



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

Town Planner's Project Review
Wednesday, June 12, 2019

VIII. **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 owner. Adam Fogg, Atlantic Survey, surveyor. Mike Sievert, MJS Engineering, engineer. Map 6, Lot 1-6. Residence B District.

➤ I recommend that the Planning Board accept as complete *subject to items below*; if complete schedule site walk and set public hearing for July 10.

Acceptance***. See septic system and lot size information below. The Planning Board can accept the application as complete subject to these two issues at its option.

Technical Review Group. The TRG reviewed the project on June 4. I will email minutes early in the week. We have a memo from Police Chief Kurz. He does not see any issues with the proposal.

NHDES. Approval from DES will be needed for the subdivision.

Barn. According to the applicant there is an accessory apartment in the barn on Lot 2. The owner would likely relocate to that unit after selling Lot 1. He said the unit is a full dwelling unit. A new house could therefore still be built on the lot returning the unit in the barn to an accessory unit if the latter still met the standards for an accessory unit under Section 175-109 G.

Town's lot. There is an adjacent lot owned by the Town of Durham, Map 6, Lot 1-5. A revised plan should show the southerly lot line to confirm that the frontage for Lot 1 along Foss Farm Road and Orchard Drive is sufficient.

Unusual lot layout. The lot layout is unusual. Rectilinear lot layouts are preferred as they enhance value and legibility. I think the applicant has addressed this concern in his updated letter to the board, given the locations of the barn and leach field and the frontage requirements for the river.

Leach field. The leach field now serves the house and the barn. A new leach field will need to be built on Lot 2 to accommodate the barn and any future house. In the interim an easement will be needed to allow the barn to stay connected to the leach field. The Planning Board should set a timeframe after recording of the plat after which the barn must be reconnected to a new leach field on its own lot. An appropriate surety will be needed to ensure the future reconnection. The applicant should obtain NHDES approval for a septic design for Lot 2 as a precedent condition.

Water line. The water line serving the barn extends across Lot 1. We discussed this in the TRG. The applicant prefers to keep that water line and create an easement across Lot 1. There are separate meters for the house and barn. We await guidance from Public Works on whether a new line should be installed. There is no water service on Orchard Drive. If a new line is to be installed for Lot 2 it could come across the lower part of Lot 1 with an easement.

Address. A new address will probably be needed for Lot 2 and the barn. The lot numbers will need to be clarified.

River access. I would encourage the applicant to create an easement for Lot 1 to cross the back of Lot 2 to access the river.

Septic system setback. Septic systems and leach fields must meet setbacks. The existing leach field would not meet the side setback, but they may be placed closer to the lot lines by special exception under Section 175-56 G. The next ZBA meeting is July 9, the day before the July 10 Planning Board meeting. The board could accept the application as complete subject to obtaining this special exception at its option. The applicant would incur the risk of paying for the public notices for a hearing on July 10 with this uncertainty.

Lot size. The minimum lot size in the Residence B zone is 40,000 square feet. Wetlands do not count toward the minimum lot size and buffer areas that are very poorly, poorly, or somewhat poorly drained also do not count. There is a question about exactly which areas to count as wetlands. This restriction applies in the WCOD but not in the SPOD. We have in the past not treated rivers and open waters situated within the SPOD as “wetlands” unless the areas are specifically delineated as such but the question arose at the TRG whether rivers and open water within the SPOD should be treated as wetlands. The staff needs to clarify this question quickly in order to determine if the portion of the lot within the Oyster River counts toward the minimum lot size. The adjacent wetland strip identified as poorly drained soil is a wetland. The wetland buffer from there is 75 feet. Any part of that buffer which is very poorly, poorly, or somewhat poorly drained does not count. We need some data and a clarification on the ordinance to determine if the lot size is met. I hope that we can have this by the Planning Board meeting. Depending on where we stand the board can consider whether to accept the application as complete. The wetland buffer will need to be added to the plans.

Rear setback. The rear setback line on Lot 1 needs to be shown as 30 feet.

Lot 2. The surveyor will need to note on the plans that the centerline of the river is considered the rear lot line. Adam Fogg noted to me: *Please accept this email as an explanation for the difference in lot lines/area of our current survey plan compared to the 1980 recorded plan number 17B-77. We have used the same physical evidence as shown on the previous plan with the difference being a more accurate location of the stone walls. It appears that the location of the river is similar between the two surveys but this could also result in a slight difference in lot area. The difference between the surveys is minimal with our updated survey resulting in an increase in lot area of approximately 5000 s.f.*

Impact fee. As part of the subdivision approval the impact fee of \$3,699 would come into play. The fee is assessed by the Planning Board for any new single family detached house and due prior to the certificate of occupancy. The existing accessory dwelling unit on Lot 2 would become the primary dwelling unit so it would only be assessed if a new house is built on the lot.