

SECTION 8.6

CURB CUTS AND DRIVEWAYS

8.6-1 Curb Cut Permit

- A. A written curb cut permit shall be required for the extension of any road or driveway into a Shutesbury town way or into any public way which, by statute, the town is obligated to repair and maintain. This requirement shall apply to temporary driveways used to conduct percolation tests or otherwise to gain entry into a property from a public way.
1. In cases where Site Plan review or a Special Permit is not required, such curb cut permit shall be issued by the Highway Superintendent having charge of the maintenance and repair of such public way.
 2. In cases where a Site Plan review or Special Permit is required, the curb cut permit shall be issued by the approving board after consultation with the Highway Superintendent.
- B. The Highway Superintendent or approving board shall, within 40 days of receiving a complete application, issue a decision in writing to grant or deny the the curb cut permit.
1. If the recommendation or decision is to deny the permit, the Highway Superintendent or approving board shall specify the reason(s) for denial based upon considerations of public safety.
 2. The Highway Superintendent or approving board may recommend or impose conditions on any permit intended to promote public safety and convenience, as well as to preserve natural and man-made scenic or environmental features of the road and adjacent land.
 3. A curb cut permit shall not be granted unless the Highway Superintendent or approving board has determined that the proposed entrance provides adequate sight distance for exit and entry onto the town or public way in accordance with Massachusetts Highway Department standards.
- C. Any applicant for a curb cut permit shall provide a scaled and dimensioned drawing of the proposed road or driveway, showing all information that the Highway Superintendent or approving board, in his/her/their discretion and judgment, considers necessary or appropriate in order to make a decision. The Highway Superintendent or approving board may waive such requirements if he/she determines less information is required. Such information shall include, but is not limited to, the following:
1. Scale, north point, and property boundaries;
 2. Name of intersecting town or public way;
 3. Location, design, dimensions (including length and width), intended use, and grade(s), of the proposed private road or driveway;

4. Surfacing and construction materials;
 5. Drainage provisions;
 6. Applicant's individual and/or firm name, with applicant's address, telephone number and signature;
 7. The Assessors' parcel number (from tax maps).
- D. Any person who violates this regulation shall be subject to enforcement action as provided in Section 10.2. If such violation or if any other action taken in implementing a curb cut permit causes damage to any road, culvert, roadside tree, stone wall, or other natural or man-made feature, such person shall be liable in tort to the Town of Shutesbury for all damages caused thereby, and for the cost and expense of remedying the condition, removing any obstructing material, and restoring the road and adjacent land to its former condition.
- E. An applicant for a curb cut permit shall comply with applicable regulations of the Conservation Commission pursuant to the Wetlands Protection Act, MGL. Ch. 131, §40.

8.6-2 Driveways and Common Driveways

Every lot shall have vehicular access from its frontage, unless a Special Permit has been granted for the use of a common driveway to provide such access.

A. Driveway Regulations

1. The driveway shall be designed before a Building Permit for a newly constructed dwelling is approved, and the driveway construction shall be completed before any occupancy or use of the premises is permitted.
2. The traveled portion of the driveway shall be located no less than fifteen (15) feet from any abutting property lot line unless either a Special Permit or a permit for a Common Driveway is granted by the Planning Board.
3. The grade of each driveway where it intersects the street line (defined as the edge of the travelled lane) shall not exceed five percent (5%) for a distance of twenty (20) feet from the street line, nor shall it exceed five percent (5%) from the street line to the traveled portion of the street.
4. All driveways shall be designed and constructed in a manner to assure reasonable and safe access to all vehicles, including but not limited to emergency vehicles of all types. The traveled portion of a driveway shall be a minimum of twelve (12) feet wide in order to insure such access. The maximum grade of a driveway shall be 15% and the maximum length shall be 1,000 feet.
5. All driveways shall be designed and constructed so as to reasonably minimize any drainage problem upon or adjacent to any street or lot.
6. An applicant for a driveway permit shall comply with applicable regulations of the Conservation Commission pursuant to the Massachusetts Wetlands Protection Act, MGL. Ch. 131, §40.

B. Common Driveway Regulations

1. Common Driveways are allowed by Special Permit from the Planning Board. (*Added 2018*). At most, six (6) dwelling units (counting accessory apartments as separate dwelling units) may be served by or otherwise share a Common Driveway. A Common Driveway shall lie entirely within the lots being served or on open space land in Open Space Designs and shall, if serving more than two dwelling units, be

- named as a "way" (Example: "Wilson Way") with a sign placed in plain view from its intersection with a public way.
2. The applicant(s) must provide all of the following:
 - a. Evidence of deeded covenants for all affected lots which include provisions which are adequate in the opinion of the Planning Board and Town Counsel to (i) establish a maintenance association comprised of the owners of all lots served by the common driveway; (ii) ensure continued maintenance of the shared driveway surface and its drainage structures; (iii) provide for the collection of dues and assessments necessary for such ongoing maintenance, repair, and any plowing/sanding of the shared driveway; and (iv) provide an enforcement mechanism enforceable by the maintenance association in the event of non-payment of dues or assessments by a member.
 - b. Guarantees including but not limited to financial security as provided by the Shutesbury Regulations entitled "Regulations Governing the Subdivision of Land", that the Common Driveway will be constructed if the permit is issued;
 - c. A plan signed by a registered professional engineer for the Common Driveway showing alignments, grades, subsurface preparation, drainage facilities, and surface materials.
 3. The Common Driveway must be designed to safely handle the proposed traffic and provide year-round access for emergency vehicles, and must satisfy at least the regulations for driveways in this Bylaw. The Planning Board may require additional standards for subsurface preparation, drainage, alignment, and surfacing as it sees fit. Such standards may not be more stringent than the requirements for a "Minor Street," as defined in the "Regulations Governing the Subdivision of Land."
 4. A Common Driveway shall in no way exempt the applicant(s) from meeting applicable frontage requirements on a public or private way for each individual building lot unless the lots are in an approved Open Space Design or a reduction in frontage requirements is granted in accordance with Subsection (5) below.
 5. Flexible Frontage
 - a. In order to reduce the number of curb cuts onto Town roadways, preserve the natural and cultural resources visible along these roadways, facilitate the movement of wildlife across roadways, protect recreational access to backland, and improve the design and Site Planning of smaller residential neighborhoods, the Planning Board may approve in its Special Permit for a common driveway, a reduction or elimination in frontage requirements on a public or private way for one or more of the lots proposed to be served by the common driveway.
 - b. Such reduction or elimination of frontage requirements shall not affect any other dimensional requirement for the lots to be served by a common driveway or result in more than twice the number of lots otherwise possible without such reduction or elimination.
 - c. In order to take advantage of this option, an applicant shall obtain the required Special Permit for the common driveway prior to seeking approval for the creation of the subject lots under the "Approval Not Required" provisions of the Town's "Regulations Governing the Subdivision of Land." The Planning Board may

approve such frontage reductions or eliminations only if it finds that the goals listed in the first sentence of this paragraph (5.a) will be better achieved than without the reductions or eliminations. In addition to the standards for Special Permits under said Section 9.2, the Planning Board shall also apply the Rural Siting Principles under Section 8.3.