

Appeal for Applicant

7/25/18

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Town of Durham

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Planning, Assessing
and Zoning

\$397.⁰⁰ pd. 7/25
Check # 408

To: Town of Durham, Zoning Board

Name of Applicant: Kimberley Laris

Mail Address: POB 849, Portsmouth, NH 03824 Phone # 877-290-3158

Email: kimberley.laris@onebox.com

Owner of Property Concerned: same

Mail Address: same

Location of Property:
228 Piscataqua Rd, Durham, NH 03824; Tax Map 12-2-5

Description of Property:
Tax Map Number: 12-2-5
Length of Frontage: 761'; Side Lines: East – 268', West – 539
Rear Line: South - 452.40'. Inward rectangle of 200' x115, 51.5ft from southwest corner
Perimeter: 2350'; "U"-shaped lot with top ends facing south

Acres: 3 - abuts 7 grandfathered Cedar Point community lots under .9 acres.
SW ROW to Cedar Point Road, kayak landing and launch (via Map Lot Number 12-2-10).
Current driveway well-hidden on Rt4 (NE) near home.

Note: Durham Town Planning Department suggested filing zone appeal.

SECTION 1: APPEAL FROM AN ADMINISTRATIVE DECISION:

N/A

SECTION 2: APPLICATION FOR SPECIAL EXCEPTION:

N/A

SECTION 3: APPLICATION FOR EQUITABLE WAIVER:

N/A

SECTION 4: APPLICATION FOR A VARIANCE

STANDARD OF REVIEW:

A Variance is requested from Article 175 Section ⁵⁴37.D Dimensional Standards of the Zoning Ordinance to permit 228 Piscataqua Road Subdivision with transfer restrictions

The New Hampshire Legislature has declared that each of the following conditions must be found in order for a variance to be legally granted. Please answer the following questions in support of the variance request either on this form or on a separate sheet of paper.

1. No decrease in value of surrounding properties would be suffered because:

By planning responsibly, value should increase for surrounding properties:

- *protects our 7 neighbors/homes from falling trees and invasive species (See Appendix B-Pictures).*
- *adds formal constraints from neighbors and town transfer with the property.*
- *impacts no neighbor lines-of-sight to water views or each other.*

2. Granting the variance would not be contrary to the public interest because:

After much humbling thought and effort, a "divide-to-conquer" approach for 2350' perimeter and 3 acres of aggressive invasive vine species is the only way likely to be successful for the long-term. Divide-to-conquer helps:

- *stop the loss of trees felled by invasive vines;*
- *prevent harm to our neighbors' homes from felled trees;*
- *curtail further spread of the invasive plants.*
- *avoid adding a driveway on Rt 4, using Cedar Point Road.*

*The fundamental nature of the issue inherited is scale. Details available at Appendix A 1 homeowner is not enough to prevent a 2350' perimeter of heavily-invaded trees (see Appendix B-Pictures) over 3 acres, from worse impact on 7 border neighbors and homes to protect. **5 mature trees fell since purchased 1 year ago.***

Current law requires the existence of unnecessary hardship for the granting of any variance, whether that is for a use not allowed in a particular zone or a deviation from a dimensional requirement.

3(A). Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

- 1) *By far, no other property on Cedar Point is responsible for the number of invaded mature trees or border neighbors. Preventing subdivision is not in the public's best interest, because it makes halting the plant invasion and long-term maintenance impossible, which increases the likelihood of harm to the health of Cedar Point's trees and potentially neighbor's homes and yards.*
- 2) *Given the current high density of Cedar Point (see below), care benefits subdivision makes possible, and practical space available for proper adherence to neighbor and town property transfer requirements –the subdivision will yield a net benefit. See Detailed Rationale Summary Available at Appendix A.*

And

b. the proposed use is a reasonable one because:

Other than subdivision, there is no change in proposed use. Input from both Town and community interests will form formal binding requirement transferring to owners, ensuring any allowed variance continues to retain the health, beauty, and value of the area.

Or

3(B). Owing to special conditions of the property that distinguishes it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

N/A

4. By granting the variance substantial justice would be done because:

A subdivision:

- o *more fairly allows a transition zone to exist within the 7 small grandfathered lots with create a closed container of these 3 solid acres*
- o *restores reasonable capability to properly maintain our community's shared nature and nature views. The alternative makes serving the community and nature's best interests impossible - when the size of an invasive plant problem overwhelms any 1 owner's ability to maintain an adequate response. I've also found I'm severely allergic to them. A contractor asked for a quote looked and turned down the job. See pictures at Appendix B.*

5. The use will not be contrary to the spirit and intent of the ordinance because:

Durham's Coastal Zone spirit and intent is to preserve water, natural views, and avoid overconcentration. Cedar Point's roads reduce the narrow area to 23 acres with 37 lots. Recent Durham studies show opportunity pockets exist for transition lots where impact is minor where disproportionately dense grandfathered boundary lots meet large properties. A reasonable easing of strict dimensions is simpler at Cedar Point, as the geo-isolated area and high-traffic roads create greater obstructions limiting "spillover" growth.

LIST OF ABUTTERS: A list of all abutting property owners, for Town Office verification. An "abutter" means any person whose property adjoins or is directly across the street or stream from the land under consideration. The list of abutters must also include any holders of conservation, preservation, or agricultural preservation restrictions in accordance with RSA 676:4 (I) (a) of the New Hampshire Planning and Land Use Regulations.

8 Abutters

12-2-10	DELUDE FAMILY REV TRUST	<u>9 CEDAR POINT ROAD</u>
12-1-20A	WEGLARZ REV TRUST, MARY T	<u>17 CEDAR POINT ROAD</u>
12-1-20B	WEGLARZ REV TRUST, MARY T	<u>19 CEDAR POINT ROAD</u>
12-1-18	J.U. FAMILY TRUST	<u>23 CEDAR POINT ROAD</u>
12-1-16	MCCORMICK, CONOR	<u>25 CEDAR POINT ROAD</u>
12-1-23	RUSSEL REALTY LLC	<u>15 CEDAR POINT ROAD</u>
12-2-4	MICK, SAMUEL	<u>233 PISCATAQUA ROAD</u>
12-2-3	SINGELAIS JR, LAWRENCE G	<u>239 PISCATAQUA ROAD</u>
12-2-1	CRANE HARRIS	Header Point Rd.
12-2-14	Barber, Eleanor J	41 Cedar Pt. Rd.

PLOT PLAN:

Informal Plot Sub-Division Proposed

Southwest – Very private. Bounded by mature trees/hill on east border, undeveloped on west/northwest, north lawn, dense tree cover extreme north/northeast. ROW to Cedar Point Road (not Rt 4).

Contingent upon requested lot dimension variance approval and collection of Town and neighbor interests, a detailed plot plan accommodating concerns will be provided to address proposed restrictions to transfer with the property.

*Proposed Subdivision Estimates: **

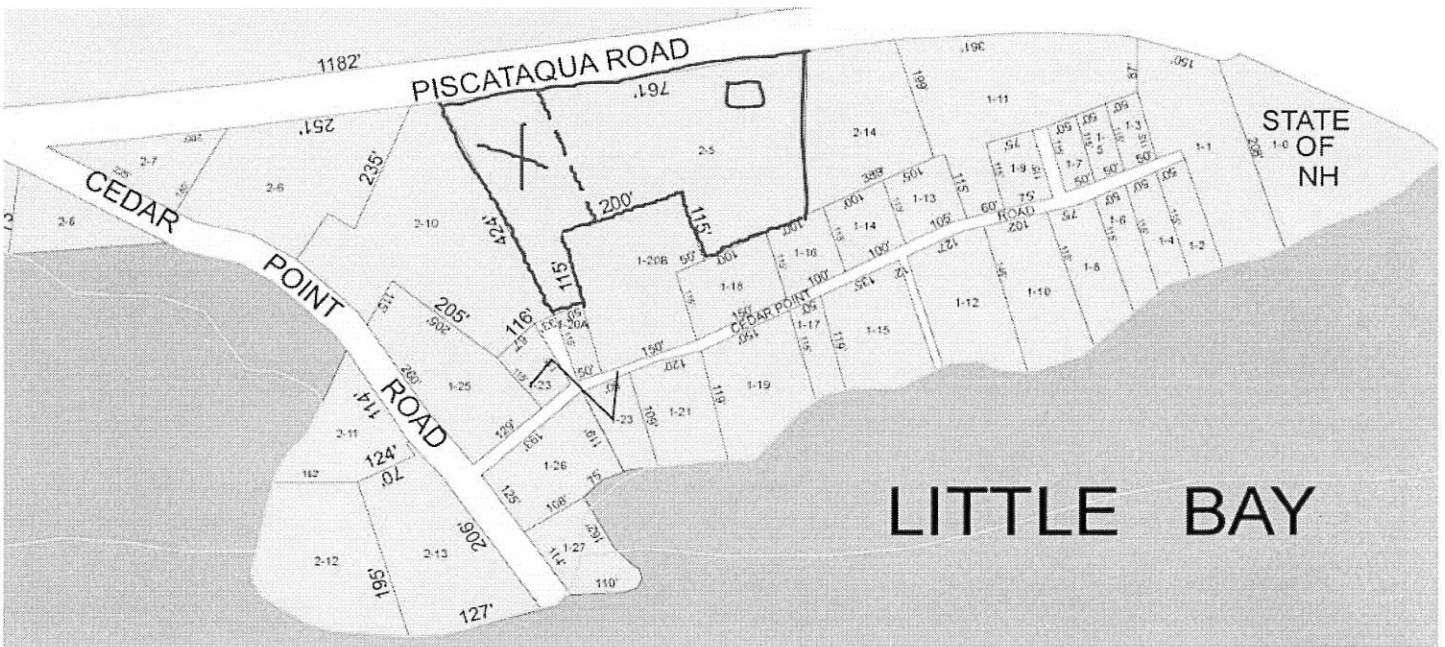
- Lot 1: 2 acres (current residence)
- Lot 2: 1 acre

*Proposed Subdivision Attributes: **

There is no current request to build. Estimates if a building were to be added:

- Building Location: Prefer southwest corner.
- Building Size: 2 stories. 3 BR. *
- Building Shape: TBD, likely to emulate small shoreland homes nearby.

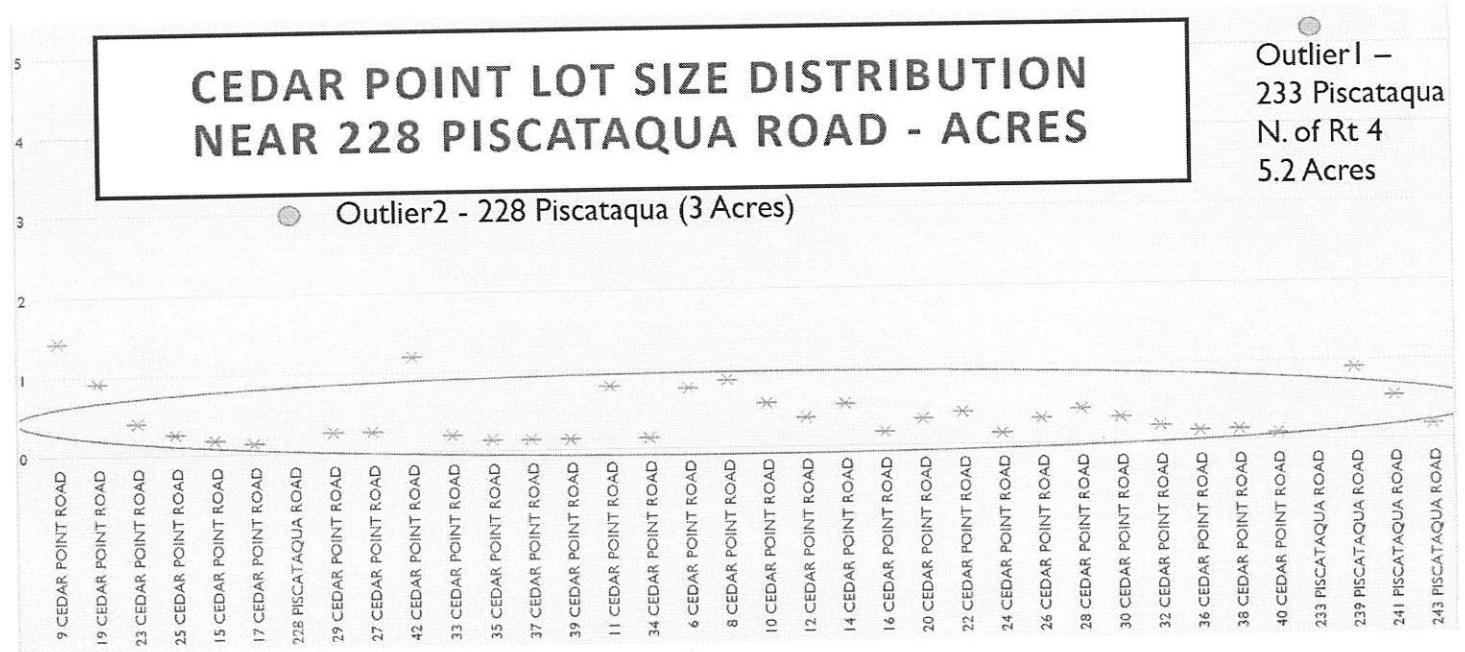
* - Any future build proposals can vary to meet Zoning Board and neighbor requirements.



Appendix A - Rationale:

1. Context

Cedar Point's geography is small and narrow, with well-established small home lots in a very high-density. On 38 acres, exist 2 roads (Rt 4 and Cedar Point), 24 shoreline and 13 interior lots (which surround this property). Removing impervious roads, leaves 23 residential acres with 37 primary buildings and many sheds. Route 4's width and high traffic also divide from open/nature areas to the north. Within that frame, room for smoothing the proportionality for 1 well-planned subdivision of 3 interior acres, leaves a relative abundance of open and undeveloped buffer areas.



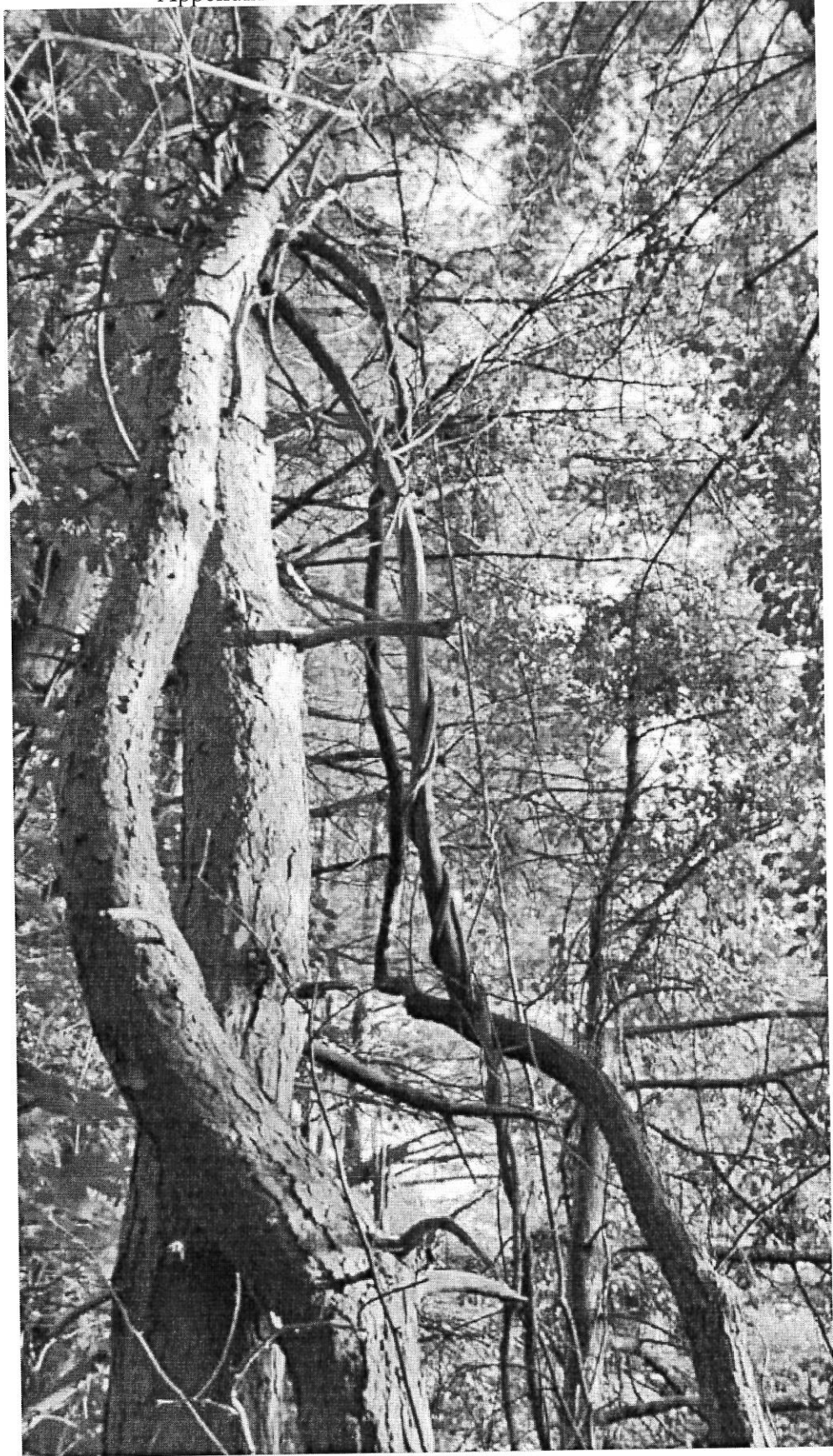
2. Extent and Voracity: The horror of one corner of invasives is appropriately called “the stuff Halloween movies are made of” (see [Appendix B](#)). Since taking ownership of the 3 acre property 1 year ago, many well-established invasive vine ropes were found on all perimeters. The worst exceed 40ft in height, with 3” diameters above ground and 1” roots cross the property. At least 4 trees were felled before I arrived, and 5 have fallen in different storms since. (Addressing felled trees taller than my home is not easy work, either).

3. Historical Artifacts: While battling vines (and humbling rounds of large allergy blisters), an appreciation was gained for why the former owners could only successfully maintain the center lawn (chemical spray nozzles found) and west side near the home. Tools broken in battle were found everywhere. Bittersweet roots are found even in flowerbed black covers.

4. Limited Methods Available: Less manual/expensive methods include chemicals, which cannot be used near waterways or fishing areas. Safe “weed sprays” cannot remove woody vines. Bush chemicals safe for “use in farm animal and conservation areas” can harm trees. Safe use of propane declines near cedar tree needle carpets, and does not address remnant root systems. Even “detached” vines re-root, with more time/space is needed to dispose responsibly (i.e., on a hot driveway). A company specializing in invasive bush removal invited for a quote, never returned.

5. Future Challenges: Even if resources existed to clear the property, the return of remnant roots (including beach rose and poison ivy) is expected, as well as fruits from large swaths on Route 4. It is also normal to overlook where backyards meet – and I currently share backyards with 6 neighbors. A divide-and-conquer strategy could help address intersects.

Appendix B – Invasive Vine “Horror” Pictures















Mail to:
Zoning Board of Adjustment, Town of Durham
8 Newmarket Road, Durham, NH 03824