

6.3 COMMON DRIVEWAY BYLAW

6.3.1 GENERAL

- A. Rebuttable Presumption.** It shall be presumed that a single driveway serving a single dwelling and conforming to the standards of the By-Laws of the Town of Douglas shall be the preferable means of providing vehicular access to any dwelling. This presumption may be overcome by a positive showing by an Applicant wishing to install a common driveway that one or more of the interests set forth in this section shall be substantially served by such installation.
- 1. Public Safety.** The Applicant may show that traffic safety or other public safety concerns will be served by the construction of a common driveway as opposed to individual access to subject lots. The Planning Board may consider such things as relative distances to intersections, sight lines at access to the public way, traffic flow and density at the proposed access to the public way and the possible alternative sites and numbers of curb cuts in the proximity of the proposed driveway in their assessment of the Applicant's showing. The Planning Board shall also consider any statement issued by the Fire Chief, the Chief of Police, the Highway Superintendent or the Town Engineer in reaching its determination that the interest of public safety would be served by a proposed common driveway.
 - 2. Retention of Physical Characteristics of Land and Mitigation of Environmental Impact.** The Applicant may show that a common driveway would avoid significant alteration of the physical appearance of the land to be developed or that the construction of a common driveway would significantly reduce the impact of proposed development on the subject land. The Planning Board may consider such things as minimizing the alteration of topographical characteristics of land, including removal of rock outcrops and significant fill or grading, removal of trees and other vegetation or the removal or alteration of buildings of historical or architectural merit.
 - 3. Mitigation of Wetlands Impact.** The Applicant may show that alteration of Wetlands Resource Areas, as that term is defined in Massachusetts General Laws Chapter 131, Section 40 and regulations thereunder, will be reduced by the construction of a common driveway. The Planning Board may consider any information that is required to be supplied with respect to wetlands alteration under the terms of said section of Massachusetts General Laws and the regulations thereunder. A statement by the Conservation Commission as to whether such interests would be served by the construction of a common driveway shall be given consideration in the determination of the Planning Board.
 - 4. Other Factors.** The Planning Board may from time to time adopt other factors that may serve to overcome the presumption that single driveways are preferable to common driveways by regulation promulgated in accordance with this By-Law.

B. No Common Driveway Unless Presumption Overcome. A common driveway may be installed under special permit issued by the Planning Board in accordance with the terms of this Bylaw. No special permit for a common driveway shall be issued unless the presumption that single driveways are preferable shall be overcome. A determination that such presumption has been overcome shall be made by the Planning Board in its reasonable discretion and upon the facts presented by the Applicant in accordance with this by-law.

C. Definitions. The following definitions apply to this Bylaw.

1. Common Driveway – A driveway serving up to three residential lots with appropriate construction as defined and approved within this Bylaw.

6.3.2 APPLICATION REQUIREMENTS

A. Application Form. Each Applicant shall complete an application in the form as the Planning Board may from time to time determine. Ten copies of the complete application shall be submitted to the Planning Board.

B. List of Abutters. The Applicant shall supply a certified list of the names and mail addresses of all abutters to any land to be served by the proposed common driveway as well as any landowners who own any land within three hundred feet of the proposed entrance of the common driveway on a public way, such abutters and landowners to include those owning land on either side of the public way to be accessed by the common driveway.

C. Plans. The Applicant shall provide plans of the common driveway in accordance with the requirements of this subsection.

2. Preparation and Form of Plans. Plans shall be prepared and certified by a Professional Land Surveyor and a Professional Engineer on each page in conformity with rules and standards established by the Worcester County Registry of Deeds. Plans shall carry a legend on each page as follows: “Common Driveway Special Permit Issued by Douglas Planning Board dated _____“. Plans shall be drawn at a scale that will clearly and accurately present the scope of the proposed project.

3. Content of and Number of Plans. Plans shall show three views of the proposed common driveway in accordance with this Subsection. The Applicant shall present ten copies of each of the plans required by this section.

a. Overall Plan. This plan shall be drawn at a maximum scale of 200 feet to the inch and shall show the location and dimensions of the proposed common driveway, including all lots (in their entirety) that are proposed to be served. In addition, the public way on which the proposed common driveway is to enter is to be shown for a minimum of 300 feet on either side of the proposed access. The property lines of abutters and landowners whose names and addresses are required to be supplied in accordance with Section 10.02 B. are to be shown and the properties to be labeled with the

name of the Owners. This plan shall designate Flood Plain District Lines and Wetlands Resource Areas and shall show any public shade trees and any stone walls that will be affected by the installation of the driveway.

The overall plan shall also show existing and proposed contours at a minimum of two-foot intervals in the vicinity of the common driveway so that proposed drainage patterns and arrangements may be evaluated. The overall plan shall also indicate the location of emergency access direction signs as required by Section 10.02 C. 2. d.

- b. Cross-Section Plan.** The cross section plan shall be drawn to a scale of 10 feet to the inch and shall show a typical cross section of the proposed common driveway, a cross section of each wetlands crossing or drainage culvert and any additional cross sections deemed appropriate by the Planning Board.
- c. Profile Plan.** The profile plan of the proposed common driveway shall be shown in its entirety and shall show the grade prior to construction and after construction. The profile plan shall be drawn at a scale of 200 feet to the inch.
- d. Signage Plan.** The signage plan shall include a sketch of the proposed emergency access direction signs that shall be in accordance with Section 10.03 C.

D. Legal Documentation. Each application shall include the following items with respect to the legal documentation required to establish and maintain the proposed common driveway.

1. The exact written terms of any easement, deed restriction or the like establishing the right of each lot to access over the proposed common driveway.
2. A copy of the maintenance agreement or similar arrangement that will provide for the upkeep and repair of the proposed common driveway in conformity with Section 10.04 of this by-law.
3. An opinion of counsel from the attorney for the Applicant addressed to the Town of Douglas stating that the items required by Subsections 10.02 D. 1. & 2. of this By-law are enforceable according to their terms if properly executed by the requisite parties and that the Agreement or similar arrangement required by Subsection 10.02 D. 2. of this bylaw has been drafted in conformity with the requirements of Section 10.04.
4. Proof of the recording or registration of any document or plan required hereunder normally requiring such recording or registration.

6.3.3 DESIGN SPECIFICATIONS

No special permit shall be issued by the Planning Board for a common driveway unless such driveway conforms to the design specifications contained in this Section.

- A. Offset to Property Not Served by the Proposed Common Driveway.** At no point may a common driveway be less than fifty feet from the lot line of any lot not served by the common driveway. Access to any public way must be made through frontage of a lot served by the common driveway.
- B. Design Specifications of Common Driveway.** The following design specifications shall apply to the construction and design of a common driveway.
- 1. Width.** A common driveway must at all times have a minimum travel surface width of eighteen-feet. Two-foot (2') shoulders shall be provided on either side of the driveway.
 - 2. Length.** The maximum length of a common driveway shall be five hundred feet (500').
 - 3. Surfacing and Driveway Bed.** The surface shall at all times be properly maintained and shall be of a minimum of 3-inches of compacted bituminous concrete or similar material deemed appropriate by the Planning Board in consultation with the Fire Chief, the Highway Superintendent, the Chief of Police and the Town Engineer. The driveway bed must be a minimum of twelve-inches of gravel suitable to provide adequate drainage.
 - 4. Slope.** The maximum slope of any common driveway at any point shall be ten percent (10%). The minimum slope of any common driveway at any point shall be one percent (1%). The driveway shall have a minimum cross pitch of three percent (3%).
 - 5. Intersection with Public Way.** The centerline intersection of the common driveway with the public way that is accessed must be greater than seventy degrees (70°). The intercept width of the common driveway with the public way shall be at least forty-feet (40'), tapering to the minimum width of eighteen-feet (18') over a minimum course of forty-feet (40') from the line of the public way. Any common driveway must conform to the applicable provisions of the Town By-laws, pertaining generally to driveway design.
 - 6. Turnouts.** Passing turnouts must be constructed that provide a total width of at least eighteen-feet (24') of total driveway width over a course at least thirty-feet (30') in length and must be spaced not more than two hundred and fifty-feet (250') apart.
 - 7. Turnarounds.** A turnaround must be provided at each terminus of the common driveway that is at least forty-five (45') feet wide and thirty-five 35 feet in depth. The Planning Board, in consultation with the Fire Chief, the Highway Superintendent, the Chief of Police and the Town Engineer may require alternate arrangements where they determine interests of public safety and emergency and

commercial access and egress are adequately served by such alternate arrangement.

- 8. Sight Lines and Distance to Intersections.** In consultation with the Highway Superintendent, the Chief of Police and the Town Engineer, the Planning Board may require, either by regulation promulgated under Section 10.07 of this By-law or with respect to any particular case, sufficient sight lines and distances to intersection to apply to a common driveway.
 - 9. Drainage.** Drainage controls shall be designed to adequately control stormwater runoff. Total runoff from the site shall not exceed that for pre-developed construction condition using a 25-year, 24-hour design storm. The Planning Board may require the submittal and/or modifications to the stormwater management system.
- D. Signage.** Two signs shall be installed at the entrance of the common driveway to the public way facing in each direction along such way. Such signs shall be clearly visible for a distance of at least one hundred feet along the public way in each direction. The sign shall give the number and, if different from the street name of the public way on which the common driveway intersects with a public way, the street name of the address of each residence served by the common driveway. At each intersection of the common driveway a similar sign shall indicate the direction of each dwelling served by the respective branches of the common driveway. The provisions of this subsection shall control over any signage requirements imposed by a zoning or other town by-law with respect to this subject matter.
- E. Regulations.** The requirements of this Section may be changed by the Planning Board by regulation promulgated under Section 10.07 of this By-law.

6.3.4 EASEMENTS AND MAINTENANCE REQUIREMENTS

- A. Deed Requirements.** All deeds of ownership of lots served by a common driveway shall require that the Owners of said lots must be members of a maintenance association, whose purpose is to provide for the maintenance of the common driveway. Each lot served by the common driveway must have permanent access to the common driveway by easements recorded in the Worcester County of Deeds. Such easement shall include the right to use the common driveway for all purposes to which private driveways are customarily used, including the right to install, maintain and repair drains, culverts and utilities located under, across or along the common driveway.
- B. Association Agreement.** The Association Agreement must impose upon the members the obligation of repair, maintenance and snow removal so as to cause the driveway, including the drainage serving the driveway, utilities located under, across or along the common driveway and the sightlines to the intersecting public way, to be repaired or maintained and snow to be removed in such a manner as to insure the continuous year-round access to each lot by fire, police, ambulance and other vehicles, the adequate delivery of public utilities to the lots served by the driveway, and so that the initial specifications of the common driveway are maintained.

- C. Requirement of Enforceability.** Each and every Owner of a lot served by the common driveway should have the right to enforce the obligation of other Owners of the lots so served to repair and maintain the driveway in accordance with the Association Agreement and the applicable easements.

6.3.5 COMPLETION AND BONDING

- A. Requirement of Completion.** No building permit may be issued with respect to a lot served by a common driveway until such driveway is complete to the specifications of the Special Permit unless completion bond is posted in accordance with the following section.
- B. Performance Bond.** In accordance with regulations to be established by the Planning Board, the Board may allow a building permit to be issued with respect to any lot served by an incomplete common driveway provided that sufficient bond has been placed with the Town by the Applicant to assure completion and provided that such lot shall be adequately served for emergency and commercial access by the portion of the driveway that has been completed.

6.3.6 REVIEW, FEES, FILING AND PUBLIC HEARING

- A. Planning Board to Review.** The Planning Board shall be the authority for granting of special permits under this By-law.
- B. Filing.** Two copies of such application as the Planning Board may from time to time require shall be submitted to the Planning Board by hand delivery during a regular meeting of the Planning Board. Additional copies shall be sent to the Town Clerk and provided for the Town Engineer, the Fire Chief, the Chief of Police, the Highway Superintendent and, if the Applicant seeks to overcome the presumption contained in Section 10.01 by means of Subsection 10.01 A. 3., a copy must also be provided to the Conservation Commission.
- C. Filing Date.** The date of receipt of the Application, together with all materials required by Section 10.02 of this By-law, shall be considered the filing date.
- D. Public Hearing.** A public hearing will normally be held within 30 days of the filing date unless the Planning Board notifies the Applicant that this period has been extended. Such extension, if made may not result in a hearing more than ninety days from the filing date.
- E. Notices.** A notice of the public hearing, in such form as may be determined by the Planning Board shall be mailed by the Applicant by registered mail to each abutter or other person required to be listed by Section 10.02 B. of this By-law at least 14 days before the date of the hearing. Such notice should further be published in a newspaper of general circulation in the Town for at least five business days that are not more than 30 and not less than 10 days prior to the public hearing. The Planning Board shall require proof of compliance with the requirements of this Section before convening the public hearing.

F. Decision by the Planning Board. The Planning Board shall render its decision within 30 days of the closing of the public hearing. A majority of those members of the Board present and voting at the time that the vote is taken shall be required to issue a special permit, but in all events, the positive votes of at least three members shall be required.

G. Appeal Period. An Applicant shall have 20 days from its receipt of notice of a negative decision to appeal such decision. Notices of appeals made to land court or superior court must be received by the Town Clerk within such 20 day period.

H. Fees and Expenses. The Planning Board may establish fees for review of the application required by this By-Law by regulation promulgated in accordance with Section 10.07. The Planning Board may also require an Applicant to advance or reimburse the Board for the direct costs of the review, including but not limited to mailing, retention of consultants or attorneys. The Planning Board may agree with an Applicant in advance as to the expenses subject to this section.

6.3.7 REGULATIONS

The Planning Board may promulgate regulations under this By-Law where specifically authorized to do so or where it deems regulation necessary to clarify or implement any provision of this By-Law. All such regulations shall require the vote of a majority of those members present and voting at a regular meeting of the Planning Board or any continuation thereof, but in no event shall a By-Law be adopted by a positive vote of less than three members.

Notice of making of regulations under this law is to be filed with the Town Clerk and posted at the Town Hall and at least one other public location in the Town at least 10 days before the meeting at which the regulation shall be presented for adoption. Such notice need not contain the text of the regulation, but must indicate the intention to make regulations under this By-Law.