



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

Town Planner's Recommendation
Wednesday, July 10, 2019

IX. ***Public Hearing - 3 Foss Farm Road – 2 lot subdivision.*** Subdivision of lot located at juncture of Foss Farm Road and Orchard Drive. Patricia Cotter and Michael Lambert, property owners. Adam Fogg, Atlantic Survey, surveyor. Mike Sievert, MJS Engineering, engineer. Map 6, Lot 1-6. Residence B Zone.

➤ I recommend approval as stated below.

Please note the following:

Special exception. Approval is subject to the applicant obtaining a special exception for the leach field. The ZBA review is the evening before the Planning Board meeting. I will let the board know on Wednesday the results.

***Accessory apartment. The applicant stated there is an accessory apartment in the barn that has been in place for a number of years. He needs to provide for Audrey Cline to inspect the property. Evidently a building permit was never granted for the barn and will probably be needed now after the fact. The accessory apartment would become a regular single family dwelling unit once the subdivision occurs. In the future, the lot owner could construct a separate single family house in which case the apartment would become an accessory unit once again. If Audrey has not inspected the unit by the Planning Board meeting the board will need to determine if this can be a precedent condition or if the review should be continued to July 24. Without a dwelling unit there is no principal use for Lot 2, and any lot must be vacant or have a principal use. If there is not a dwelling unit we could consider a condition where the barn is not used for any purpose until a legal principal use is established on the lot.

Water Line. April Talon has approved the proposed layout of the water line on the revised plans.

Draft
NOTICE OF DECISION

Project Name: 3 Foss Farm – 2 lot subdivision
Action Taken: APPROVAL
Property Owner: Michael Lambert and Patricia Cotter
Engineer: Mike Sievert, MJS Engineering

Map and Lot: Map 6, Lot 1-6
Zoning: Residence B
Date of approval: July 10, 2019

[Office use only. Date certified: _____ ;

“Applicant,” herein refers to the applicant and their 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 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 January 10, 2020 - 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 July 10 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) Lot #s. Obtain new Assessor’s Map and Lot #'s from the Assessing Office and show on each lot.
 - b) Leach field. Show location of septic tank and leach field to serve the apartment in the barn on Lot 2, as approved by NHDES (See condition below).
 - c) Easement. Show easement for interim use of the leach field on Lot 1 by the owners of Lot 2.
 - d) Address. Establish address for Lot 2 as approved by the Fire Department, including for the apartment on Lot 2 and allowing for a future house on Lot 2.
 - e) Rear setback. Show the rear setback for Lot 1 as 30 feet, not 20 feet.
 - f) Town lot. Show southerly border of adjacent Town lot, Map 6, Lot 1-5 to confirm that frontage on Foss Farm Road as shown is correct.

Notes on Plans

- 2) Notes on plans. Add the following notes on the plans/plan set that were reviewed and approved by the Planning Board:
 - a) “Leach field. The leach field shown on Lot 1 may be used by Lot 2 for up to 12 months to the day after the plan is certified by the Town of Durham. An interim easement is being established for this use. By the expiration of the 12 month period the easement shall cease and a new leach field for Lot 2 located on Lot 2 shall be placed into use. All lines and structures located on Lot 1 and Lot 2 connecting the barn to the leach field shall be removed (or capped) and the ground reclaimed by the owner of Lot 2, as appropriate.”
 - b) “Water line. The proposed water line to serve exclusively the barn and apartment in the barn on Lot 2 including a water shut off and any other appurtenant elements required by the Public Works Department shall be in place within 12 months to the day that the plans are certified.
 - c) “Underground utilities. If a new single family house is built on Lot 2, all electric lines leading to the house shall be placed underground. One new pole may be placed along Orchard Drive if needed with underground running from the new pole.”
 - d) “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.”
 - e) “School Impact Fee. The school impact fee is assessed as part of this project in the amount of \$3,699. This fee is due if a new single family house is constructed on Lot 2. The fee is not due for the existing apartment in the barn on Lot 2. If a new single family house is built, the fee will be payable in full prior to issuance of a certificate of occupancy.”

Other Conditions Precedent

- 3) NHDES Subdivision Approval. Approval from the New Hampshire Division of Environmental Services for the subdivision must be submitted to the Planning Department.
- 4) NHDES Septic System. Approval from the New Hampshire Division of Environmental Services for the septic system design must be submitted to the Planning Department (This approval is not ordinarily required for a subdivision but is required here because the existing leach field system will be used on an interim basis). The approved layout must be shown on the plans.
- 5) Utility connection. A utility connect permit application for the water line with necessary plans and specifications shall be submitted to DPW for review and approval by the Town in accordance with the Durham Water and Wastewater ordinances.

- 6) Easements. Submit draft written easement for the water and septic systems to the Planning Department for review and approval. The easement for the septic system will be in place for a maximum of 12 months from the day after certification of the plans.
- 7) Surety. Place a surety with the Town for the cost of relocation of the water system and leach field in the estimated cost for installation plus 10%. The applicant shall also sign an agreement to relocate the water and leach field. The water system and leach field shall be installed within 12 months to the day after certification of the plans.
- 8) Monumentation. The surveyor shall provide a certificate of monumentation to the Planning Department.
- 9) 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. *Please note*. If there are significant changes to be made to the plans, as specified above, one full size paper check print must be sent to the Planning Department for review prior to producing these final drawings.
- 10) 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.

- 11) Other applicable requirements. All other applicable requirements of this site plan, this Notice of Decision, and other terms and conditions must be satisfied prior to issuance of a certificate of occupancy.
- 12) Recording. The plat, this notice of decision (per RSA 676:3 III), and the written 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.
- 13) Accessory Apartment. There is an existing accessory apartment in the barn. Once the subdivision is recorded this apartment becomes a regular single family dwelling unit, the principal use for the new lot. If a new single family house is constructed on Lot 2 in the future, then the apartment becomes an accessory dwelling unit to that house.
- 14) Leach Field. A special exception was granted by the Zoning Board of Adjustment on July 9 to retain the existing leach field within the new side setback.
- 15) Execution. The project must be executed exactly as specified in the approved application package unless changes are approved by the Town.

- 16) 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 be determining.

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting *documents*, and plans for the project; **B)** The Technical Review Group reviewed the plans on June 4, 2019 and the Planning Board *accepted the application* as complete on June 12, 2016; **C)** The Planning Board held a *site walk* on May 21, 2019 and a *public hearing* on the application on July 10, 2019; **D)** The staff and the Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, and the Durham Subdivision Regulations, and found that the application *meets all requirements*; **E)** A *special exception* was granted on July 9, 2019 for placement of the leach field within the side setback; **F)** 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