



TOWN OF DEERING
762 Deering Center Road
Deering, NH 03244

RESOLUTION
CLASS VI/PRIVATE ROAD POLICY

The purpose of this policy is the following:

1. Prevent the premature and scattered development in the community that may endanger the safety and well being of residents.
2. Protect the Town from absorbing burdensome costs of upgrading substandard Class VI and private roadways to service premature and scattered development.
3. Preserve the character of Class VI or private roadways.
4. Protect the health and welfare of the community.

WHEREAS, Per RSA 674:41 no building can be erected on any lot within any part of the Town, nor can a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is to be placed (i) has the legal status of a Class V or better roadway, (ii) has received certain approvals by the Planning Board, or (iii) is a Class VI highway or private road, provided that, in the latter case:

1. The Selectmen, after review and comment by the Planning Board, has voted to authorize the issuance of building permits for the erection of buildings on said Class VI highway, or private road, or a specific portion of it; and
2. The Town neither assumes responsibility for maintenance of said Class VI highway, nor private road, nor liability for any damages resulting from the use of it; and
3. Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of the Town's responsibility and liability has been recorded in the Registry of Deeds [**SEE ATTACHED WAIVER FORM**].

WHEREAS, The State Supreme Court has said that the purpose of 674:41, is to prevent scattered and premature development; the decision whether to allow building on Class VI roadways or private roads is a major policy decision; unrestricted building can have a major impact on the Town's budget if the Town is forced to subsequently upgrade substandard/unmaintained roads.

THEREFORE, The Deering Board of Selectmen will evaluate applications for building permits upon Class VI roadways or private roads, in consultation with , in consultation with the Fire Chief, Police Chief, Road Agent, and Deering Planning Board, vis-à-vis the following criteria:

1. Conditions of the road – does the road have adequate width, drainage, and grade to handle increased development?
2. Conditions of connecting roads – are the roads leading to the Class VI or private road

adequate to handle increased traffic?

3. Effects on municipal services – will the contemplated development result in a need for increased police, fire, water, sewer, and electric services?
4. Is issuance of the permit likely to result in an ‘occasion’ to lay out the road as a Class V road?
5. How will the proposed development affect neighboring properties and how well does the proposed development “fit” in to the general growth and development patterns in the Town, as well as the goals and objectives of the Master Plan?
6. Will the issuance of said building permit tend to distort the Town’s street map or Master Plan?

RESOLVED, that building permits will not be issued for lots on any Class VI or private roads with the approval of the Board of Selectmen only when it is demonstrated by an applicant, and determined by the Board of Selectmen, using the above criteria, that issuance of said permit will not have a negative impact upon the Town, i.e. the planned development is not deemed: “scattered and premature.”

Any decision by the Board of Selectmen not to issue a building permit to properties located along Class VI or private roadways may be appealed to the Zoning Board of Adjustment per RSA 674: 14 & 15 and 674:41. When reviewing such a petition, the Zoning Board shall employ the standards included in RSA 674:41, II, which are as follows:

1. That issuance of the building permit will not tend to distort the official map;
2. That issuance of the building permit will not increase the difficulty of carrying out the Master Plan;
3. That issuance of the building permit will not cause hardship to future purchasers of the property; or,
4. That issuance of the building permit will not cause undue financial impact on the community

Should the Zoning Board find that all standards have been met, nothing shall prohibit the Zoning Board from requiring additional considerations as a condition of issuance of said permit.

Nothing in this section shall prohibit the Planning Board from requiring applicant(s) proposing a subdivision or site plans fronting along a Class VI or private road from upgrading said roadway to a Class V standard, provided that said road is improved at the cost of the applicant(s).

DEERING BOARD OF SELECTMEN:

Date

Date

Date



TOWN OF DEERING
762 Deering Center Road
Deering, NH 03244

**AGREEMENT AND RELEASE REGARDING
BUILDING PERMIT for CLASS VI /PRIVATE HIGHWAY**

NOW COMES _____, (hereinafter referred to as "Owner") of County of Hillsborough, State of New Hampshire, and the Town of Deering, New Hampshire, (hereinafter referred to as "Town") a municipal corporation existing under the laws of the State of New Hampshire, and agree and stipulate as follows:

WHEREAS OWNER is the owner of certain real property, Tax Map_____, Lot_____, situated at _____ Road, as stated in a Deed recorded at Book_____, Page_____, at the Hillsborough County Registry of Deeds:

WHEREAS the relevant portion of said _____ Road upon which OWNER'S real property fronts is a Class VI Highway or Private Road as classified by New Hampshire Revised Statutes Annotated 229:5/a private way not currently a municipal highway.

THEREFORE, the TOWN and OWNER on behalf of themselves, their heirs, legal representatives, successors and assigns, covenant and agree as follows:

1. The TOWN shall allow OWNER to construct a residence pursuant to a building permit issued by the TOWN on the OWNER's property on _____ Road;
2. The Town neither assumes responsibility for maintenance, including snow plowing, nor liability for any damages resulting from use of _____ Road.
3. OWNER, individually or through a neighborhood association, shall be responsible for maintaining access to the subject property and does hereby forever release and discharge the TOWN, its officers, agents, and employees from the obligation of maintaining _____ Road, and from any claim of any nature, whether in tort or otherwise, which OWNER might have against the TOWN for any loss, damage or personal injury, including those incurred through failure to provide municipal services, including police, fire and ambulance services, arising out to the condition of the roadway from the point wherein the _____ Road is a Class VI Highway/private road;
4. OWNER assumes responsibility for transporting any children to the nearest regular school bus stop;

5. OWNER assumes responsibility for the maintenance and repair of _____ Road, and agrees that at their expense or at the expense of themselves and other owners of property similarly located on _____ Road, to clear and maintain the said _____ Road, to a suitable width for travel, and to repair and maintain the traveled portion of _____ Road, in a good and passable condition.

Witness

Owner

Co-Owner

TOWN OF DEERING

By: (Its Duly Authorized Representative(s))

Witness

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

DATE:
