

Robert S. Kennedy
C. Anne Broussard
18 Riverview Road
Durham, NH 03824

21 February 2013

Zoning Board of Adjustments
Town of Durham
15 Newmarket Road
Durham, NH 03824

Dear Zoning Board Committee:

Property Referenced: Tax Map 11, Lot 31-7.

On 11 February 2010, the Durham Zoning Board of Adjustments approved our appeal "to add a new garage/storage bay to an existing one-car garage not to exceed 35 ft from the sideyard setback:" as well as several other variances that allowed us to renovate our house that strengthened the structural integrity of the house and brought it up to modern building and safety codes. During the renovation process, we deferred on the construction of the new garage for financial reasons at that time.

Since 2010, the foundation for the existing garage is showing signs of failing, with cracks, bulging of the wall, and apparent movement of the slab. We now wish to follow through with upgrading our entire garage with expanded plans that we have submitted to Zoning Administrator Thomas F. Johnson for review. He rightly concluded that the earlier approved variance was insufficient to cover the expanded plans and that we would have to amend our earlier approved variance.

Here, we are requesting a variance to allow us to replace an existing one car garage with a two car garage with a walk-in, full height, unfinished and unheated lower level for storage. The new structure will involve demolition of the existing one car garage, excavation of the site, and installation of a foundation for the two story new garage/storage area. This new structure will be slightly lower in grade (about 1 ft 2 inches) to our existing two story house and will encroach into the sideyard set back by 8 feet 10 inches (or 7 feet 10 inches more than the existing garage), placing the new structure 41 feet 2 inches from the west property line. As mentioned above, the prior allowance was to 35 feet from the sideyard setback.

We have enclosed the following:

- 1) Copy of the 11 February 2010 letter with the Decision of the Zoning Board showing the approval of the new garage bay;
- 2) A copy of the site plan submitted for the application to the Zoning Board in 2010.
- 3) A new site plan showing the current distance from the corner of the existing garage to the sideyard setback (49 feet), and the position of the new garage in relation to the sideyard setback (41 feet 2 inches).

Our property at 18 Riverview is approximately 1 acre or about 43,600 sq ft and abuts the Oyster River with approximately 70% of the property falling within the Shoreline Protection Zone. Since the lot size is smaller than the dimensions required for the RC Zone (150,000 sq ft), and has required setbacks of 50 ft sideyard, 125 ft shoreland, and 30 ft frontyard, conforming to the zone creates greater constraints on this smaller lot. Due to the size and uniqueness of this lot, the construction of the new garage will impact the setbacks during construction or by the structures themselves and thus requires a variance.

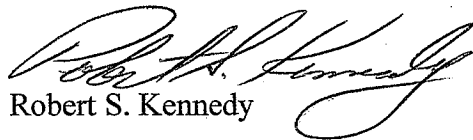
We wish to start work on the garage in late April. We will make every effort to avoid unnecessary erosion created by lawn and yard damage by demolition and construction vehicles.

Please find the "Facts Supporting This Request" following this letter. We thank you for considering our request for the variance so that we can remove the existing one car garage and failing foundation, and provide a new garage and storage area to complete the project we started and had approved variances for in 2010.

If you have any questions, please feel free to contact us at (508) 577-4105 (Kennedy cell phone) or (603) 479-4367 (Broussard cell phone).

Thank you for your assistance with this matter.

Sincerely yours,



Robert S. Kennedy



C. Anne Broussard

C. Anne Broussard

Facts Supporting This Request (Answers to Section 4: Application of Variance):

Question 1) The new two-story structure containing a two-car garage above a lower storage area will either maintain the value of the house or increase its value and thus will either maintain or increase the value of surrounding properties. The new structure will replace a single car garage with a foundation that is failing and potentially unsafe at 18 Riverview. All properties on both sides of Riverview within 6 numbers of 18 Riverview have two car garages, so the addition of the new garage will make this house more compatible with others on the street.

Question 2. The addition of the two-car garage will make 18 Riverview more compatible with most houses within the Riverview community that already have two-car garages and thus it will have a beneficial impact to the community on Riverview Road. Also, it will

replace storage lost in our attic when we upgraded insulation in 2010 to meet current code of R49.

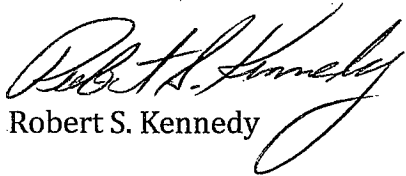
Question 3(A) Denial of the variances would result in unnecessary hardship to us because: i) the property is too small (less than one third the size required of current lots along watercourses) and setbacks restrict improvements of dilapidated and outdated structures on the property and improving the overall environmental quality of the property; ii) we would not be able to make the necessary improvements that will enhance the overall enjoyment of this property to us and to the community at large.

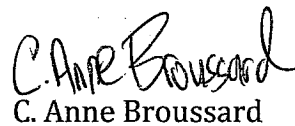
Question 3(A) a. No fair and substantial relationship exists between the general public purpose of the zoning ordinance and the specific restrictions on the property. The ordinances are written to protect the value of the property and the value of surrounding properties, to protect the Oyster River from degradation from pollution, run-off, unsound developmental practices, and to conserve the natural beauty, scenic quality and wildlife and fisheries resources of the Oyster River. The 6 improvements to our house will enhance surrounding property values, will reduce pollution from minor oil spills around the property, allow better drainage of water around the house, and will not impact the natural beauty or wildlife resources because we are adding more environmentally compatible improvements to the house.

Question 3(A) b. The proposed use is reasonable because we will be able to live in a safe, healthy environment that will enhance our overall living experience and enjoyment of the property and will enhance property values in our community.

Question 4. By granting the variance substantial justice would be done because it would allow us to remove an old, failing, potentially unsafe structures, to conform to other houses in our community, to improve the environmental quality of our property, and improve the overall aesthetics of our property as seen from Riverview Road and from the Oyster River. This will also complete the renovation of our home and to bring its systems up to the current building code.

Question 5. The use is not contrary to the spirit and intent of the ordinance because it allows us to improve the property without negatively impacting the community, our neighbors and the environmental quality of the Oyster River and the Great Bay Estuary.


Robert S. Kennedy


C. Anne Broussard



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Property Referenced:
Tax Map 11, Lots 31-7

ZONING BOARD OF ADJUSTMENT

RE: PUBLIC HEARING on a petition submitted by Daniel W. Duvall, Duvall Management LLC, Durham, New Hampshire, on behalf of Robert S. Kennedy and C. Anne Broussard, Durham, New Hampshire, for an APPLICATION FOR VARIANCES from Article XII, Section 175-54 and Article XIV, Section 175-74 of the Zoning Ordinance to replace a concrete patio, to replace/enlarge an upper level deck, to construct a new foundation wall and wood framing, to add a new garage/storage bay to an existing one-car garage, to replace a dock and to install an underground propane tank within the sideyard, frontyard and shoreland setbacks. The property involved is shown on Tax Map 11, Lot 31-7, is located at 18 Riverview Road, and is in the Residence C Zoning District.

DECISION OF THE BOARD

After review of the pertinent sections of the Zoning Ordinance of the Town of Durham, and after full consideration of the evidence submitted by Daniel W. Duvall, Duvall Management LLC and testimony given at a Public Hearing on February 9, 2010, a motion was made and seconded:

that the Zoning Board of Adjustment approve the petition submitted by Daniel W. Duvall, Duvall Management LLC, Durham, New Hampshire, on behalf of Robert S. Kennedy and C. Anne Broussard, Durham, New Hampshire, for an APPLICATION FOR VARIANCES from Article XII, Section 175-54 and Article XIV, Section 175-74 of the Zoning Ordinance

- to replace a concrete patio with a lower level pervious deck and replacelEnlarge an upper level pervious deck as per the dimensions in the letter dated January 25, 2010;
- to construct a new foundation wall and wood framing;
- to add a new garagelstorage bay to an existing one-car garage not to exceed 35 ft from the sideyard setback: and
- to install an underground propane tank within the sideyard, frontyard and shoreland setbacks, as per the sketch plan dated February 2010.
- There is no need for a variance to replace the dock.

The motion PASSED on a vote of 5-0 and the application for variances was granted.

2/11/10
Date

Jay Gooze
Jay Gooze, Chair
Durham Zoning Board of Adjustment

NOTE: Any person affected by this decision has the right to appeal this decision. If you wish to appeal, you must act within thirty (30) calendar days from the date of the hearing. The necessary first step before any appeal may be taken to the courts is to apply to the Zoning Board of Adjustment for a rehearing. The motion for rehearing must set forth all the grounds upon which you will base your appeal. See New Hampshire Statutes, RSA Chapter 677, for details.

Any questions should be directed to Tom Johnson, Zoning Administrator/Code Enforcement Officer.