



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
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Town Planner's Recommendation
February 11, 2015

Great Bay Animal Hospital - Boundary Line Adjustment. Application to adjust the lot lines between 2 existing lots to place the house on its own lot and the kennel, veterinary hospital, and dog day care facility on one lot. Dr. James McKiernan, Great Bay Animal Hospital, property owner and applicant; Kevin McEneaney, Surveyor. 27-35 Newmarket Road. Map 6, Lots 11-7 and 11-8. Residence C Zoning District.

- I recommend approval as stated below, provided that the Planning Board is satisfied that concerns about the buffer on the adjacent lot are satisfied below. Alternatively, the board could direct the applicant apply for a variance to keep all or most of the frontage on the main lot. I include the provision for indemnification under RSA

Draft
NOTICE OF DECISION

Project Name: Great Bay Animal Hospital Boundary Line Adjustment
Address: 27-35 Newmarket Road
Applicant: Dr. James McKiernan
Property Owner: Dr. James McKiernan
Surveyor: Kevin McEneaney; Mike Sievert, MJS Engineering, agent
Map and Lot: Map 6, Lots 11-7 and 11-8
Zoning: Residence C
Date of approval: February 11

[Office use only. Date certified: _____ Date recorded at Registry: _____]

This application is approved as stated below. "Applicant", herein, refers to the property owner, submitting this application and to her agents, successors, and assigns.

Precedent Conditions

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Planning Department. Certification of the plans is required prior to recording of the plans. Once these precedent conditions 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 11, 2015 - the board's approval will be considered to have lapsed and resubmission of the application will be required (unless an after-the-fact extension is granted by the Planning Board). **It is the sole responsibility of the applicant (or his/her agent) to ensure that these conditions are met by this deadline.** We urge the applicant to carefully track his/her progress in meeting the individual conditions. See RSA 674:39 on vesting.

"Applicant", herein, refers to the property owner, business owner, individual(s), or organization submitting this application and to his/her/its agents, successors, and assigns.

- 1) Plan modification. The plan drawings are to be modified as follows:
 - a) Change approval block on the drawings for signature of Planning Department. It should read: "Final Approval by Durham Planning Board. Certified by _____ Date _____"
 - b) Show the existing vegetative buffer along Route 108/Newmarket Road along the frontage of Lot 6-11-7 and somewhat beyond onto Lot 6-11-8.
 - c) Show the front setback as 40 feet in the table as Route 108 is an arterial
- 2) Plan notes. Add the following notes (or equivalent) to the plan drawings:
 - a) "For more information about this boundary line adjustment, or to see the complete plan set, contact the Town of Durham Planning Department, 8 Newmarket Road, Durham, NH 03824. (603) 868-8064."
 - b) "There are no utilities, water or sewer facilities, or other property features that are located in any areas that would be transferred such that an encroachment would result from the boundary adjustment."
 - c) "An easement providing for access to Lot 6-11-7 across Lot 6-11-8 will be finalized prior to final approval.
 - d) Driveway. "No new driveway on Lot 6-11-7 that would directly access Route 108/Newmarket Road shall be permitted at any time in the future unless: a) the Dog Day Care Facility is closed down; b) the driveway is approved by the Planning Board; and c) the driveway is approved by NHDOT
 - e) Vegetative Buffer. "The existing vegetative buffer along the front of Lot 6-11-7 is to be preserved in perpetuity. It may not be cut nor reduced in any manner except for the removal of dead, diseased, or invasive vegetation, only upon the explicit approval of the Durham Tree Warden. If the buffer is ever cut in violation of this condition then the owner of Lot 6-11-7 shall restore the buffer as stipulated by the Durham Tree Warden. Should the owner of Lot 6-11-7 fail to properly restore the buffer then the owner of Lot 6-11-8 shall to restore the buffer. Prior to final approval of this boundary line adjustment an easement/covenant shall be finalized requiring the owner of Lot 6-11-7 to maintain the buffer and allowing for the owner of Lot 6-11-8 to enter

Lot 6-11-7 to restore the buffer should the owner of Lot 6-11-7 fail to properly maintain the buffer.

- f) Site Plan Null and Void. “The amended site plan and conditional use for the Dog Day Care Facility at the Great Bay Kennel that was approved by the Planning Board on April 24, 2013 is null and void. The structure approved as part of that site plan would not meet the setbacks from the new locations of the lot lines in this boundary line adjustment.
- 3) Access Easement. Submit new easement allowing for access of Lot 6-11-7 across Lot 6-11-8. Include provisions for maintenance of the driveway up to where it meets Lot 6-11-7
- 4) Buffer protection. Submit an easement/covenant requiring the owner of Lot 6-11-7 to maintain the existing vegetative buffer along the front of that lot, allowing for removal only of dead, diseased, or invasive vegetation only with the approval of the Durham Tree Warden. In the same and/or a separate document, provide that the owner of Lot 6-11-8 has the right and the obligation to enter the property to restore the buffer, with reasonable notification to the lot owner, should the owner of Lot 6-11-7 fail to do so.”
- 5) Notice of Indemnification. The applicant shall record a Notice of Indemnification for the house lot in accordance with RSA 674:41(d) (or simultaneously with the plat if not practical to record it first)
- 5) Monumentation. Provide a certificate of monumentation to the Planning Department.
- 6) Signature. Sign this notice at the bottom.
- 7) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town: (a) one large set of black line drawings; (b) one large mylar; (c) one set of 11"x17" drawings; plus (d) one electronic version by pdf or CD. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the plans. (The primary set of plans was last received January 23, 2015).

General and Subsequent Terms and Conditions

All of the conditions below are attached to this approval.

- 1) Recording. The plat, this notice of decision (per RSA 676:3 III), and the access easement and buffer easement(s) shall be recorded together at the Strafford County Registry of Deeds within two calendar months to the date the plat is certified (e.g. if certified September 9th they must be recorded by November 9th). See RSA 478:1-a regarding plat requirements. Failure to comply with this requirement herein shall render the boundary line adjustment null and void.
- 2) Execution. The project must be executed exactly as specified in the approved application package unless changes are approved by the Town.
- 3) Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless

otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

- 4) Other permits. It is the responsibility of the applicant to obtain any other local, state, and federal permits, licenses, and approvals which may be required as part of this project.

- 5) Findings of fact. **A)** The applicant submitted an application, supporting documents, and plans for the project; **B)** The Planning Board accepted the application as complete on January 28, 2015 and held a public hearing on the application on February 11, 2015; **C)** 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; **D)** The two lots follow the requirements of a Porkchop Subdivision pursuant to Section 175-57 of the Zoning Ordinance; **E)** The front line of the residual lot set at an angle, L20, is considered a front, not a side, lot line; and **F)** The Planning Board duly approved the application as stated herein.

With the signature of the applicant, below, the applicant attests that the conditions contained in this approval are acceptable.

Signature of applicant

date

Printed name of applicant

Signature of Peter Wolfe, Planning Board Chair

date