The zoning statutes provide that in order for a lot to be developed, it must have frontage on a public road or public waters or, with the approval of the planning commission, access to such road or waters by a permanent easement or right-of-way "at least twenty feet in width." 24 V.S.A. § 4406(2). Does that mean that the town is locked into that 20-foot standard, or can it set a stricter one?

The plain language of the statute sets "a regulatory floor, and not a limit," said the Supreme Court in *Blundon v. Town of Stamford*, 154 Vt. 227, 230 (1990). In that case, the Town had a general provision in its bylaws that copied 4406(2) and it also had a provision that required properties in the forest zone to have access via a road built to town highway standards. There, it was clear that the bylaws may contain provisions which are stricter than the statute.

However, there is also a strong argument that the planning commission has discretion to set a stricter standard based on the "at least twenty feet" language even if the bylaws do not specifically provide that.

The safest course, until the Court rules on this specific question, is to make your bylaws as specific as possible. That way there will not be any question of the town's intent. In addition, it will encourage consistent and equal treatment of applicants if the expectations are defined up front.

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