

Controlling Approval-Not-Required Development

Overview

Approval-Not-Required (or "ANR") development refers to the subdivision of single lots with frontage on a public way (see the figure below). Under state law, lots on a public way that meet zoning dimensional requirements for lot area and frontage may be subdivided without substantive Planning Board review. Over time, ANR development can irreparably change the scenic quality of rural roadsides and encourage suburban sprawl.

The Problems of ANR Development

Scenic Quality: By lining scenic roadways with houses every 100-250 feet, typical ANR development eliminates scenic vistas and wooded corridors, and may also alter the stone walls and large shade trees that help define many of Greater Gardner's roadways.

Traffic Safety: ANR development is allowed on all public ways, even very narrow roadways with blind curves and hills. New curb cuts may not only pose safety hazards, but also overload road capacity by turning narrow by-ways into commuter arteries.

Habitat Fragmentation: Roadside residential development fragments woodlands, wetlands and fields into remnant parcels too small or too isolated to support certain wildlife and rare plants and animals. Many such species require large contiguous



ous parcels linked by natural corridors ("greenways").

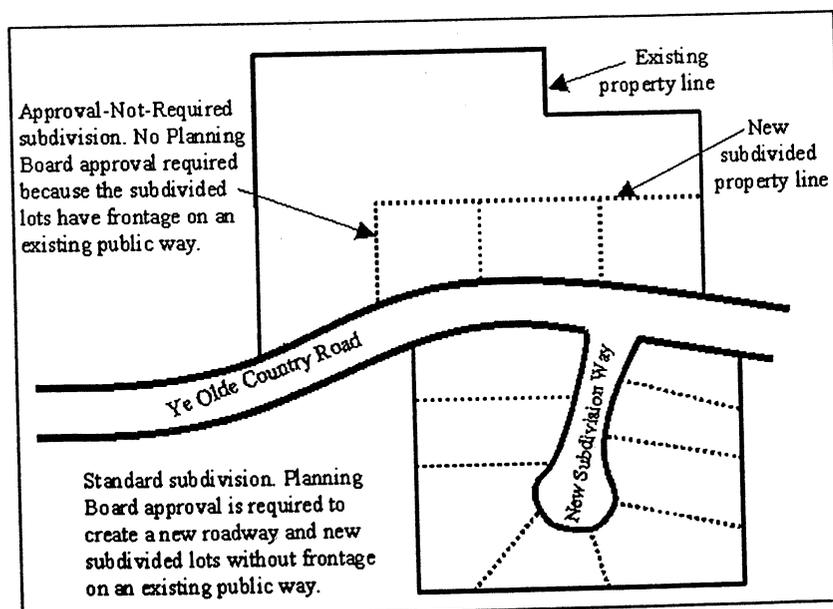
Promoting Alternatives to ANR

While the most certain way to protect rural roadsides from development is through the purchase of open space or conservation restrictions, this section examines some less-costly alternatives for Greater Gardner communities.

Access Management: Municipalities have the authority to grant or deny curb cut access to local roadways, and can use this authority to promote the public interests of maintaining road safety and scenic corridors. For example, along designated roadways, curb cut access could be limited to one

curb cut per 1,000 feet of frontage or one curb cut per parcel, whichever is greater. Such an "access management" bylaw would:

- Greatly reduce or reconfigure ANR development.
- Not affect overall density of development, but move new development away from roadsides.
- Give the Planning Board greater control over new development by requiring subdivision review for most new residential development. Through subdivision review, the PB can then specify certain design standards, encourage or require cluster-



- ing, or promote other planning objectives.
- Not prevent any landowner from accessing his/her property, or profiting from sale of the land for development.

The State Framework: Opportunities and Limitations

The Massachusetts General Laws prescribe how municipalities may and may not regulate land use. Here are some of the relevant sections:

Subdivision control: Under M.G.L. Chapter 41, Sections 81K-GG, towns may regulate the subdivision of land, including roadway layout, utilities, and sanitary facilities. Lot size and dimensional requirements may not be included in subdivision control laws.

ANR: Chapter 41, Sections 81L and 81P specifically exclude from subdivision control any lot with frontage on an existing public way that meets the zoning requirements. The Planning Board must endorse an Approval-Not-Required subdivision if it meets zoning requirements.

Grandfathering: Under Section 6 of Chapter 40A (the "Zoning Act") and the provisions of the Subdivision Control laws, landowners and developers may use certain zoning freeze and grandfathering protections that exempt lots from new zoning dimensional requirements. Because of these provisions, a community that changes its zoning can expect a flurry of subdivision applications under the old zoning.

Zoning vs. General Bylaws: Any regulations pertaining to lot size, setback or dimensional requirements must be in the zoning bylaws, which require a two-thirds Town Meeting vote to modify. Other regulations (design controls, earth removal, stormwater management, etc.) may be general bylaws, which require a majority vote at Town Meeting.

Access management has been used successfully on Martha's Vineyard (an area facing many of the same development pressures and preservation challenges as Greater Gardner) to preserve scenic quality and avoid dangerous traffic conditions on narrow rural roadways.

Incentives: Several Massachusetts towns have been able to limit and improve the quality of roadside development by offering incentives to de-

velop backlands rather than road frontage. So-called "backlands zoning" allows developers to build on reduced-frontage lots in exchange for building further from the road, and may also allow flexibility in lot size and driveway access. Such laws preserve road frontage, and may increase the compatibility of new development with existing environmental features.

Design Controls: Scenic roadway bylaws offer an effective tool for improving the visual quality of new roadside development. Standard scenic roadway designations (which regulate tree cutting and stone wall alteration only within the right-of-way itself) can be supplemented with more powerful local corridor districts. Such districts might specify design standards, screening criteria, and local design review for new development within 200 feet of designated scenic roadways. By putting these requirements in the general bylaws, they will become effective immediately, even on grandfathered lots.

Reducing the "Pressure to Sell": ANR subdivisions often occur when large landowners with significant frontage decide to sell a portion of their property out of financial necessity. However, for landowners looking to sell there are numerous alternatives to subdivision for houselots, many of which are financially attractive and allow the landowner to continue to work and live on the land. Sale of conservation easements, bargain sales, "friendly" eminent domain transactions and other arrangements can put money in the landowner's pocket without subdividing the property.

For more information:

- The Greater Gardner Sustainable Growth Management Plan contains copies of successful access management, corridor design control, and backlands zoning bylaws from other Massachusetts communities.
- Several Massachusetts land trusts provide information and technical assistance for landowners considering alternatives to ANR subdivision of their land. Contact the Mt. Grace Land Conservation Trust in New Salem (978-544-7170) or the Trust for Public Lands in Beverly (978) 921-1944.

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