



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

Town Planner’s Recommendation
Wednesday, October 12, 2022

VIII. ***Public Hearing - 20 Adams Point Road – 2-Lot Subdivision.*** 2-lot subdivision of 34-acre parcel at the southeast corner of Adams Point Road and Bay Road. Anthony and Natalie Diberto, owners. Chris Berry, Berry Surveying. Map 230, Lot 7. Residence Coastal District. *Accepted* on August 24. *Recommended action:* Final action if ready.

- I recommend approval as stated below if all outstanding issues are addressed. Note that some may be addressed as conditions of approval.

A key issue that needs to be addressed before the subdivision is approved is whether there are any constraints on the property due to ownership of land by Michael Morneault or any other party.

An abutter said there were vernal pools on the property. The surveyor is checking with the wetland scientist who delineated wetlands for the property.

Draft
NOTICE OF DECISION

Project Name: Adams Point Road 2-lot Subdivision
Action Taken: APPROVAL
Address: 20 Adams Point Road
Property Owner: Anthony and Natalie Diberto
Surveyor: Chris Berry of Berry Surveying
Map and Lot: Map 230, Lot 7
Zoning: Residence Coastal
Date of approval: October 12, 2022

[Office use only. Date certified: _____ ;

“Applicant,” herein refers to the applicants and their agents, successors and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions 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 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 one year of the board's approval - by October 12, 2023 (or as extended) - 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 precedent conditions 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 October 12, 2022 may be made except for the specific required modifications that follow.

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):

- 1) Map corrections. Make any corrections regarding ownership of neighboring property related to discussions with Michael Morneault.
- 2) Map #. Obtain new Assessor's Map and Lot #'s from the Assessing Office and show on each lot;
- 3) Approval block. Change the approval block on each page of drawings to read: "Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner _____ Date _____"
- 4) Addressing. Establish address for the new lot to be approved by the Fire Department and show on the plan.
- 5) Boundary markers. Set boundary markers (actually physically set in place in the field) and note on plans ("marker set" or equivalent)
- 6) Plan changes. Correct lot reference in Note 8. Note that the buildable area within the setbacks and the wetland buffer at the northwest corner is 18,115 square feet.
- 7) Conservation easement. The entire subject parcel is covered by the conservation easement. Identify the development area and the conservation area clearly. The development area is subject to the terms of the conservation easement broadly. Include a note that The Nature Conservancy conservation easement includes all of the subject parcel (with lot #s) and Map 230, Lot 6.

Notes on Plans

Add the following notes on the plans that were reviewed and approved by the Planning Board:

- 8) “Underground utilities. All utility piping and wiring for the new lot shall be located underground except for placement of one new pole in or adjacent to the lot if needed to cross the road.”
- 9) “Additional information. For more information about this subdivision contact the Town of Durham Planning Department, 8 Newmarket Road, Durham, NH 03824. (603) 868-8064.”
- 10) “Notice of decision. It is the applicant’s, site contractor’s, and building contractor’s responsibility to follow all requirements related to this subdivision approval.”
- 11) “Blasting. Blasting and on-site chipping (of stone) is restricted to the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.”
- 12) “School Impact Fee. The school impact fee for the one new lot is assessed as part of this project in the amount of \$3,699. The fee must be paid in full prior to the issuance of a certificate of occupancy.”
- 13) “Extent of development. There is to be no further subdivision of the new lot nor establishment of a second single family house on the new lot. Lot lines may be adjusted but no subdivision shall be permitted which would yield additional buildable lots.”

[The applicant agreed to this term related to the limits of the conservation easement.]

- 14) “Wetland Buffer. There is a 100-foot buffer requirement from wetlands under the Durham Zoning Ordinance as shown on this plan. There may be no encroachment within these buffers except as permitted under the ordinance.”
- 15) “Orchid colony. There is a colony of Pink Lady’s Slipper Orchids (*Cypripedium acaule*) in the vicinity of the stone wall at the northwest corner of the proposed lot. This orchid is the NH State Wildflower and is identified as a species of special concern. It is recommended (but not required) that the buyer of the lot work around the orchid colony in building on the lot to the extent practical.”
- 16) “Conservation easement. See Plan Reference 2) for information about the conservation easement. Impervious driveways are not permitted in the development area. Docks, horseback riding, and motorized vehicles are not permitted in the conservation area lower fields.”

- 17) “Leach field and groundwater rise. The Town’s 2022 study on sea level rise impact on groundwater projects a rise in groundwater at this location of 4 feet in the next 50 years. Accordingly, the leach field shall be placed at least 4 feet above seasonal high water.”

[The applicant agreed to this condition.]

Other Precedent conditions

- 18) Subdivision approval. NHDES subdivision approval shall be obtained with a copy of the permit delivered to the Planning Department.
- 19) Driveway permit. Obtain a driveway permit from the Durham Public Works Department (or confirmation that one is expected to be issued on Durham Point Road) or the state of New Hampshire for access off Adams Point Road.
- 20) Electric service approval. Obtain written confirmation from Eversource Energy that the plans for electric service to the site are acceptable.
- 21) 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 responsible for the plans.
- 22) Signatures. Signatures by the applicants below acknowledging all terms and conditions of this approval.

CONDITIONS SUBSEQUENT AND GENERAL TERMS

All of the conditions below are also attached to this approval.

Conditions to be met prior to issuance of any certificate of occupancy

- 23) School Impact Fee. The School Impact Fee must be paid in full.
- 24) 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.

Other terms and conditions

- 25) Recording. The plat and this notice of decision (per RSA 676:3 III) 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.
- 26) Changes to plans. Changes to the approved plans may be approved in accordance with the Planning Board’s Rules of Procedure.

- 27) 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.
- 28) Tax Implications. It is recommended that the applicant contact Jim Rice, Durham Tax Assessor, to learn about any tax implications of this project. You can contact Mr. Rice at (603) 868-8064 or jrice@ci.durham.nh.us

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 Planning Board accepted the application as complete; **C)** The Planning Board held several continuous *public hearings* on the application; **C)** The Planning Board held a *site walk*; **D)** The application was shared with the *Technical Review Group*; **D)** The applicant revised and *updated the plans* and other documentation as specified by the Planning Board; **E)** The Planning Board reviewed the application in accordance with the Durham Zoning Ordinance and the Durham Subdivision Regulations and found that the application *meets all requirements*; and **F)** This project is not considered to be a Development of Regional Impact; and **G)** 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