



## **BERRY SURVEYING & ENGINEERING**

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Town of Durham Zoning Board  
8 Newmarket Road  
Durham, NH 03824

January 19, 2022

RE: Pike Family Revocable Trust  
Variance Application and Narrative  
Packers Falls Road  
Tax Map 14, Lot 10-2

Dear Chairperson and Members of the Durham Zoning Board,

Pike Family Revocable Trust owns Tax Map 14, Lot 10-2. They wish to subdivide this parcel into two lots, utilizing the pork chop lot ordinance. As a result, one lot will be 3.45 acres in size and the remaining land will be 36.16 acres. The smaller of the lots, 10-2 will retain the existing house and various out structures on the parcel.

The proposal includes creating a strip of land for the purposes of providing frontage along Packers Falls Road. The pork chop ordinance requires the access to both parcels in the subdivision to share an access point, and thus there is a proposed easement over the front western corner of the proposed Lot 10-2, the smaller of the two lots. The applicant intends to remove the existing shed, which is directly adjacent to the proposed boundary line, removing the potential non-conformance.

The existing single family structure sits within the front setback of Packers Falls Road, as depicted on the plan. The proposed boundary line between the existing single family structure and the pork chop strip, is less than 50' from the structure. This is due to the fact that the ordinance requires the pork chop have a minimum requirement of 50' of road frontage. The proposed setback is 34.48'.

### **Specific Variance Request & Criteria for Approval:**

- Variance to the Table of Dimensions, 175-54
  - 1.) *"Granting the variance would not be contrary to the public interest."*
    - a. The public interest in this instance is creating subdivision lots that meet the space and bulk standards for a subdivision in a more rural portion of the Town of Durham. In this case, since the neck of the pork chop cannot be built on, and there is a shared driveway access between the two proposed lots, the visual appearance from the street will not be modified.

2.) *"If the variance were granted, the spirit of the ordinance would be observed"*

- a. The spirit of the ordinance pork chop ordinance is to allow for some development to take place on larger parcels of land with limited frontage. This is a mechanism to allow the more rural areas of the Town of Durham to remain intact while allowing the scenic character to remain and allow the potential for higher and better uses for land that is otherwise superfluous to the existing or primary use. In this case, the lot to be created (10-2A) will be large in size, maintaining the rural area, share an access point with Lot 10-2, and not modify the street scape of Packers Falls Road. It is our opinion that though this creates a non-conformity with setbacks to the existing structure, it meets the spirit of the overall ordinance.

3.) *"Granting the variance would do substantial justice."*

- a. Granting the variance will allow for the applicant to continue to continue the spirit and intent of the ordinance and allow the public interest in the rural character of the area to be maintained, by creating one lot for sale from 39.61 Acres. The variance for the side line setback will do no harm to abutting land owners or users of Packers Falls Road, whereas the reduction is not visible or noticeable in anyway, given the fact that the proposed neck of the pork chop will not be developed for any use other than the potential access to the rear 36 acres.

4.) *"If the variance were granted, the values of the surrounding properties would not be diminished"*

- a. Given the fact that the proposed reduction in setback does not create any additional building areas adjacent to Packers Falls Road or other abutting land owners adjacent to the relief requested, there is no perceived detriment in surrounding land values. There is proposal is to create a 34.48' setback where 50' is required. Based on the size of the westerly abutting lot's dimensions, it is likely that a similar non-conformance exists, which not affect the underlying value of that parcel, nor does its potential non-conformance affect the value of the applicant's parcel. It is not reasonable to think that the creation of a larger 36 acre parcel in the rural area of the Town of Durham would result in any diminution of abutting property values.

5.) *"Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:*

- a. *"No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property:"*
  - i. In this case there is no fair and substantial relationship between the reduction of the sideline setback and the pork chop ordinance, whereas the neck of any pork chop lot, creates the visual setback when considering space and bulk standards in the underlying zone. The proposed boundary line at the neck of a pork chop lot does not dictate the density between potential structures along the roadway, whereas the neck has no structural developable use.
  - ii. This lot is special in that it contains an existing non-conforming structure, which was constructed in 1888. (per the accessing records) The geometry of the underlying lot does not permit the strip of the pork chop to be anywhere else along the frontage. Given the rural intent of the underlying zone, it is important for these structures to be encouraged to remain intact. The unnecessary hardship to the applicant would be to force the demolition of the structure for the sole purpose of meeting a sideline setback to a non-building area on the newly created abutting parcel. Also special to this land and the position of the proposed boundary line, are the existing mature trees that create a quality visual transition between the developed area of Lot 10-2 and the open field space to the east of existing structure.



**b.** “ *The proposed use is a reasonable one:*”

- i. It is a reasonable use of this land to be subdivided using the pork chop lot ordinance to maintain the rural character of the land and street scape along Packers Falls Road. A reduction of the sideline setback will not be known or perceptible in the future and therefore it follows the ideals of the underlying zone. There will be no functional or visual change to the front of either lot, and will not permit additional density along the frontage of Packers Falls Road, which is the intent of the underlying rural zone and the pork chop lot zoning.
- ii. The pork chop lot has a clear preference in keeping the neck at 50’ whereas it is a requirement of the ordinance, however allows flexibility in the other factors relating to frontage. However in this case, with the rigidity of the 50’ the relaxing factor is proposed to be the required side setback. If the frontage were relaxed in the 50’ neck, the proposed shared driveway access would then be modified, and its functionality with the existing structure reduced, and may result in a change in the appearance of the subdivision from the roadway. It is clear that the reduction in a sideline setback to a non-building area is the most reasonable approach.

Thank you for your time and attention to this matter.

Berry Surveying & Engineering

Christopher R. Berry  
Principal, President



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