

TOWN OF SPRINGFIELD, NEW HAMPSHIRE

POLICY REGARDING CONSTRUCTION ON CLASS VI AND PRIVATE ROADS

This documents the vote of the Board of Selectmen on August 28, 2017 to authorize the issuance of zoning permits pursuant to RSA 674:41 for the erection of buildings on class VI roads and private roads. Pursuant to RSA 674:41, this policy was reviewed and commented upon by the Springfield Planning Board on July 20, 2017.

This policy is adopted in accordance with New Hampshire state law RSA 674:41, I(c)(1) and RSA 674:41, I(d)(1) and is consistent with the Springfield Zoning Ordinance. Zoning permit applications will be reviewed by the Board of Selectmen using the terms, policies and definitions of the Town's current Zoning Ordinance as well as applicable New Hampshire state law.

The Board of Selectmen has adopted this policy to help provide a uniform decision-making process when it is presented with such an application. The Board of Selectmen may further consider any factor it deems relevant to the authorization of a zoning permit in each particular case. This statement of policy is therefore not an exhaustive list of factors that may be taken into account by the Board of Selectmen when reviewing an application. Without limiting the applicability of the foregoing, in particular circumstances where, in the opinion of the Board of Selectmen, the specific facts of the case show that the granting of the permit would create a high risk to emergency personnel responding to the particular property, the Board may deny the permit or, alternatively, may grant the permit subject to conditions aimed at mitigating such risk.

Background. Springfield's policy has been one of minimum regulation.

- Roads in future Developments (including approved subdivisions) will continue to be regulated by the Planning Board. The Town has an excellent history of exercising the development approval process in a way that results in roads which meet Town standards and can be turned over to the Town.
- Existing private roads are generally well maintained and meet current requirements.
- Historically, there has been little construction on Class VI roads. The Town has very few residents using Class VI roads to access their property and there is little more anticipated.

Statement of Purpose. It is the purpose of this policy to allow construction on Class VI and private roads and to ensure that the Town of Springfield complies with RSA 674:41. The policy is designed to advance three overall principles:

- Under RSA 674:41, I(c)(2), RSA 674:41, I(d)(2) and RSA 231:93, the Town of Springfield has no responsibility for maintenance of Class VI or private roads. The Town also has no legal authority to expend Town resources to maintain Class VI and private roads.
- Town services on Class VI and private roads, including but not limited to police, fire, ambulance and public transportation, cannot be guaranteed.
- The Town has no liability for injury or damages resulting from the use of Class VI or private roads.

The Town of Springfield does not have detailed standards of quality or maintenance on Class VI roads or private roads. Any road maintenance and improvement which occurs on such roads will

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continue to be the responsibility of residents and property owners on the road, and any such work shall be the prerogative of such residents/property owners. However any work on Class VI roads may be undertaken only after obtaining permit(s) issued by the Board of Selectmen, pursuant to RSA 231:9 through 231:12. For Springfield, this minimalist policy is the best combination of all considerations. It minimizes municipal cost and resources to manage and enforce. This policy is consistent with how Springfield has managed permit applications for many years and it avoids imposition of new conditions that might be perceived as weakening constitutional protection or result in undue hardship.

Application. This policy applies to all Class VI and private roads. Every application to the Board of Selectmen requesting that the Board authorize the issuance of a zoning permit for a parcel of land whose access is, or is proposed to be, a Class VI highway, or a private road which has never been approved in any manner by the Planning Board, shall be made in writing and reviewed according to regulations in the current Zoning Ordinance. In addition, the Board of Selectmen may reasonably require other information such as the location and condition/capacity of any existing bridges or culverts, impacts to roads in wetlands, road grade and surface condition.

In unusual circumstances where, in the opinion of the Board of Selectmen, the specific facts and circumstances of the case show that the granting of the permit would create a high risk to emergency personnel responding to the particular property, the Board may deny the permit or, alternatively, may grant the permit subject to conditions aimed at mitigating such risk.

Notice to be Recorded. For all construction intended for human habitation on such a Class VI or private road, prior to the issuance of a zoning permit the applicant shall produce evidence that a notarized Notice of Limits has been signed and executed by the owner and submitted to the Town to be recorded at the applicant's expense at the Sullivan County Registry of Deeds. This notice and acknowledgement shall be binding upon current and future owners, as well as all heirs, executors, administrators, successor and/or assigns. This notice will use one or the other, as appropriate, of the Town's current forms (to be considered part of this policy):

For construction on a Class VI road: "NOTICE OF THE LIMITS OF MUNICIPAL RESPONSIBILITY AND LIABILITY FOR CLASS VI HIGHWAY IN CONNECTION WITH A ZONING PERMIT APPLICATION PURSUANT TO RSA 674:41,I(C)(2)&(3) "

For construction on a private road: "NOTICE OF THE LIMITS OF MUNICIPAL RESPONSIBILITY AND LIABILITY FOR PRIVATE ROAD IN CONNECTION WITH A ZONING PERMIT APPLICATION PURSUANT TO RSA 674:41, I(D)(2)&(3)".

In the absence of acknowledgement of such notice, the permit application will be denied. This notice requirement includes, but is not limited to, construction of a new residence, an unregistered camper trailer, trailer homes, accessory dwelling units and expansion of living space whether or not that involves change of footprint. This excludes but is not limited to sheds, garages and accessory improvements such as decks or porches. Such notice shall document the applicant's acknowledgement that the Town of Springfield assumes no responsibility for maintenance of the Class VI or private road and an acknowledgement by the owner(s) that the Town will assume no liability for damages resulting from the use thereof. Execution and filing of the notice will not be required when a current version of the notice is already on file at the Registry of Deeds. When an older version of the acknowledgement of limits is on file, the current version shall be executed and recorded. When execution of a new notice is not required


by this policy, the Town will nonetheless encourage a new current notice be executed and recorded.


Appeal. Any applicant, after applying for and being denied the issuance of a zoning permit by the Board of Selectmen, may appeal to the Zoning Board of Adjustment pursuant to RSA 674:41, Paragraph II. 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.

Repeal. The adoption of this Policy shall operate as a repeal of any other statement of policy to the extent the latter is inconsistent herewith.

Delegation. The Board of Selectmen may delegate authority to approve zoning permits on Class VI and private roads, either full authority or on a case-by-case basis.


Leigh Callaway


Tamara Butcher


Richard Hendl