



TOWN OF CORTLANDT
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

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MEMORANDUM

TO: Planning Board Members

FROM: Chris Kehoe, AICP, Planning Director ^{CK}
Department of Planning and Community Development

Michael Cunningham, Esq. 
Deputy Town Attorney

SUBJECT: PB 2022-3 Application of James Connolly for Preliminary and Final Subdivision approval for a 2-lot minor subdivision located at 49 Dutch Street.

DATE: September 16, 2022

As requested Town staff has reviewed Local Law 5 (attached) that established criteria and requirements with respect to the construction of residential units on non-town roads in the context of the development of the proposed Connolly lot being accessed off of McManus Road rather than Sycamore Court.

As stated in the Legal Memorandum prepared by the Town Attorney's Office dated August 29, 2022 a subdivision of the Connolly parcel is permitted. As per Paragraph II of the memo if the applicant is able to obtain approval from the heirs at law of Edward J. McManus they can install infrastructure within the roadway. Sycamore Court, formerly Radzivila Road, was improved as per the requirements of Local Law 5 when the three (3) new houses were constructed at the end of the private road via Planning Board Case 25-05.

There are currently four (4) dwellings with access off of McManus Road from Dutch Street. If the Planning Board were to require access to the proposed lot from McManus Road the road would need to be improved as required by *Section Five – Standards of Local Law 5*. In considering where to approve the access for the proposed Conolly lot the Planning Board should take into consideration the potential environmental impacts to Sycamore Court by the construction of one additional residence versus the potential environmental impacts of improving McManus Road as required by Local Law 5 of 1999.

LOCAL LAW 5 OF 1999

"A Local Law Establishing Criteria and Requirements with Respect to the Construction of Residential Units on Non-Town Roads"

SECTION ONE - LEGISLATIVE INTENT:

From time to time, a property owner submits a request for the issuance of a building permit for a legal parcel of land that does not front on a public highway. Since the parcel is a buildable lot, it is necessary then for the Town to review and to consider what type of road is to be constructed to service the proposed residence. In the past, this has been handled on a case by case basis by the Town Engineer utilizing his professional experience and integrity to make said determinations. The Town Board now determines that it is the public interest that a uniform policy be established setting forth guidelines to be followed by the Director of Technical Services with respect to the issuance of any approval for the construction of a single-family residence which does not front a public road.

SECTION TWO - APPROVAL REQUIRED:

Upon the effective date of this Law, no building permit shall be issued in the Town of Cortlandt for the construction of a single-family dwelling which does not have access to a public road unless and until an improvement plan, approved by the Director of Technical Services setting forth the details as to the construction of a road to access said home, has been received by the Department of Technical Services.

SECTION THREE -

The Director of the Department of Technical Services shall be vested with the full authority to approve all plans for the construction of roads servicing proposed dwellings that do not front on public highways.

SECTION FOUR-

The Director of Technical Services shall prescribe an application to be filed by the owner of any lot upon which it is proposed that a single-family dwelling shall be constructed when said lot does not front on a public road.

SECTION FIVE- STANDARDS:

Upon receipt of an application for approval of a road or a common driveway to service single-family dwellings which do not have direct access to a public highway, the Director of Technical Services, shall be bound by the following standards:

1. The property owner shall prove to the satisfaction of the Director and the

Town Attorney that the driveway is to be constructed over a parcel of property to which the property owner has an easement or other legally enforceable rights.

2. As far as is practicable, the property owner shall provide that the road shall be governed by a road maintenance agreement providing for the sharing of expense of the maintenance of said road by all adjacent property owners. This shall be mandatory in case where the house to be constructed is the first house on a private road and shall not be mandatory when the house is a continuation of a road that already services other residences.
3. When a private road is to be extended, the existing portion shall be improved as determined by the Director of Technical Services. This work may include straightening sections of the existing road, filling potholes.
4. When a private road is to be extended, said extension shall have a minimum width at least equal to the width of the existing private road. Otherwise said private road shall also be twenty (20') feet wide when servicing three (3) or more present or future parcels and eighteen (18') feet wide when servicing two (2) parcels.
5. Said private road which extends from a public highway and servicing three (3) or more residents shall consist of eight (8") inches of compacted Item 4, four (4") inches subbase and two (2") inches topcoat. Said common driveway servicing two (2) residents shall consist of six (6") inches of compacted Item 4 and three (3") inches subbase.
6. That where public water supply is provided, the property owner shall be required to extend the water services from its last point on the road to a point directly across from the proposed premises to be constructed. A fire hydrant may be required by the Director of Technical Services.
7. The road, as constructed, shall be sufficient to sustain use by emergency vehicles of all types to the satisfaction of the Director of Technical Services and to generally accepted engineering standards and principles.
8. That said road shall terminate and shall provide a reasonable turnaround area, either in the form of a "k-turn" or "cul de sac" as maybe appropriately determined by the Director of Technical Services.
9. The Director of Technical Services may impose such other reasonable standards and conditions that the particular circumstances warrant.

SECTION SIX - CONTINUATION OF TOWN SERVICES:

By filing an application for approval hereunder, the property owner specifically acknowledges that while Town services, in the form of garbage collection, may be provided along the said private road, it does not guarantee the continuation of said service, nor does it mandate that the Town shall be required to provide said service along said private road, and that the Town may be free to require that garbage be delivered to a central repository located at the nearest public highway.

SECTION SEVEN - APPEALS:

Should there be any dispute between the property owner and the Director of Technical Services as to his determination as to the requirements of said road, the property owner may appeal the determination of the Director of Technical Services to the Zoning Board of Appeals. The Zoning Board of Appeals shall conduct a Public Hearing, shall take testimony and shall either uphold the Director of Technical Services, reverse the Director of Technical Services or modify the conditions imposed thereby.

SECTION EIGHT - APPLICATION FEE:

A fee for said application shall be charged in accordance with the amounts set on an annual basis by the Town Board in the Town Board's annual adoption of its fee resolution.

SECTION NINE - EFFECTIVE DATE:

This Local Law shall take effect immediately upon its filing with the Secretary of State.

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF CORTLANDT
JO-ANN DYCKMAN, Town Clerk

Adopted on July 13, 1999
at a Regular Meeting
Held at Town Hall