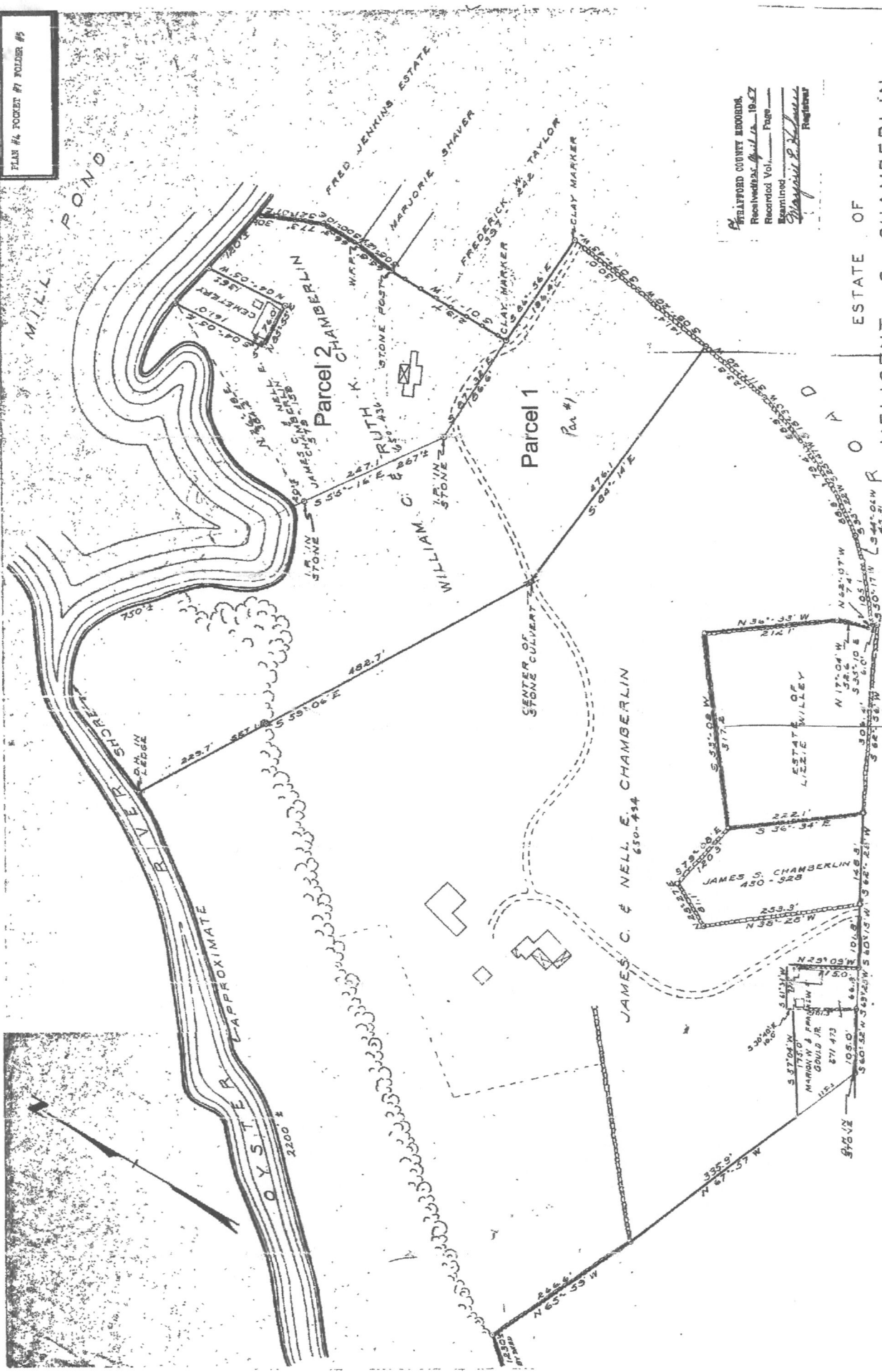
Town of Durham
15 Newmarket Rd.
Durham, NH 03824

Geld Realty Trust
PO Box 799
Durham, NH 03824

Frank & Anita Pilar
26 Newmarket Rd
Durham, NH 03824

Steve Burns/ Andrea Bodo
20 Newmarket Rd.
Durham, NH 03824

Seacoast Repertory Theatre
56 Newmarket Rd.
Durham, NH 03824



WELLS COUNTY RECORDS
 Received by J.A. 18-CZ
 Recorded Vol. _____ Page _____
 Examined _____
 Registered _____

ESTATE OF
MELICENT C. CHAMBERLIN
 DURHAM - NEW HAMPSHIRE
 SCALE - 1 INCH = 100 FEET
 AUGUST 1955

G. L. Davis & Associates
 ENGINEERS
 114 ELM STREET, DORR, N. H.



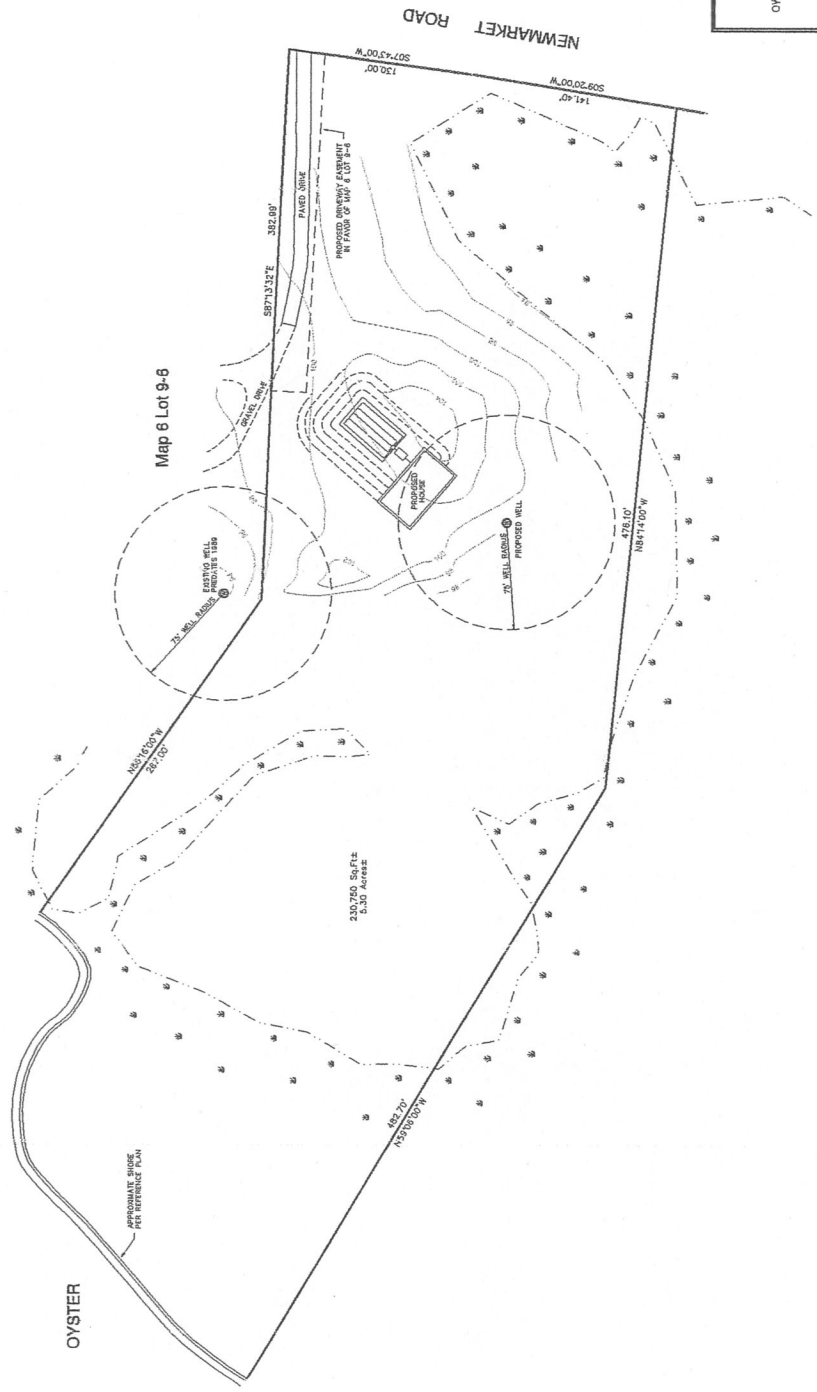
N E W M A R K E T

REFERENCE:
 GEORGE S. FROST ET AL
 372-409 VOL 9, 1814
 MELICENT C. CHAMBERLIN
 CORRECTED 4-4-57
 GOULD LOT, SOUTHEAST CORNER.

NOTE - LOCATION OF RIVER
 PHOTOGRAPH FROM AERIAL



RIVER
OYSTER



Map 6 Lot 9-6

SUBSURFACE SEPTIC DESIGN

OWNER: RICHARD & SUSAN RENNER
30 NEWMARKET ROAD
DURHAM, NH 03824

LOT ADDRESS: 30 NEWMARKET ROAD
DURHAM, NH

SUBDIVISION: PRE-DATES 1987

TOWN INFO: TAX MAP 6, LOT 5.30 Ac.±
REGISTRY of DEEDS: STRAFFORD BOOK 3880, PAGE 077

SCALE: 1 inch = 40 feet

0 20 40 80

APRIL 21, 2014
CAD FILE: 13158-40 SCALE

NEW HAMPSHIRE
Professional Engineer
Subsidiary of
Water Systems
Company, Inc.
No. 13779
No. 13779
Subsidiary of

ATLANTIC
SURVEY CO., LLC

148 Mill Road, Durham, New Hampshire 03824

603-859-8939

PREPARED BY:
SURVEYORS
PLANNERS
SEPTIC DESIGNERS

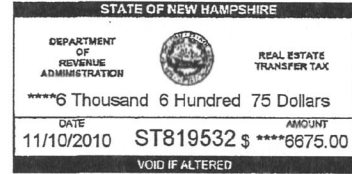
REFERENCE PLAN:
ESTATE OF MELBERT C. CHAMBERS IN DURHAM, NEW HAMPSHIRE
S.G.R.D. PLAN # POCKET #7 FOLDER #5

This original facility as depicted on this plan was delineated by Joseph W. Beck, PE
New York State Professional Engineer No. 13779, on April 21, 2014, in accordance
with the U.S. Army Corps of Engineers National Criteria for Engineering
Practice, National Professional Minimum Requirements and American Register
Industry 3111.

Utility and topographic data were obtained in accordance with the United States Department of
the Interior, Bureau of Land Management, 20120101, with the consent of the
Public Land Survey System, Version 2.0 (2010) and with the consent of the
Public Land Survey System, Version 2.0 (2010) and with the consent of the
Public Land Survey System, Version 2.0 (2010).

When specific field data was based on the U.S. Army Corps of Engineers publication
Atlantic Survey/Map List (2011).

Doc # 0015931 Nov 10, 2010 3:03 PM
 Book 3880 Page 0077 Page 1 of 3
 Register of Deeds, Strafford County



WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, That Paul A. Dubois and Sharon Griffin, Trustees of The Mill Pond Trust dated January 22, 1996, husband and wife of 28 Newmarket Road, Durham, Strafford County, State of New Hampshire **for consideration paid, grant to** Richard R. Renner and Susan W. Renner, husband and wife, of 28 Newmarket Road, Durham, Strafford County, State of New Hampshire, as joint tenants with rights of survivorship, **with WARRANTY COVENANTS** the following:

Two certain tracts or parcels of land with any buildings thereon situated in Durham, Strafford County, State of New Hampshire being shown on a plan entitled "Estate of Melicent C. Chamberlin, Durham, New Hampshire, dated August 1955 and recorded at the Strafford County Registry of Deeds as Plan #4, Pocket #7, Folder #5, bounded and described as follows:

Parcel 1: Beginning at a clay marker on the westerly side of the Newmarket Road in Durham at or near the northerly edge of a roadway on the premises herein described, running thence South 07° 43' West one hundred thirty (130) feet by the easterly end of roadway and a stone wall, thence continuing by said stone wall and westerly side of the Newmarket Road S 9° 20' W one hundred forty-one and 4/10 (141.4) feet to an iron pipe in said stone wall, thence turning and running N 84° 14' West four hundred seventy-six and 1/10 (476.1) feet to the center of the stone culvert on said roadway, thence turning and running N 59° 6' West four hundred eighty-two and 7/10 (482.7) feet to a set iron pipe, thence continuing by the same course two hundred twenty-nine and 7/10 (229.7) feet to a drill hole in a ledge near the southeasterly shore of the Oyster River or Mill Pond, thence running northerly and easterly by said Mill Pond or Oyster River to a point on the southerly shore of said Mill Pond or Oyster River (which point is an extension of a line running northwesterly through an iron pipe in a stone twenty (20) feet, more or less, southeasterly by said point, said line running S 55° 16' West), thence turning and running from said point to the iron pipe in the stone twenty (20) feet, more or less, thence continuing by the same course S 55° 16' East two hundred forty-seven and 1/10 (247.1) feet, more or less, to an iron pipe in a stone, thence turning and running S 87° 32' East one hundred eighty-six and 6/10 (186.6) feet to a clay marker at the southwesterly corner of land now or formerly of Frederick W. Taylor, thence running S 86° 56' East one hundred ninety-six and 4/10 (196.4) feet to the clay marker at the westerly side of said Newmarket Road, which is the point of beginning.

Parcel 2: A certain tract or parcel of land with the buildings thereon located at the southerly side of the Mill Pond or Oyster River, in said Durham, commencing at a clay marker at the southwesterly corner of land now or formerly of Frederick W. Taylor, thence running N 87° 32' West one hundred eighty-six and 6/10 (186.6) feet to an iron pipe in a stone, thence turning and running N 55° 16' West two hundred forty-seven and 1/10 (247.1) feet, more or less, to an iron pipe in a stone, and continuing by the same course twenty (20) feet, more or less, to the easterly bank of said Mill Pond or Oyster River, thence running northerly and easterly by said Mill Pond or Oyster River to an iron pipe at the northwesterly corner of a cemetery lot, said iron pipe being N 26° 49' East, three hundred eighty-four and 2/10 (384.2) feet from the iron pipe in the stone above referred to, thence turning and running from said iron pipe S 04° 05' East one hundred sixty-one (161.0) feet by the westerly side of said cemetery lot to an iron pipe at the southwesterly corner of said cemetery lot, thence turning and running N 85° 55' East seventy-six (76) feet by the southerly side of said cemetery lot to an iron pipe, thence turning and running N 04° 05' West one hundred thirty six (136) feet by the easterly side of said cemetery lot to an iron pipe at the northeasterly corner of said cemetery lot and the southerly shore of said Mill Pond or Oyster River, thence turning and running easterly by the southerly shore of said Mill Pond or Oyster River one hundred twenty (120) feet, more or less, to the northwesterly corner of land now or formerly of the Fred Jenkins Estate, thence turning and running by a stone wall S 21° 7' East a distance of one hundred seven and 3/10 (107.3) feet, more or less, to a corner of said stone wall, thence turning and continuing by the westerly side of said land now or formerly of the Fred Jenkins Estate and said stone wall S 0° 10' East sixty-six and 3/10 (66.3) feet to the southwesterly corner of said land now or formerly of the Fred Jenkins Estate, thence continuing by said stone wall and the westerly side of land now or formerly of Marjorie Shaver S 8° 12' West sixty-five and 8/10 (65.8) feet to a stone post at the southwesterly corner of said Shaver land, thence running South 1° 11' West two hundred nineteen and 7/10 (219.7) feet by a fence and the westerly sideline of land now or formerly of Frederick W. Taylor and the clay marker, which is the point of beginning.

Subject to a convenient right of way from the Durham-Newmarket Road to said cemetery for the use and benefit of the proprietors thereof.

Together with the right forever to draw water and maintain a water line, well and appurtenances, including the right to enter for the purpose of maintaining, repairing or replacing any portion of said line, or the appurtenances thereof, for the benefit of Parcels #1 and #2, as said waterline is presently located.

Nothing herein shall be construed as conveying or granting any right to the grantee herein to use or maintain the roadways on the parcels of land southwesterly of the above described premises, which were conveyed to James C. Chamberlin, of Durham by deed of William C. Chamberlin, et als dated September 14, 1955 and recorded at the Strafford County Registry of Deeds at Book 650, Page 434.

Meaning and intending to convey the same premises conveyed to Paul A. Dubois and Sharon Griffin, Trustees of The Mill Pond Trust by Warranty Deed of Ruth K. Chamberlin, Trustee of The Ruth K. Chamberlin Revocable Trust of 1992 dated January 26, 1996 and recorded at the Strafford County Registry of Deeds in Book 1844, Page 2.

I, Paul A. Dubois and Sharon Griffin hereby release all rights of homestead.

Signed this 4TH day of November, 2010.

The Mill Pond Trust

Nancy L. Schulte
Witness

Paul A. Dubois, Trustee
Paul A. Dubois, Trustee and individually

Nancy L. Schulte
Witness

Sharon Griffin, Trustee
Sharon Griffin, Trustee and individually

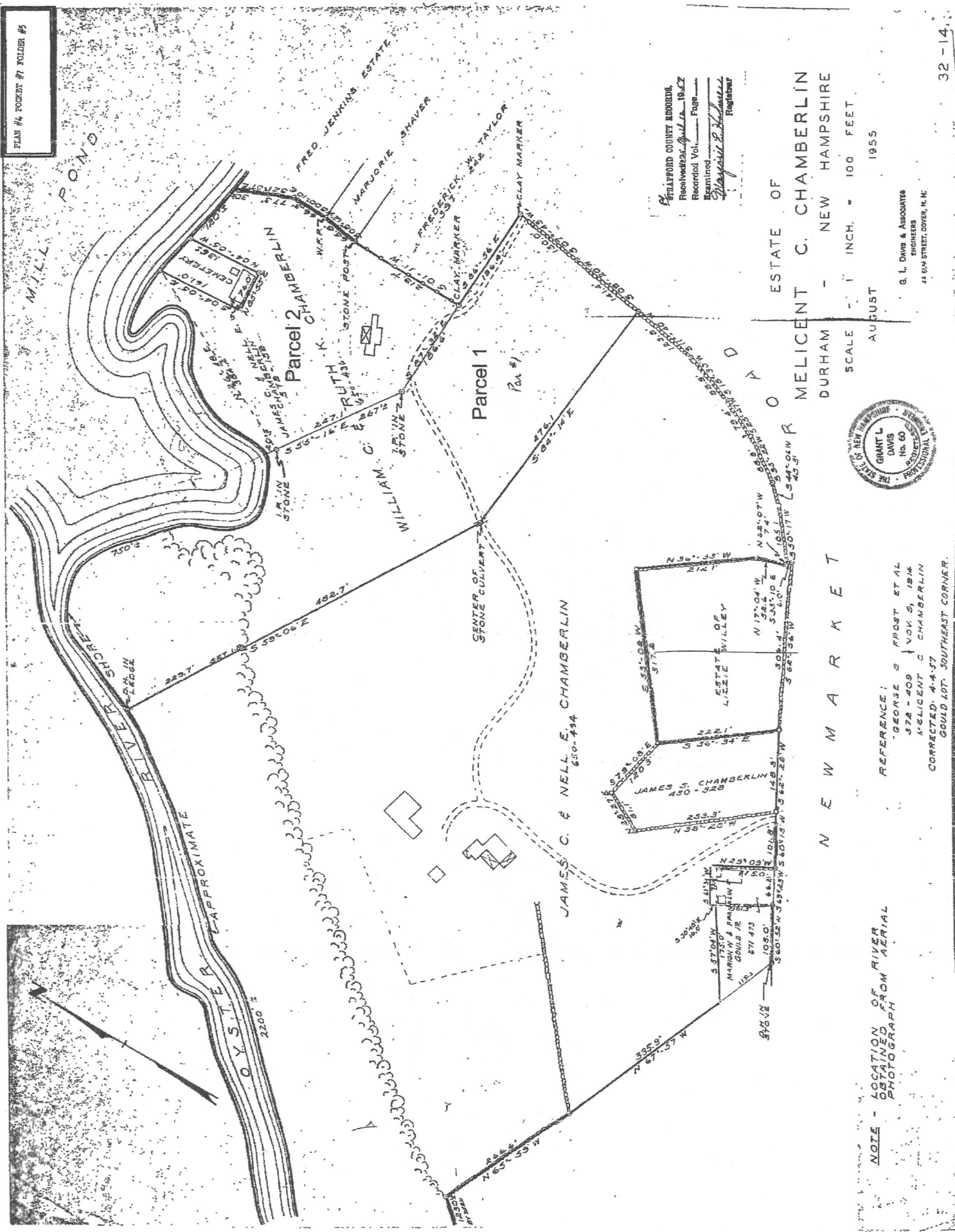
STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

Dated: November 4, 2010

Personally appeared Paul A. Dubois and Sharon Griffin, Trustees of The Mill Pond Trust and individually, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they executed the same for the purposes therein contained.

Nancy L. Schulte
Justice of the Peace/Notary Public
My commission expires: _____





WILKINSON COUNTY RECORDS
 Received: 10/17/1947
 Recorded: Vol. _____ Page _____
 Examined: _____
 Registered: _____

ESTATE OF
MELICENT C. CHAMBERLIN
 DURHAM - NEW HAMPSHIRE

SCALE - 1 INCH = 100 FEET
 AUGUST 1955

G. L. Davis & Associates
 ENGINEERS
 44 5/4 STREET, DOVER, N. H.



N E W M A R K E T

NOTE - LOCATION OF RIVER
 OBTAINED FROM AERIAL
 PHOTOGRAPH

REFERENCE:
 GEORGE S. FROST ET AL
 372-409 VOL. 5, 1914
 MELICENT C. CHAMBERLIN
 CORRECTED 4-4-57
 GOULD LOT, SOUTHEAST CORNER.

SUBJECT PROPERTY WARRANTY DEED

Borrower: Richard & Susan Renner	File No.: 1010170du
Property Address: 28 Newmarket Road	Case No.: 76855-102186
City: Durham	State: NH Zip: 03824
Lender: FNBBCC, American Home Bank	

WARRANTY DEED

96 JAN 26 PM 2: 22
 REGISTER OF DEEDS
 STRAFFORD COUNTY

001040

BK 1844160002

KNOW ALL MEN BY THESE PRESENTS, That Ruth K. Chamberlin, Trustee of The Ruth K. Chamberlin Revocable Trust of 1992 dated January 27, 1992 of 28 Newmarket Road, Durham, New Hampshire for consideration paid, grant to Paul A. Dubois and Sharon Griffin, Trustees of The Mill Pond Trust dated January 22, 1996, both single persons, of P.O. Box 301, Durham, New Hampshire with WARRANTY COVENANTS the following:

Two certain tracts or parcels of land with any buildings thereon situated in Durham, Strafford County, State of New Hampshire being shown on a plan entitled "Estate of Melicent C. Chamberlin, Durham, New Hampshire, dated August 1955 and recorded at the Strafford County Registry of Deeds as Plan #4, Pocket #7, Folder #5, bounded and described as follows:

Parcel 1: Beginning at a clay marker on the westerly side of the Newmarket Road in Durham at or near the northerly edge of a roadway on the premises herein described, running thence South 07° 43' West one hundred thirty (130) feet by the easterly end of roadway and a stone wall, thence continuing by said stone wall and westerly side of the Newmarket Road S 9° 20' W one hundred forty-one and 4/10 (141.4) feet to an iron pipe in said stone wall, thence turning and running N 84° 14' West four hundred seventy-six and 1/10 (476.1) feet to the center of the stone culvert on said roadway, thence turning and running N 59° 6' West four hundred eighty-two and 7/10 (482.7) feet to a set iron pipe, thence continuing by the same course two hundred twenty-nine and 7/10 (229.7) feet to a drill hole in a ledge near the southeasterly shore of the Oyster River or Mill Pond, thence running northerly and easterly by said Mill Pond or Oyster River to a point on the southerly shore of said Mill Pond or Oyster River (which point is an extension of a line running northwesterly through an iron pipe in a stone twenty (20) feet, more or less, southeasterly by said point, said line running S 55° 16' West), thence turning and running from said point to the iron pipe in the stone twenty (20) feet, more or less, thence continuing by the same course S 55° 16' East two hundred forty-seven and 1/10 (247.1) feet, more or less, to an iron pipe in a stone, thence turning and running S 87° 32' East one hundred eighty-six and 6/10 (186.6) feet to a clay marker at the southwesterly corner of land now or formerly of Frederick W. Taylor, thence running S 86° 56' East one hundred ninety-six and 4/10 (196.4) feet to the clay marker at the westerly side of said Newmarket Road, which is the point of beginning.

Law Office
 OF
 JAMES H. SCHULTE
 880 CENTRAL AVENUE
 SUITE 103
 DORSET, NEW HAMPSHIRE
 03820
 Tel: 603-743-6300
 Fax: 603-743-6400

Parcel 2: A certain tract or parcel of land with the buildings thereon located at the southerly side of the Mill Pond or Oyster River, in said Durham, commencing at a clay marker at the southwesterly corner of land now or formerly of Frederick W. Taylor, thence running N 87° 32' West one hundred eighty-six and 6/10 (186.6) feet to an iron pipe in a stone, thence turning and running N 55° 16' West two hundred forty-seven and 1/10 (247.1)

SUBJECT PROPERTY WARRANTY DEED

Borrower: Richard & Susan Renner	File No.: 1010170du
Property Address: 28 Newmarket Road	Case No.: 76855-102186
City: Durham	State: NH
Lender: FNBCC, American Home Bank	Zip: 03824

feet, more or less, to an iron pipe in a stone, and continuing by the same course twenty (20) feet, more or less, to the easterly bank of said Mill Pond or Oyster River, thence running northerly and easterly by said Mill Pond or Oyster River to an iron pipe at the northwesterly corner of a cemetery lot, said iron pipe being N 25° 49' East, three hundred eighty-four and 2/10 (384.2) feet from the iron pipe in the stone above referred to, thence turning and running from said iron pipe S 04° 05' East one hundred sixty-one (161.0) feet by the westerly side of said cemetery lot to an iron pipe at the southwesterly corner of said cemetery lot, thence turning and running N 85° 55' East seventy-six (76) feet by the southerly side of said cemetery lot to an iron pipe, thence turning and running N 04° 05' West one hundred thirty six (136) feet by the easterly side of said cemetery lot to an iron pipe at the northeasterly corner of said cemetery lot and the southerly shore of said Mill Pond or Oyster River, thence turning and running easterly by the southerly shore of said Mill Pond or Oyster River one hundred twenty (120) feet, more or less, to the northwesterly corner of land now or formerly of the Fred Jenkins Estate, thence turning and running by a stone wall S 21° 7' East a distance of one hundred seven and 3/10 (107.3) feet, more or less, to a corner of said stone wall, thence turning and continuing by the westerly side of said land now or formerly of the Fred Jenkins Estate and said stone wall S 0° 10' East sixty-six and 3/10 (66.3) feet to the southwesterly corner of said land now or formerly of the Fred Jenkins Estate, thence continuing by said stone wall and the westerly side of land now or formerly of Marjorie Shaver S 8° 12' West sixty-five and 8/10 (65.8) feet to a stone post at the southwesterly corner of said Shaver land, thence running South 1° 11' West two hundred nineteen and 7/10 (219.7) feet by a fence and the westerly sideline of land now or formerly of Frederick W. Taylor and the clay marker, which is the point of beginning.

Subject to a convenient right of way from the Durham-Newmarket Road to said cemetery for the use and benefit of the proprietors thereof.

Together with the right forever to draw water and maintain a water line, well and appurtenances, including the right to enter for the purpose of maintaining, repairing or replacing any portion of said line, or the appurtenances thereof, for the benefit of Parcels #1 and #2, as said waterline is presently located.

Nothing herein shall be construed as conveying or granting any right to the grantees herein to use or maintain the roadways on the parcels of land southwesterly of the above described premises, which were conveyed to James C. Chamberlin, of Durham by deed of William C. Chamberlin, et als dated September 14, 1955 and recorded at the Strafford County Registry of Deeds at Book 650, Page 434.

Meaning and intending to convey the same premises conveyed

BK 184460003

LAW OFFICE
OF
JAMES H. SCHULTE
680 CENTRAL AVENUE
SUITE 103
DOVER, NEW HAMPSHIRE
03820
TEL 603-743-6300
FAX 603-743-6400

SUBJECT PROPERTY WARRANTY DEED

Borrower: Richard & Susan Renner	File No.: 1010170du
Property Address: 28 Newmarket Road	Case No.: 76855-102186
City: Durham	State: NH
Lender: FNBCC, American Home Bank	Zip: 03824

to the Grantor herein by Quitclaim Deed of Ruth K. Chamberlin dated February 24, 1992 and recorded at the Strafford County Registry of Deeds at Book 1600, Page 142.

Signed this 26th day of January, 1996.

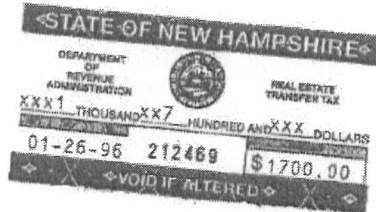
Ruth K. Chamberlin Trustee
 Ruth K. Chamberlin, Trustee

STATE OF NEW HAMPSHIRE
 STRAFFORD, SS.

Dated: January 26, 1996

Personally appeared Ruth K. Chamberlin, Trustee known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

Mary Golden
 Justice of the Peace/Notary Public
 My commission expires: *12/31/99*
 MARY GOLDEN, Notary Public
 My Commission Expires Dec 31, 1999



BK 1844 PG 0004

Law Office
 of
 JAMES H. SCHULTE
 680 CENTRAL AVENUE
 SUITE 109
 DOVER, NEW HAMPSHIRE
 03820
 TEL 603-743-6300
 FAX 603-743-6400

From: Michael Behrendt

Sent: Friday, February 14, 2014 12:55 PM

To: Rick Renner (rickrenner@gmail.com); Adam Fogg (atlanticsurvey@comcast.net); Karen Edwards; Tom Johnson; Jim Rice

Subject: Newmarket Road #28, Tax Map 6 Lot 9-6

Rick and Adam,

Nice to see you today. Here is a recap of our conversation:

- Rick's lot is Tax Map 6, Lot 9-6

- Two lots were established as shown on the attached recorded plan – Parcel 1 and Parcel 2

- You don't really need to do anything except prior to obtaining a building permit but you can address some things below earlier if you wish.

- RSA 674:39 a below states *"No city, town, county, or village district may merge preexisting subdivided lots or parcels except upon the consent of the owner."*

- Karen checked the records and we have no record of any property owner ever combining these two lots, so they must be considered two separate established lots, as I interpret the statute and this situation.

- **Per RSA:39-aa, below, the Planning Department needs to determine if the Town "merged" the lots.** I don't believe any document was ever prepared by the Town officially merging the lots but the lots are treated as one lot for assessing purposes. Plus, the Town's Nonconformance ordinance says: ***"Nonconforming Lots in Contiguous Ownership. Where two (2) or more adjacent nonconforming lots are held by the same fee title or beneficial ownership when this chapter is passed, the area and frontage of the lots shall be combined in such a manner as to comply as nearly as practical with the dimensional requirements of this chapter. This provision shall not apply to lots within a subdivision previously approved by the Planning Board under this Chapter or prior Durham Zoning Ordinances."***

- If the lots were considered to have been merged by the Town then RSA:39-aa states that the property owner must go to the Durham Town Council to have them unmerged.

- In order to obtain a building permit on the vacant lot cross easements would be needed. There is an existing asphalt driveway to serve the house on Parcel 2. There should be

cross easements giving Parcel 2 access across the front section of Parcel 1, and giving Parcel 1 access across Parcel 2, probably as shown on the attached map, or as reasonably modified. Of course, the easement would not need to extend onto Parcel 1 except in the front portion. The easement should also clarify how maintenance would be handled. Whether maintenance is the responsibility of the individual lot owners on whose lot the portion of the driveway sits, or if the entire shared section is the responsibility of both property owners, I think that each lot owner must have the ability to maintain any portion leading to his lot should the other party fail to maintain it.

- The easements would need to be in place prior to issuance of any building permit on Parcel 1. You could submit those with a building permit application later or you could submit them now and Tom Johnson and I would review them. I do not think it would be necessary for the Town Attorney to review them (unless Tom thinks this is necessary). There would need to be a written easement deed(s). It would probably be best to have a drawing also showing the easement, both to be recorded at the Registry.

- The historic district extends onto Lot 9-6 for 250 feet from the centerline of Newmarket Road, so if any new houses on Parcel 1 were built in that section it would need to be approved by the Historic District Commission.

- As part of the building permit stage you would probably need an okay from NHDOT for the expanded use of the driveway. I doubt NHDOT would require any improvements to the driveway. If the driveway were enlarged in any way, that would need to go to the HDC for review.

- You would need to meet all current setbacks, buffers, septic, wetland, and any other current applicable zoning requirements for any new building permit on either lot.

- There is a statute with specific requirements for private roads (calling for Town Council approval of building permits and indemnification) but I do not believe this statute applies in this case because the lots are existing, the driveway is existing, the vacant lot has frontage on Newmarket Road, and I would not consider a shared access for two lots to be a "private road." <http://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-41.htm>

Best regards.

Michael Behrendt, AICP

Director of Planning and Community Development

Town of Durham

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From what I can see, the land has been under the same ownership and recorded on one deed since 1955. However, no formal lot merger was done through the Town. The 1957 Tax Warrant shows only one lot. Jim suggested that the current land owner could apply to the Town for the Restoration of Involuntary Merged Lots through RSA 674:39-aa:

674:39-aa Restoration of Involuntarily Merged Lots. –

I. In this section:

(a) "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.

(b) "Owner" means the person or entity that holds legal title to the lots in question, even if such person or entity did not hold legal title at the time of the involuntary merger.

(c) "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

II. Lots or parcels that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the appropriate registry of deeds, provided:

(a) The request is submitted to the governing body prior to December 31, 2016.

(b) No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.

III. All decisions of the governing body may be appealed in accordance with the provisions of RSA 676.

IV. Any municipality may adopt local ordinances, including ordinances enacted prior to the effective date of this section, to restore previously merged properties that are less restrictive than the provisions in paragraph I and II.

V. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

VI. Municipalities shall post a notice informing residents that any involuntarily merged lots may be restored to premerger status upon the owner's request. Such notice shall be posted in a public place no later than January 1, 2012 and shall remain posted through December 31, 2016. Each municipality shall also publish the same or similar notice in its 2011 through 2015 annual reports.