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Creating a New Buildable Non-Subdivision Lot

Section 225-17 makes reference to the table of dimensional requirements; this is 225 attachment 2. In this table, footnote E states “No building may be erected on any lot which does not abut a public way or private way with the minimum length of frontage required for the particular zone. Any private way must connect directly to a public way”. This means that a new buildable lot may only be created if in compliance with the dimensional standards applicable to the zone when it is being created in or as a Backlot as allowed by 225-17G. If frontage is needed for the new lot, frontage can be obtained from a public or private way as defined in 225-6; if creating a Backlot, go directly the backlot section below.

FRONTAGE (225-6)

The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the road right-of-way. Corner lots may include continuous frontage along adjoining streets. When located on a cul-de-sac, the frontage shall be the distance from sideline to sideline, measured at the front setback line. (*Frontage may be obtained on a public or private way.*)

LOT (225-6)

A parcel of land occupied or capable of being occupied by one or more buildings and the accessory buildings or uses customarily incidental to them, including such open spaces as are required by this chapter, and having frontage upon a public street, right-of-way or private way and otherwise meets all dimensional requirements of this chapter.

PRIVATE ROAD (PRIVATE WAY) (225-6)

A private way meeting the Town's road construction standards for preparation, subbase and base (as specified in Chapter [191](#), Subdivision of Land). In order to be considered a road, for purposes of this chapter, the traveled surface need not be paved. To be considered a private road or way, it must serve two or more homes or lots, and be located within a right of way 50' in width throughout its length. (*Subject to 191-15, all road construction standards are now found in chapter 185 of the Topsham Code.*)

Subject to this definition, Preparation means that all organic and other deleterious material must be removed from the area under the way; Subbase gravel must be crushed aggregate 15” deep; Base must be crushed, MDOT 703.06 (a) Type A 3” deep. A turnaround must be provided for emergency vehicles, if this turnaround is a hammerhead, it must be in a right of way and extend a minimum of 50’ at a right angle from the ways edge.)

PUBLIC WAY (HISTORIC) (225-6)

A way in which the public has a right to access and includes public streets and sidewalks. (*See “STREET” definition*)

STREET (225-6)

All new and existing streets as defined in chapter 185-3
(*Existing accepted public streets are considered compliant.*)

Questions regarding Private Ways:

Q: By ordinance definition, is a private way also a street?

A: No

Q: Do I need to provide a copy of a deed that gives my lot rights over the private way?

A: Yes

Q: Do I need to provide a written plan or design specifications of the private way design?

A: Yes. The plan must detail compliance with preparation, subbase and base standards.

Q: Does chapter 185 Article 3 applies to a non-subdivision private way?

A: No. A building may be built on a private way as defined. Per this definition, compliance with preparation, subbase and base standards are required.

Q: Does a road maintenance agreement have to be in place for the private way?

A: No, but we highly recommend that there is one for your benefit.

Q: If I want to build a new home on an existing private way, does the way have to be brought up to current construction standards?

A: Maybe. The intent of the private way construction standards are to provide a surface for emergency vehicles including large fire trucks to travel and turn around on, and to maintain minimum construction within the public way connection. Some or all of the existing private way may need to be improved to meet this intent prior to occupancy of new construction.

Q: Is there a maximum number of homes that can be located on a private way?

A: No. Only the construction standards apply.

Q: Do I need to construct the entire private way within the required frontage in order to satisfy the frontage requirement?

A: No. Generally the private way must be constructed to the lot and include a turnaround for emergency vehicles.

Q: Is there a maximum dead end length for a private way?

A: No. The dead end provision of 191-6 is applicable to subdivision roads, not private ways.

Q: Can my new private way connect only at another private way?

A: Maybe. "must connect directly to a public way" is in reference to the lots deed. The property deed must contain language that gives rights to a public way over any number of lots or private ways involved. This requirement is to prevent construction on new land locked lots.

Q: What setbacks apply to private ways?

A: None, there are no minimum setbacks to a private way.

Q: If a property boundary line abuts a private way, is that my front lot line requiring front setback minimums?

A: No. A front lot line is the line separating the lot from the street, because a private way is not a street, that line is not a front line. In most cases, a lot on a private way will not have a front or a rear line as defined and all setbacks will be the side setback minimums.

BACKLOTS

BACK LOT (225-6)

A lot with no frontage on a public or private road, or a lot with twenty-five (25) feet (*minimum; see 225-17G (4-b) below*) of frontage on a public or private road, developed in accordance with § [225-17G](#) below.

BACK LOTS (225-17G)

One back lot may be created from any lot of record (*LOT OF RECORD 225-6: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file in the Sagadahoc County Registry of Deeds.*) Which conforms to the lot requirements of § [225-17A](#) and [B](#), and which existed prior to May, 2004, provided that:

(1) The back lot and front lot each contain no more than one principal structure, each structure containing no more than two dwelling units. Uses are limited to single- and two-family dwellings for both the front lot and back lot.

(2) Both the front lot and back lot conform to the minimum lot area and minimum lot area per dwelling unit as per § [225-17](#).

(3) The back lot is at least as wide at the site of the proposed dwelling as the frontage measurement required in the district.

(4) The back lot has a deeded access to a publicly accepted street or a private road. This access may be obtained:

(a) By way of a minimum twenty (20) foot wide right-of-way across the front lot deeded to the owner of the back lot; or

(b) By the extension of the back lot to the public street so that the back lot has a minimum of twenty-five (25) feet of frontage on the street

(5) The creation of the back lot does not make the front lot nonconforming, or more nonconforming, as to frontage

(6) The back lot and front lot share the same driveway entrance to the public street, if the access to the back lot is via a deeded right-of-way. This requirement may be waived by the Planning Board when the Board makes findings that a combined driveway is not feasible due to the location of the home on the front lot, terrain, or natural resource impact

(7) A twelve (12) foot wide driveway services a single-family dwelling (16 feet wide for two-family dwelling), constructed with a minimum of 12 inches of subbase gravel and a minimum of 3 inch base gravel

(8) A turnaround area approved by the Fire Department is provided for public safety vehicles

(9) Street numbering, as assigned by the Tax Assessor, is clearly visible at the public street in accordance with Chapter [185](#), Article [II](#), of the Town Code (*Now found in article V*)

(10) Any dwellings on the back lot shall connect to public sewer when a public sewer line is located in the public street giving access to the back lot.