



PLANNING DEPARTMENT
Town of Durham
8 Newmarket Road
Durham, NH 03824-2898
Phone (603) 868-8064
www.ci.durham.nh.us

CONDITIONAL USE APPLICATION

Date: 11-13-19

Property information

Property address/location: 83 Mill Road

Tax map #: 7; lot #'(s): 2; Zoning District: RB

Property owner

Name (include name of individual): Charles Waters II & Trisha Anne Waters 2000 Rev. Trust

Mailing address: 83 Mill Road Durham, NH 03824

Telephone #: 415-265-1118 Email: dinnywaters@gmail.com

Engineer, Surveyor, or Other Professional

Name (include name of individual): MJS Engineering, P.C. Michael Sievert

Mailing address: 5 Railroad Street Newmarket, NH 03857

Telephone #: 603-659-4979 Email address: mjs@mjs-engineering.com

Proposed project

What is the proposed project? To convert an existing garage into a residential accessory unit

Which provision in the zoning ordinance calls for this conditional use? 175-61.A.1, 175-61.A.4
The construction of utility lines w/in the 75' wetland buffer, excavation for construction of a frost protected foundation, and use of an accessory residential structure within the 75' wetland buffer.

Justification for granting the conditional use: **The site is currently developed, and the utilities are being placed within previously disturbed areas. The construction/installation will not cause any greater detriment to the wetlands than what currently exists.**

Have you completed the conditional use checklist? yes

Have you addressed the eight conditional use criteria? yes

(over)

Other Information

Please note the following:

- Coordinate with Michael Behrendt, the Durham Town Planner, at 868-8064 or mbehrendt@ci.durham.nh.us about the process and any additional information that may be needed.
- Coordinate with Karen Edwards, the Planning Department Administrative Assistant, at 868-8064 or kedwards@ci.durham.nh.us about fees and preparing the list of abutters. All property owners within 300 feet of the site will be notified about the application and public hearing.
- Please be sure to attend all meetings of the Planning Board and the Conservation Commission, if the latter will be making a recommendation.
- The Planning Board may schedule a site walk after the first meeting.
- A public hearing will be held on the application. A sign must be placed on the property at least 10 days prior to the hearing.
- The applicant will need to address the eight general conditional use criteria. For conditional uses within the Wetland or Shoreland Overlay Districts additional criteria must be addressed by the applicant.
- For conditional uses within the Wetland or Shoreland Overlay Districts, the application will be presented to the Conservation Commission for a recommendation.
- See Article VII in the Zoning Ordinance for additional information about conditional uses.

Submission of application

This application must be signed by the property owner(s) *and/or* the agent.

I (we) attest to the best of my (our) knowledge that all of the information on this application form and in the accompanying application materials and documentation is true and accurate. As agent, I attest that I am duly authorized to act in this capacity.

Signature of property owner: _____

Lisa Wat

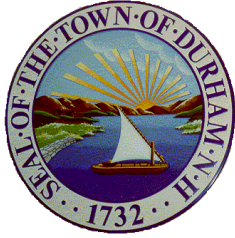
Date: _____

1/17/2020

Signature of agent: _____

Michael J. Saint

Date: 11/14/19



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
www.ci.durham.nh.us

CONDITIONAL USE PERMIT APPLICATION CHECKLIST

Date: 01/21/2020

Name of Applicant: Charles Waters II & Trisha Anne Waters

Location of Property: 83 Mill Road

Tax Map and Lot Number: 7/2

Name of Plan:

a Conditional Use Permit application

a letter of intent detailing the proposal

a letter of authorization (if applicable)

all applicable fees

a list of the names and addresses of all the abutters within 300' feet of the subject property, as shown in town records not more than five (5) days before the day of filing; and a listing of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property

Copies of the current deed, purchase and sale agreement, and copies of all easements, deed restrictions, rights-of-ways, or other encumbrances currently affecting the property.

five copies, 24" x 36" and ten additional copies at 11" x 17" of the plat.

The Plan shall show (only if applicant is not submitting a Site Plan Review or Subdivision Application):

Title Block with title, owner's name and address, date, scale and name, address and seal of the preparer of the plan

names of owners of abutting properties

North Arrow and bar scale

locus plan at a minimum scale of one (1) inch equals one thousand (1,000) feet showing required information

Surveyed property lines of the parcel showing their bearings;

Location and layout of existing and proposed structures and buildings;

- Existing and proposed contours at two (2) foot intervals for the entire site. Where a change in grade is proposed, existing contours shall be dotted lines and finished elevations solid;
 - Area of entire parcel in acres and square feet;
 - Zoning and special district boundaries;
 - Deed reference and tax map number;
 - Location width, curbing and paving of access ways, egress ways and streets within the site;
 - Location and layout of all on-site parking and loading facilities;
 - Location and size of all municipal and non-municipal utilities and appurtenances including: water, sewer, electric, telephone, gas lines and fire alarm connections, indicating whether overhead or underground, and the location of wells and septic systems;
 - N/A Type and location of solid waste disposal facilities;
 - N/A Location, elevation and layout of catch basin and other surface drainage features;
 - Location of all physical/natural features including: water bodies, watercourses, wetlands, vegetation/foilage lines, soil types, railroads, rock outcroppings and stone walls;
 - N/A Dimensions and area of all property to be dedicated for public use of common ownership;
 - N/A Location of 100 year flood hazard boundaries;
 - N/A Date and permit numbers of all required state and federal permits.
 - Location of all buildings, wells and leach fields within one hundred and fifty (150) feet of the parcel;
 - Dimensions, area and minimum setback requirements on all existing and proposed lots;
 - N/A Proposed landscaping plan including size and type of plant material;
 - N/A Pedestrian walks providing circulation through the site;
 - N/A Location and size of proposed and existing signs, walls and fences;
 - N/A Location and type of lighting for outdoor activities; and
 - N/A Location, widths and purposes of any easements or rights-of-way.
 - Total on-site square footage of impervious surfaces.
- Letter to Planning Board detailing how application meets the criteria for approval set out in Section 175-23(C)
- Applicant has met with neighbors to discuss project and concerns.

Written waivers from these requirements may be requested with specific justification to the requirements of Section 12.02 of the Site Plan Review Regulations for the Town of Durham.

The applicant is reminded that they need to place a sign on the property measuring 2'x3' at least ten (10) calendar days prior to the time of the public hearing by the Planning Board. The sign shall remain on the property until the conclusion of the public hearing. The sign shall be visible from the most heavily traveled street right-of-way adjacent to the property. The sign shall state the date of the public hearing, the time, the location and the action to be considered.



5 Railroad Street • P. O.Box 359
Newmarket, NH 03857
Phone: (603) 659-4979
Email: mjs@mjs-engineering.com

Letter of Intent – Conditional Use Permit Application for
Charles Waters II & Trisha Anne Waters 2000 Rev. Trust
Located at 83 Mill Road, Tax Map 7 / Lot 2

January 21, 2020

1.0 Project Purpose

The owners of the subject property are proposing to convert an existing garage into an accessory apartment. The use requires a variance and a variance application is being submitted for the February meeting. The connection of utilities including sewer and water and the construction of a frost protected foundation require a conditional use because the work is within the 75' wetland buffer.

2.0 Existing Conditions

The subject parcel is located at 83 Mill Road and shown on tax map 7, as lot 2. The parcel is located in the RB district. The parcel has frontage on Mill Road and is approximately 10+/- acres in size, which is significantly larger than all other parcels in the area. The parcel is bordered on all sides by residential properties. Along the entire western boundary is a large wetland, which eventually extends onto this lot and encompasses most of the southern part of the lot. The lot is currently developed as a residential property with several buildings. The structures include a single family home, barn, garage and two additional storage sheds. There is driveway access from Mill Road and onsite septic and well. Currently only the house and barn are connected to the well and the house to the existing septic system.

3.0 Development Proposal

The proposal is to convert the existing 4-bay garage into an accessory apartment for family use. The existing building will require installation of rigid insulation to provide frost protection for the existing slab foundation and the building will need to be connected to the existing well and septic system. A portion of the required site construction is within the 75' wetland buffer and most of the current developed area is within the wetland buffer.

Approvals Being Requested from the Planning Board

The Site Plan Review Regulations and Zoning Regulations will require the following approvals based on the current proposed development scope of work.

1. Planning Board Approvals:
 - Conditional Use approval per Site Plan Review Regulation and RSA 674:43 and Zoning Regulations pursuant to Article XIII;175-61;

A.1 & 4, Cond. Use for construction of Utilities and accessory structures and buildings not allowed.

A. *Conditional Use Permit approval;*

In accordance with the conditional use regulations, this submission package includes the CUP Application along with the plans and supporting documentation.

The following outlines how this project complies with the provisions of the general conditions for a Conditional Use Permit contained within Article VII, Section 175-23.C of the Town of Durham Zoning Ordinance. The numbering below coincides with the applicable section.

The statements below demonstrate how this development project complies with the CUP criterion. The plans incorporate best management practices for the construction and thereby satisfy the CUP criterion.

175-23.C

1. Site Suitability:

(a) The property is suitable for the proposed conversion because the property is currently developed for residential use. There is an existing driveway, which provides access to all the existing buildings for both vehicle and pedestrian access.

(b) Adequate emergency service is provided via the existing driveway. Pedestrian access is available to the site and a connection to existing sidewalks is provided at the property. The site is serviced by onsite water and sewer, both are adequate to serve the conversion with some upgrades as proposed; the schools will not be impacted by this development; solid waste will be handled by the town as it currently exists.

(c) The environmental constraints on and adjacent to the property are limited to wetlands. The site is currently developed within the wetland buffer area and this proposal will only require minimal excavation mostly for installation of utility upgrades. There are no floodplains or steep slopes on the site. The development proposal incorporates a balanced environmental design approach by minimizing excavation, keeping the excavation and disturbance to previously disturbed areas, with no grading changes, and replacing existing vegetation. There is no additional impervious area or any additional buildings proposed.

(d) The site is suitable because of the availability of appropriate utilities to serve the existing and intended use.

2. External Impacts:

The external impacts of the proposed use on the abutting properties and the neighborhood will be no greater than the impacts of adjacent existing uses or other uses permitted in the zone:

- The traffic generated by the uses will not cause a negative impact to the surrounding properties or public ways as it currently exists now. The conversion of the garage to an accessory unit is for a family member currently living on the property. The accessory unit will have minimal impact to abutting properties with respect to noise, odors, vibrations, fumes, and lighting because the

residential use currently exists and the use will be inside the building. The exterior lighting is minimal for typical residential use and will be turned off at night. Dust will not change with this proposal.

- The structure exists and has been there for several years without detriment to its surroundings.
- The intensity of use will not significantly change from its original use as a 4 bay garage. In the past the property was used by the owner/contractor for storage of materials and equipment.
- Since there is no physical change except for underground, this proposal will not discourage the appropriate and orderly development and use of the land and buildings in the neighborhood.

3. Character of the site development:

The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood:

- The lot is so large and the buildings are set back from the public way, they cannot be seen from the street.
- The lot is very wooded and the parking and buildings are screened as much as, if not more than other properties in the neighborhood.
- Adequate vehicular and pedestrian access to and within the property currently exists.

4. Character of the buildings and structures:

The design of any new buildings or structures and the modifications of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood because:

- This proposal does not include any new buildings. The existing building scale, materials, grade and other site amenities conforms to the development standards within the regulations and is similar to other existing structures on and adjacent to the site.

5. Preservation of natural, cultural, historic, and scenic resources:

The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties because:

- The proposal does not change the surface configuration and only adds underground utilities.
- The existing property affords more significant wildlife habitat than adjacent properties due to its size and proportion of un-development vs development area, is absent of graveyards, and floodplains. There is no further degradation to the wetland as the proposed disturbed areas all fall within previously disturbed areas. The proposal maintains the mature tree lines and stonewalls.

6. Impact on property values:

- *The proposed development will not cause or contribute to a significant decline in property values of adjacent properties:* the development of the site will remain unchanged. and there is no documented decline in property values currently from the developed property.

7. Availability of Public Services and Facilities:

- The site is serviced by onsite water and sewer and this will not change with this proposal.
- Solid waste will be stored in containers within the garage and collected and disposed on a weekly basis by the town as is currently the case.
- Drainage from the developed site will not change with this proposal. The quality of the stormwater leaving the site will be equal to the existing condition.
- Electric, telephone, and data utilities either remain the same or be connected to the existing utilities on the site.
- This site has a central and easily accessible location from the police and fire departments via town roads therefore this will not change and there will not be an increase in demand for police or fire with this proposal.
- The intended use will not cause a demand on any of the municipal services.

8. Fiscal impacts:

- The facility will not have a negative fiscal impact as there are no school age children living on the site, and no municipal facilities used at the site.
- Solid Waste/Recycling will remain unchanged and is provided by the town.
- Maintenance of the site is the owner's responsibility.

175-61.B

1. *There is no alternative location on the parcel that is outside of the WCO District that is reasonably practical for the proposed use.*

The majority of the parcel is encumbered by wetlands or the wetland conservation district. The majority of the existing developed area is within the wetland conservation overlay district including the existing outbuildings. No alternative location on the parcel that is outside the WCO District is available that would allow the proposed use or improve the existing residential living conditions to the extent proposed without a large negative impact to the existing single family residential house or appurtenances to the structure or a negative impact to the wooded buffer that exists between the adjacent property.

2. *The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board.*

The proposed site disturbance has been minimized, is within previously disturbed areas and associated grading has been prepared with the primary intent of minimizing soil disturbance by maintaining the existing grades of the property to the extent feasible.

3. *The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the wetland and on the adjacent shoreland and water body as well as downstream water bodies, and mitigation activities will be undertaken to counterbalance any adverse impacts.*

The excavation area is within previously disturbed areas, has been minimized and is temporary. The following best management practices have been incorporated:

- Use of temporary erosion control measures like silt soxx will be installed;
- .
- Driveway areas will be re-filled, compacted and stabilized immediately after completion.
- All lawn areas will be filled, loamed and reseeded immediately after completion.

4. *Restoration activities will leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.*

There are no changes in the grading at the site, and each disturbed area will be re-graded and re-vegetated as it previously existed.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely;

A handwritten signature in cursive script that reads "Michael J. Sievert". The signature is written in black ink and is positioned above the typed name.

Michael J. Sievert PE
MJS Engineering



5 Railroad Street • P.O. Box 359
Newmarket, NH 03857
Phone: (603) 659-4979
Email: mjs@mjs-engineering.com

November 13, 2019

Durham Planning Board
8 Newmarket Road
Durham, NH 03824

Dear Chairperson:

I hereby authorize Michael J. Sievert, P.E. of MJS Engineering, P.C. to represent me at the Durham Planning Board and conservation commission meetings for conditional use review and approval. The subject parcel is shown on Tax Map 7, Lot 2, located at 83 Mill Road.

Sincerely;

A handwritten signature in cursive script that reads 'Trisha Waters'.

Trisha Waters or
Charles Waters
Owners

AFTER RECORDING, PLEASE RETURN TO:

Charles Waters II
Trisha A. Waters
83 Mill Road
Durham, NH 03824

Doc # 0030058 Apr 18, 2008 3:18 PM
Book 3636 Page 0120 Page 1 of 2
Register of Deeds, Strafford County



Quitclaim Deed

Charles Waters II and Trisha A. Waters, husband and wife, of 83 Mill Road, Durham NH 03824, for consideration paid, **grant** to Charles Waters II and Trisha Ann Waters, Trustees of The Charles Waters II and Trisha Ann Waters 2000 Revocable Trust, with an address of 83 Mill Road, Durham NH 03824, with quitclaim covenants:

A certain tract or parcel of land, together with the buildings thereon, situated on the southwesterly side of Mill Road, in the Town of Durham, County of Strafford and State of New Hampshire, designated as Lot #2A on a plan entitled "Final Plan, Durham Land Corp., Woodridge Acres, Section 4, Durham, NH" by G.L. Davis and Associates, recorded as Plan #17A-196 of the Strafford County Registry of Deeds, bounded and described as follows:

Beginning at a point on the southwesterly side of said Road at Lot #2B; thence running S 31° 38' E by said Road a distance of one hundred forty-eight and three hundredths (148.03) feet to Lot #1 on said plan; thence running on a curve to the left with a radius of twenty (20) feet a distance of thirty-one and four tenths (31.4) feet; thence continuing by Lot #1 on a curve to the left with a radius of ninety and six tenths (90.6) feet a distance of forty-eight and six tenths (48.6) feet to a point; thence continuing by Lot #1, S 25° 49' W a distance of one hundred ninety-four and thirty hundredths (194.30) feet to a point; thence S 64° 11' E a distance of two hundred (200.0) feet to a stone wall at land now or formerly of Menelaos Aliapoulos; thence running by said stone wall and Aliapoulos land S 25° 49' W a distance of two hundred twenty-nine (229.0) feet; thence S 42° 30' W one hundred eighteen (118.0) feet; thence S 48° 02' W one hundred twenty (120.0) feet; thence S 05° 18' W by said wall and in part by a wire fence a distance of three hundred sixty-three (363.0) feet to a stone wall; thence S 07° 05' W by said stone wall a distance of two hundred twenty-five (225.0) feet to a UNH bound at land now or formerly of University of New Hampshire; thence running S 38° 06' W by said University land in part by a wire fence and a stone wall a distance of two hundred sixty-one and eighty hundredths (261.80) feet to a point; thence continuing by said University land S 13° 33' W a distance of one hundred forty-eight and forty hundredths (148.40) feet to another UNH bound at a stone wall; thence running N 77° 00' W by said stone wall and other land of University of New Hampshire a distance of two hundred forty-seven and fifty hundredths (247.50) feet to a Lot #29A; thence N 19° 03' E a distance of one hundred ninety-four and sixty-eight hundredths (194.68) feet to a point; thence N 53° 31' W a distance of two hundred (200.0) feet to Lot #28; thence N 20° 02' E two hundred eighty (280.0) feet to Lot #2A; thence S 70° 00' E one hundred seventy-five (175.0) feet to a point; thence N 20° 00' E by Lot #2A four hundred fifty (450.0) feet to a point; thence N 34° 12' E two hundred fifty-five and thirty-three hundredths (255.33) feet to Lot #2B; thence N 20° 00' E by Lot #2B a distance of five hundred sixty-five (565.0) feet to Mill Road and the point of beginning.

Subject, however, to any and all easements granted for utility purposes to Public Service Company of New Hampshire and/or New England Telephone and Telegraph Company and/or New Hampshire Electric Cooperative, Inc. as the same may pertain to the subject premises.

Meaning and intending to describe and convey the same premises conveyed to the within Grantors in Book _____ Page _____ of the Strafford County Registry of Deeds.

Witness this 15th day of April, 2008.



Charles Waters II



Trisha A. Waters

STATE OF NEW HAMPSHIRE

COUNTY OF Strafford

On this 15 day of April, 2008, did personally appear Charles Waters II and Trisha A. Waters, who did acknowledge the foregoing instrument to be their act and deed. Before me,



Justice of the Peace, Notary Public

Michael J. Mulhern
NOTARY PUBLIC
New Hampshire
My Commission Expires 08/13/08