

## SECTION XII

### **DETERMINATION OF ADEQUATE ACCESS**

(10/2007)

#### **A. Purpose**

The purpose of this section is to set forth a procedure and standards by which the Planning Board may determine whether the access is adequate to one or more lots on a private way, so as to satisfy the frontage requirement of the Zoning By-Law. In addition, the procedures set forth in this section for improvements to a private way are designed to reduce the likelihood of drainage and erosion problems and ensure that improvements, when completed, result in a positive determination.

- B.** A building permit may be issued by the Building Inspector when a lot has the required frontage on an accepted street. Otherwise, the Building Inspector shall not issue a building permit until the Planning Board has made a Positive Adequate Access Determination ("Positive Determination").

#### **C. Application for Adequate Access Determination**

- 1. Submittal Requirements** – Applicants for an Adequate Access Determination shall submit the following items to the Planning Board:
  - a.** A written request for an Adequate Access Determination signed by the landowner seeking the Determination.
  - b.** The name of the private way on which a Determination is being sought.
  - c.** The assessor's parcel number for the lot(s) for which a Determination is being sought.
  - d.** A locus map which shows adjacent ways and is sufficient to locate the way and parcel.
- 2. Planning Board Procedure** - Upon receipt of a completed request for an Adequate Access Determination, the Planning Board will schedule the request for its next available meeting.
- 3. Review Standards** - The Planning Board will consider the following criteria in determining whether a private way is of sufficient width, suitable grades and adequate construction to provide adequate access to the lot (s):
  - a.** The roadway surface must be a minimum width of fifteen (15) feet of bituminous concrete.
  - b.** The adequacy of or need for drainage along the roadway.
  - c.** The number of existing and potential lots.
  - d.** The slope of the roadway.

The Planning Board may continue its consideration of the request to a later meeting, in order to obtain further information from the applicant and/or conduct a site visit. The Board's decision shall be based on the conditions that exist at the time the Adequate Access Determination is requested.

- 4. Decision** - The Planning Board will vote to issue a positive or a negative Adequate Access Determination within sixty (60) days after the Board has completed its review of the request. The Board's decision will be issued in writing with reasons set forth and a copy shall be provided to the Building Inspector.
  - a. Positive Determination:** Applicants may be issued a building permit upon the issuance of a Positive Determination (provided that all other requirements for a building permit are met).
  - b. Negative Determination:** The Building Department shall not issue building permits when a Negative Determination is made by the Planning Board.

#### **D. Improvements to Private Ways**

If an applicant seeks to improve a private way prior to applying for a Determination, or has received a Negative Determination and seeks to correct the deficiencies in the private way that the Planning Board identified in its decision, the following review and approval procedure will be followed for considering an applicant's proposal to improve the private ways.

- 1. Submittal requirements** - Applicants seeking to improve private ways shall submit the following materials to the Planning Board.
  - a.** Eight (8) sets of Road Construction Plans showing proposed improvements to the way at a scale of 1" = 40' or greater in plan and profile view signed by a registered professional engineer.
  - b.** An estimate of the number of potential lots that could be served by the way based on existing zoning if a Positive Determination were issued.
  - c.** An administrative fee and an escrow account to cover the costs of a review engineer in amounts to be determined by the Planning Board. An applicant may also be required to establish a bond depending upon the scope of the project.
  - d.** A certified list of all abutters to the way that is being developed. If two (2) ways are being improved, all abutters to both ways must be notified.
  - e.** A statement whether or not the applicant intends to have the way accepted by the town.

Applicants may request a pre-application meeting with the Planning Board to discuss appropriate waivers and construction standards.

## **2. Public Hearing Requirements**

- a.** The Planning Board shall conduct a public hearing on the proposed improvements with notice provided at least fourteen (14) days prior in a newspaper of local circulation. Applicants must pay the cost of advertising the public hearing.
- b.** The Planning Board shall request comments from the Highway Department, Fire Department, Police Department, Conservation Commission, Water Department, Building Department and Board of Health.

## **3. Review Standards -** Based on site conditions, road improvements shall generally be constructed to the following minimum standards:

- a. Pavement width** shall be a minimum of fifteen (15) feet and should be constructed as follows: Three (3) inches of bituminous concrete on a twelve (12) inch minimum gravel base (1 ½ inches of binder course, 1 ½ inches of wearing course) or existing asphalt penetration that has shown its ability to withstand the traffic flow.
- b. Drainage** – Depending on topography and other site conditions, curbing, catch basins or other drainage structures may be required. In all cases, appropriate provision for water run-off shall be made so that it leads into a drainage system, no water will be directed onto any abutting property, and no erosion will result.
- c. Tapering** – Where necessary, newly constructed segments of an unaccepted way shall be “tapered back” to provide a safe transition to the cross section of the existing ways.
- d.** The Planning Board will consider comments received pursuant to Section 2(b) in reviewing proposed road improvements.
- e.** One or more of these conditions may be waived by the Planning Board, at its discretion, if the Planning Board determines that the requested waivers do not derogate from the intent of the Zoning Bylaw.

## **4. Decision -** Following the public hearing, the Planning Board will determine that either:

- a.** The plan may be approved because the proposed improvements will be sufficient to allow the Planning Board to issue a Positive Determination upon completion of the improvements;
- b.** The plan may be approved because the proposed improvements with modifications required by the Planning Board will be sufficient to allow the Planning Board to issue a Positive Determination upon completion of the improvements; or,
- c.** The plan must be denied, because the proposed improvements will be insufficient to allow the Planning Board to issue a Positive Determination upon completion of the improvements.
- d.** The Board shall have sixty (60) days after the public hearing is closed to issue a written decision.

## **5. Completion of Improvements**

- a.** Prior to commencing construction, the applicant will be required to pay for the cost of construction oversight by the Planning Board's designee. Any unexpended funds will be returned to the applicant following completion of work.
- b.** After improvements are completed in accordance with approved plans and the Planning Board is so notified, the Planning Board shall issue a Positive Determination and shall notify the Building Department and the applicant in writing of its decision.