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Town of Durham

Please send this form with Plot Plan and List of Abutters to the Town of Durham, 15 JUN 24 2013
Newmarket Rd., Durham, NH 03824, Attn: Zoning Board of Adjustment.

Appeal for Applicant

Planning, Assessing,
Zoning & Code Enforcement

State of New Hampshire

Strafford, SS

To: Zoning Board of Adjustment, Town of Durham NH 03824

\$249.⁰⁰
pd. 6/24
Check #
1687

Name of Applicant: Julieann H. Southworth

Address: 1 Strout Lane Phone # 603 397-5299

Owner of Property Concerned: Julieann Southworth & Brian Haggerty
(If same as above, write "Same") (Brother)

Address: Same
(If same as above, write "Same")

Location of Property: 1 Strout, lot 4-9, Tax Map # 10
(Street & Number, Subdivision and Lot number)

Description of Property (Give Tax Map number, length of frontage, side and rear lines and other pertinent descriptive information) Tax map 10, Corner Lot
Frontage - 108' Strout Lane
Side - 147' Bagdad Rd
Rear - 137' (Abutt's property 64-0 on Buck's Hill Rd)

Fill in Section 1, 2, 3 or 4 below as appropriate. Do not fill in more than one section. This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate sheets if the space provided is inadequate.

SECTION 1: APPEAL FROM AN ADMINISTRATIVE DECISION

Appeal must be filed no later than 30 days from the date of the original decision.

Relating to the interpretation and enforcement of the provision of the Zoning Ordinance.

Decision of the enforcement officer to be reviewed: _____
Number _____ Date _____

Article _____ Section _____ of the Zoning Ordinance in question.

SECTION 2: APPLICATION FOR SPECIAL EXCEPTION

Description of proposed use showing justification for a Special Exception as specified in the Zoning Ordinance Article _____ Section _____

SECTION 3: APPLICATION FOR EQUITABLE WAIVER

The undersigned hereby requests an Equitable Waiver of Dimensional Requirements as provided in RSA 674:33-A of the New Hampshire Planning and Land Use Regulations.

Please give a brief description of the situation: _____

*** SECTION 4: APPLICATION FOR A VARIANCE**

STANDARD OF REVIEW: The New Hampshire Legislature has declared that each of the following conditions must be found in order for a variance to be legally granted. Prior to seeking a variance, the property owner must have been DENIED a building permit by the Building Inspector or approval by the Planning Board.

1. No decrease in value of surrounding properties would be suffered;
2. Granting the variance would not be contrary to the public interest;
3. Denial of the variance would result in unnecessary hardship to the owner seeking it;
4. By granting the variance substantial justice would be done;
5. The use must not be contrary to the spirit and intent of the ordinance.

A Variance is requested from Article XX Section 175-109D(2) of the Zoning Ordinance to permit an accessory apartment exceeding 25% of the total floor space of the dwelling.

Facts supporting this request:

1. No decrease in value of surrounding properties would be suffered because:
The accessory dwelling would be contained in the finished basement of the existing structure, and will continue to maintain the single family character of the premises.
2. Granting the variance would not be contrary to the public interest because: The variance would not exceed the boundaries of the structure, nor the number of residents/tenants in the dwelling. It solely provides a few additional feet of living space to the tenant(s).

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:

The variance would not exceed the boundaries of the finished basement, nor impact the neighbors, abutters or residents.

and

- b. the proposed use is a reasonable one because:

The house was purchased with the basement finished. It would significantly reduce the integrity of the apartment (or living space) by cutting that room in half, ~~and~~ creating a space inaccessible by the homeowner, and would remove a window from the accessory apartment, an important feature in a basement apartment.

Or

To alter the space to be in accordance with zoning ordinance

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.

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

It would allow an accessory apartment to be rented in otherwise unused space. There would be no impact to abutters, neighbors or residents.

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

The variance would continue to maintain the single family character of the premises. It would solely allow a few additional feet of living space to the tenant(s), and a few less feet of basement space to the homeowner.