



TOWN OF STRAFFORD, NH

CLASS VI and PRIVATE ROAD BUILDING POLICY

Office of the Selectmen

I. AUTHORITY

RSA 674:41 generally prohibits the issuance of a building permit on a lot unless that lot has frontage on a Class V or better highway. The purpose of this limitation on building on Class VI highways is to provide against such scattered or premature subdivision as would necessitate the excessive expenditure of public funds (*Glick v. Town of Ossipee*, 130 N.H. 643, 649 – 1992). RSA 674:41, I(c) and RSA 674:41, I(d) allows the Select Board to consider authorizing the issuance of building permits. Therefore, the Select Board has the discretion to authorize the issuance of building permits for the erection of buildings on Class VI and private roads, after review and comment by the Planning Board.

II. PURPOSE

The Select Board has adopted this policy to help provide a uniform decision-making process when it is presented with an application for building permit on a Class VI or private road. It is the purpose of this policy to ensure that emergency vehicles and emergency response personnel responding to any structure built on Class VI or private roads will travel on roads that are safe and properly constructed and maintained. Further, this policy intends to reduce the risk to the people and property on Class VI and private roads.

III. APPLICATION

This policy applies to all applications for building permits on Class VI and private roads. The Select Board has identified three categories of building permits with an increasing level of requirements to meet this policy. The categories were developed in order to focus the Select Board's application of RSA 674:41 and road improvements on requests which create additional living space.

a. Category 1

- i. General maintenance or repair of an existing structure.
- ii. Replacement of materials with similar material.
- iii. Accessory improvements such as decks or porches.
- iv. Applicable Requirements:
 1. Class VI and Private Road Building Policy Application
 2. Municipal Disclaimer of Maintenance Responsibility and Liability Release and Indemnification Agreement

b. Category 2

- i. Improvements or replacement of an existing building, where the use, volume and footprint remain the same.
- ii. New accessory buildings: barns, sheds, garages (containing no dwelling space) and other non-human habitable buildings.
- iii. Applicable Requirements:
 1. Class VI and Private Road Building Policy Application
 2. Municipal Disclaimer of Maintenance Responsibility and Liability Release and Indemnification Agreement

3. Planning Board Review and Comment
4. Select Board Decision – Consent Agenda

c. Category 3

- i. Erection of any new habitable building.
- ii. Conversion of a seasonal dwelling into a year-round dwelling.
- iii. Addition of an accessory dwelling unit.
- iv. Change of use of the property (for example from single family into a multi-family).
- v. Additions that add to the volume of an existing building.
- vi. Any other situations not included in Category 1 and 2.
- vii. Applicable Requirements:
 1. Class VI and Private Road Building Policy Application
 2. Municipal Disclaimer of Maintenance Responsibility and Liability Release and Indemnification Agreement
 3. Detailed Property Map
 4. Road Improvements
 5. Road Maintenance Agreement
 6. Permit and Bond for Improvements on Class VI Roads (if applicable)
 7. Department Head Recommendations
 8. Planning Board Review and Comment
 9. Select Board Public Hearing and Decision
 10. Application Fee (if approved)

IV. REQUIREMENTS

a. Class VI and Private Road Building Policy Application (Category 1, 2, and 3)

In addition to the Town's Building Permit Application, all property owners requesting a building permit pursuant to this policy must submit the Class VI and Private Road Building Policy Application (Attachment A). This application collects details regarding the scope of work proposed and how the property owner will comply with this policy. It is important to include all property owners and their e-mail address to ensure efficient completion of the disclaimer, release and agreement.

b. Municipal Disclaimer of Maintenance Responsibility and Liability Release and Indemnification Agreement (Category 1, 2, and 3)

Upon receipt of an application, staff will prepare the disclaimer, release, and agreement (Attachment B) and submit it to the applicant for signature. If the application is approved, the disclaimer, release, and agreement which was previously signed by the applicant will be signed by a member of the Select Board and returned to the property owner. Prior to the issuance of a building permit pursuant to this policy, the applicant shall produce evidence that this disclaimer, release, and agreement has been properly recorded at the Strafford County Registry of Deeds. This requirement is pursuant to RSA 674:41, I(c)(3) and RSA 674:41, I(d)(3).

c. Planning Board Review and Comment (Category 2 and 3)

All application materials and Department Head recommendations (if applicable) are submitted to the Planning Board for review and comment prior to review by the Select Board pursuant to RSA 674:41, I(c)(1) and RSA 674:41, I(d)(1). The Planning Board will review all application materials and any other factor deemed relevant. The Town Planner will prepare a formal recommendation memo on behalf of the Planning Board for review by the Select Board.

- i. Completed applications consistent with Category 2 will be scheduled for the next available Planning Board meeting which allows one week notice for Planning Board

members.

- ii. Completed applications consistent with Category 3 will be scheduled for a Planning Board meeting after receipt of Department Head recommendations while allowing one week notice for Planning Board members.

d. Select Board – Consent Agenda (Category 2)

Applications consistent with Category 2 (Section III(b) above) require a decision by the Select Board pursuant to RSA 674:41, I(c)(1) and RSA 674:41, I(d)(1). Since Category 2 applications do not create additional living space, the Select Board will consider authorizing the issuance of a building permit on the consent agenda.

e. Detailed Property Map (Category 3)

Submit a map drawn to scale showing:

- i. The location and size of the lot and its relation to the Class VI or private road and the Class V or better road which allows access to the Class VI or private road.
- ii. The specific location of all proposed structures with setbacks.
- iii. The location and length of the driveway giving access to the structures from the Class VI or private road.
- iv. Any other pertinent information which would allow the Select Board to make an informed decision. For example, the location and condition/capacity of any existing bridges or culverts, impacts to wetlands, road grade, etc.

f. Road Improvements (Category 3)

Applications consistent with Category 3 will require road improvements if the existing road does not meet the minimum road standards for Class VI and private roads (detailed below) in order to address the safe access purpose of this policy. If the road does not meet the minimum standards, property owners have two options to choose from when making road improvements. The completed application materials must include specific details regarding what improvements will be made and how.

- i. *Road Improvement Option 1: Improve the sub-standard road to adhere to the Select Board's Minimum Road Standards for Class VI and private roads.*
 1. The road shall have a sixteen-foot traveled surface with two-foot shoulders on each side; the road and shoulders shall be constructed and maintained to support the weight of a fire engine all year.
 2. The road shall be finished with a minimum four inches of crushed gravel with a properly established and maintained crown to direct water off the road.
 3. The Select Board reserves the right to require additional improvements or higher standards as necessary to accomplish the purpose of this policy.
 4. The applicant must include with the application a proposal or scope which details how the road will be improved to this standard.
- ii. *Road Improvement Option 2: Make Road Improvements of at Least 10% of Construction Costs*
 1. The construction costs indicated on the Building Permit Application as reviewed and approved by the Building Inspector will be used to determine the value of the 10% road improvement investment.
 2. The applicant must include with the application a proposal or scope which details how the 10% investment will be utilized to make road improvements consistent with the purpose of this policy.
 3. Upon completion of the road improvements, the applicant must submit documentation evidencing the cost of improvements totaling 10% of the

construction costs. A certificate of occupancy will not be issued without the agreed upon improvements being made and proper documentation provided.

In all cases, the Road Agent, Fire Chief, and/or Police Chief will review the proposed improvements and may recommend changes or additional requirements including (but not limited to culverts, turnarounds, and pavement.) Property owners are strongly encouraged to coordinate any road improvements with the local road association. These organizations often have an improvement plan and contractors familiar with the needed road improvements.

g. Road Maintenance Agreement (Category 3)

Prior to the actual issuance of a building permit, the applicant is encouraged to join and contribute to the local road association responsible for road maintenance or individually agree to perform the road maintenance necessary to safely access the property from a Class V or better road. In either case, the applicant shall provide the Select Board with a road maintenance agreement for the purpose of guaranteeing that future maintenance of the access road will be performed in a timely manner. This agreement shall be recorded at the Strafford County Registry of Deeds prior to the issuance of a building permit. The road maintenance agreement requirements detailed above are in addition to the statutory road maintenance requirements provided in RSA 231:81-a.

h. Permit and Bond for Improvements on Class VI Roads (Category 3)

Before beginning any work within the limits of a Class VI road, the applicant must receive a written permit from the Select Board pursuant to RSA 236:9-11 and shall be subject to the penalties provided by RSA 236:14 for failure to secure or comply with the terms of said permit.

The Select Board may require, in consultation with the Road Agent and/or Engineer of Record, that the proper completion of the required improvements to the Class VI be secured to the Town by the applicant. Such security may be accomplished by the submission of a performance bond, irrevocable letter of credit, cash, or other type or types of security in an amount and subject to such terms and conditions as shall be specified by the Select Board.

i. Department Head Recommendations (Category 3)

Applications consistent with Category 3 will be submitted to the Road Agent, Fire Chief, and Police Chief for review and recommendation prior to Planning Board and Select Board review. Department Heads will review the proposed road improvements and may recommend changes or additional requirements including but not limited to:

- i. Drainage culverts as required.
- ii. Turnarounds as required.
- iii. Pavement, depending upon steepness of slope and other relevant circumstances.

Department Heads will also be responsible for monitoring and reviewing road improvements as required by an approved application. Prior to the actual issuance of a certificate of occupancy authorized by the Building Inspector, the Road Agent, Fire Chief and Police Chief shall confirm that all improvements were completed as required.

Department Heads will generally have recommendations prepared within one week of receiving a completed application packet. Application materials will not be submitted for Planning Board review (Section VI(c)) until all Department Head recommendations have been made.

j. Select Board Public Hearing and Decision (Category 3)

All Category 3 applications will be reviewed at a properly noticed public hearing held by the Select Board. Additionally, all abutters within 100 feet of the subject property will be noticed by mail at least seven days prior to the public hearing. Applications will be scheduled for a public hearing at the next available Select Board meeting which allows one week notice after receiving the recommendation memo from the Planning Board. The Select Board will generally review the

application materials and consider the following:

- i. Whether the issuance of the building permit would be contrary to the spirit and intent of this policy.
- ii. Whether the road improvements proposed by the applicant comply with road improvement requirements of this policy (Section VI(f)).
- iii. Whether the applicant will properly maintain, individually or through a road association, the portion of the Class VI or private road needed to access the property from the Class V or better road.
- iv. Any recommendations provided as a result of the Planning Board review.
- v. Any recommendations provided by the Road Agent, Police Chief and Fire Chief.
- vi. The Select Board reserves the right to consider any other factor deemed relevant.

k. Application Fee (Category 3)

If the application is approved and a building permit is issued, an additional fee of \$75 will be added to the building permit fee to cover the administrative and posting fees associated with the public hearing and abutter notices.

V. WAIVER

Drawing from the process described in RSA 674:33, the Select Board may authorize a waiver from the terms of this policy. A waiver request must include a detailed project narrative, a listing of the specific sections of this policy for which a waiver is sought, and any proposed alternatives which address the purpose of this policy. Please provide evidence that the requested waiver complies with all of the criteria below:

a. The waiver will not be contrary to the public interest;

- i. The Select Board will consider (among other items) whether the waiver would alter the essential character of the locality or threaten public health, safety, or welfare.

b. The spirit of the policy is observed;

- i. The Select Board will examine (among other items) the effect of the waiver in light of the goals of the policy.

c. Substantial justice is done;

- i. The Select Board will consider (among other items) that any loss to the individual that is not outweighed by a gain to the general public is an injustice. The injustice must be capable of relief by the granting of a waiver that meets the other qualifications.

d. The values of surrounding properties are not diminished; and

- i. The Select Board will consider (among other items) opinions from realtors and/or appraisers and from residents in the affected neighborhood.

e. Literal enforcement of this provisions of the policy would result in an unnecessary hardship.

- i. For the purposes of this policy, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from properties in the area:
 1. No fair and substantial relationship exists between the general public purposes of the policy and the specific application of that provision to the property; and
 2. The proposed application is a reasonable one.
- ii. If the criteria in subparagraph ‘i’ are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the policy, and a waiver is therefore necessary to enable a reasonable use of it.

VI. APPEAL

Pursuant to RSA 674:41, II, the Zoning Board of Adjustments may make reasonable exception to the requirements of RSA 674:41. Any applicant, after applying for and being denied the issuance of a building permit by the Select Board, may appeal to the Zoning Board of Adjustment. Any such decision made in this connection by the Zoning Board of Adjustment shall be in writing together with the reasons for the decision and shall be subject to review in the manner described in RSA 677.

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