

May 18, 2020

Dear Durham Planning Board Members and Durham Conservation Commission Members,

We are neighbors and property owners living in the Ambler Way/Gerrish Drive community who strongly oppose the Mulhern conservation subdivision proposal presently before the Planning Board in the preliminary design review stage. This proposal involves a complex, risky undertaking that would obliterate a long-existing, well-functioning, town-owned wetland area to accommodate the construction of an access road for a private development.

Our concerns are that the Mulhern proposal calls for extensive property disturbances that threaten to disrupt our community environs and its supporting ecosystem and could also injure broader ecosystems going well beyond our properties.

There will be filling in of wetlands, extensive tree cutting, restructuring of land surfaces, and risky installation of water-flow devices and basins. The traffic study indicated an increase of traffic of 24 cars per day through the neighborhood and while that is not "significant" (the bar for that is 500 cars per day, so clearly not designed for residential neighborhoods), it is a substantial increase over existing traffic. There will be considerable construction over several months to more than a year.

We are not satisfied that wetland impact will be minimized. At the June 27, 2018 Planning Board meeting several neighbors pointed out that the lot line adjustment that the Mulherns requested would eliminate a potential access route into their property, yet the lot line was adjusted; the Mulherns now claim that the town right-of-way is the only access for the development. We question if this, as well as the deeding by the Mulherns in 2018 of their established right-of-way rights to Bagdad Road, constitute forms of self-created hardship that should constitute negative factors in the assessment of the proposal. See Hill v. Town of Chester, 146 N.H. 291, 293-294 (2001).

Durham's regulations require that, to gain approval, this proposal must satisfy many conditional use criteria contained in the Zoning Ordinance. These include: (1) (ZO, Article VII, Section 175-23.C.1.c.) that there is "[t]he absence of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints"; (2) (ZO, Article VII, Section 175-23.C.2.) that "the nature and intensity of the use . . . shall not have an adverse effect on the surrounding environment"; (3) (ZO, Article VII, Section 175-23.C.5.) that "[t]he proposed use of the site, including all related development activities, shall preserve identified natural . . . resources on the site and shall not degrade such identified resources on abutting properties"; (4) (ZO, Article VII, Section 175-23.C.6.) that "[t]he proposed use will not cause or contribute to a significant decline in property values of adjacent properties"; (5) (ZO, Article XIII Section 175-61.B.3.) that the proposal will "minimize any detrimental impact on the wetland"; (6) (ZO, Art. XIII, Section 175-61.B.4.) that "restoration activities will leave the site as nearly as possible in its [previously] existing condition and grade"; and (7) (ZO, Article XIII, Section 175-61.B.1.) that "[t]here is no alternative location on the parcel that is outside the WCOD that is reasonably practical for the proposed use."

As Durham residents, we are counting on the Planning Board to ensure that this project meets these criteria. To date, these conditional use criteria have not been satisfied. We have faith in our town government that it will hold the project to these standards.

Respectfully submitted,

Gail Kelley and Andrew Merton, 11 Gerrish Drive

Otis Sproul, 8 Gerrish Drive

Cindy and John Lewis, 9 Gerrish Drive

Diana and John Carroll, 54 Canney Road

Kimberly and Peter Sweetman, 18 Ambler Way

Christine and James Conlon, 6 Gerrish Drive

Eric Fisher, 3 Gerrish Drive

Alexandria Turcotte and Zachary Smart, 4 Gerrish Drive

Emily and Richard Spear, 7 Gerrish Drive

Maureen Baldwin and Eleanor Sexton, 60 Canney Road