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Durham, NH 03824

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Town of Durham

AUG 26 2013

Planning, Assessing,
Zoning & Code Enforcement

August 1, 2013

Thomas Johnson
Code Enforcement Officer
Town of Durham
15 Newmarket Road
Durham, NH

Re: Durham Tax Map 11, Lot 1-0
Request for Variance from Zoning Ordinance
175-53, Table of Permitted Uses

\$ 242 pd. 8/26
Check # 777

Dear Mr. Johnson:

Please accept for your review and that of the Zoning Board of Adjustment this application for variance from the strict provisions of the Table of Permitted Uses of the Zoning Ordinance, specifically Chapter 175, Section A. III. A. regarding permitted residential uses in the Office Research/Route 108 Zoning District.

The subject parcel is a 4.05 acre lot along the Durham/Madbury town line with frontage on Route 108. The property may only be accessed from the State road via an easement provided from an existing curb cut onto and across adjacent property located in the Town of Madbury.

The property's development potential is severely constrained by the limited nature and location of this access easement, the soils, and the prevalence of wetlands on the property. These conditions, which are unique to this property as opposed to others in the zone, make it unsuitable for creation of a high quality rural office and research park, as contemplated by the purpose of this zone as outlined in the Ordinance. The property is very well-suited to meeting the additional purpose of this zone, namely to construct buildings which are set back from the road to preserve the rural character of the area and to provide significant amounts of open space.

The location of the existing driveway which serves the property is the only place such a curb cut is possible along this frontage of route 108. But this drive is located at the bottom of a hill from both directions and is unlikely to receive a NHDOT permit for the expansion required to support a commercial use, especially in the absence of major improvements which would include significant tree removal and potentially adverse wetland impacts.

In addition, the predominant land use of abutting properties is low-density residential housing. Creation of an office and research park in this location would have significant

impacts on the enjoyment and value of these existing properties and have a negative impact on this gateway property as one enters Durham from Madbury.

Due to the limited access and large areas of wetlands on the portions of the property which would not be developed it is not possible to develop the property beyond a single family home site. The result is that this house lot at 4.05 acres would be more than four times the minimum lot size required in the zone.

Therefore, this proposal requests that a variance be granted to allow the construction of one single family home on the property.

Facts Supporting This Request:

No decrease in value of surrounding properties would be suffered because the proposed home site is located far from the road, and is well screened by existing vegetation. Limited clearing and disturbance will be required, especially as compared to a larger scale office research park, a permitted use not requiring a variance. Also a single-family residential driveway to access the property will carry a significantly lower traffic volume than an alternative permitted use, thus protecting surrounding properties from congestion, glare and noise.

Granting the variance would not be contrary to the public interest because a low density residential home site is consistent with the existing land use in the neighborhood, and a low intensity use of the subject property will not increase traffic congestion in the area or change the rural character or visual appeal from the highway and abutting properties.

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 no fair and substantial relationship between the general public purpose of the ordinance and the specific application of that provision to the property (namely the inability to build a single family home) exists because the property has limited access, insufficient soil capacity to support a commercial septic system, and limited area to support buildings, leach fields, parking and storm water management facilities required for a commercial project. The property is quite simply unsuitable for commercial development, but very well suited for low-density single-family development consisting of a single home and modest septic system.

The propose use is a reasonable one because it makes good use of the property consistent with its ability to support limited development, and also consistent with abutting land uses. Such a use supports one of the primary purposes of the zone: to provide vegetated setbacks to limit visual impact of development and to protect rural character. The proposed use will have little impact on area traffic, nor will it present challenges for provision of municipal services.

Owing to the special conditions of the property, which distinguish 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. These special conditions are inherent in the location, configuration and quality of the land which by virtue of limited access and building area, prevalence of wetlands and required setbacks, and soil constraints which limit septic system, make it impossible to develop and enjoy the land according to all of the purposes of the zoning district.

By granting the variance substantial justice will be done because a single family use of the property is consistent with the property's ability to support development, will protect the value of surrounding properties, will satisfy a major element of the purpose of the zoning district (preserving views and preserving rural character), will prevent creation of traffic hazards, and will reduce risk of damage to surrounding streams and wetlands from storm water runoff.

The use will not be contrary to the spirit and intent of the ordinance because it would clearly be inappropriate to site a commercial development on the subject property for all the reasons previously outlined; and a major goal of the zoning district in question is to protect the views and rural character of this important gateway to the community.

Moreover, it has been demonstrated that the proposed variance will clearly meet the following purposes of the Zoning Ordinance as outlined in 175-3:

"Ensure that development is commensurate with the character and physical limitations of the land;" and

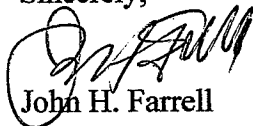
"Protect natural and scenic resources from degradation;" and

"Conserve open space."

Therefore, I respectfully request that this variance to allow the land to be developed as a single-family house lot be granted.

Thank you for your consideration of this proposal.

Sincerely,



John H. Farrell