

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



Appeal for Applicant

State of New Hampshire

Strafford, SS

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

Name of Applicant: Stephanie M. Higgs / Heather + Stephen Merrill

Address: 18 Oyster River Rd, Durham Phone # 969-6943

Email: smhiggs@hotmail.com

Owner of Property Concerned: same
(If same as above, write "Same")

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

Location of Property: 18 Oyster River Rd. 4-26 map 6
(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) 06/4/26

* plz mail notice of public hearing to both the Merrills (at above addr) + Stephanie Higgs at 21 Spruce Lane, Dover NH 03820

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 14 Section 175-74A of the Zoning Ordinance to permit to put a deck within the Shoreland setback.

Variance Request – Durham Zoning Board
18 Oyster River Road- Durham
Stephanie Higgs- prior owner
Stephen and Heather Merrill- current/new owner

6-19-14

This deck was built, naively in retrospect, under the assumption that it would fall into a grandfathering clause given the existence of decks on the surrounding properties that are well within 125' from the Oyster River, and the prior existence of a deck on this property itself.

This home is now owned by new owners who were not involved in the construction of this deck.

1. No decrease in value of surrounding properties:

This deck, though larger, replaces a deck that existed when the home was purchased ~16 yrs ago. The original deck was in poor condition and became worse over the course of the next several years until it became a safety hazard. A deck was always on the house, with a back door always exiting onto it. The new deck enhances this property and by doing so, helps increase the property values of homes adjacent to it.

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

This deck is very private, with trees on all sides. It is only visible by one neighbor (and again, through trees). The deck is attractive and made of natural wood. The deck is far from any public space, with a large wooded area between this property and the open park area down the road. There would therefore be no negative impact on the public.

3. (B)Owing to special conditions of the property, the property cannot be reasonably used in strict conformance of the ordinance, and a variance is necessary to enable reasonable use:

On this property, as with many others along the river, the home itself was built within 125' of the river, let alone the decks themselves. This home, again, like many others along the river, does not have large usable backyard space and therefore the existence of decks allows the use and enjoyment of the behind-the-home space. Without the allowance of a deck, the backyard space on this property is extremely limited and would decrease its value in comparison to adjacent/neighborhood properties which have decks.

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

Decks on homes along the Oyster River on Oyster River Road are very common, many of which are much closer than 125' from the river, and have been grandfathered as such. The original deck on this property was, as with these others, less than 125' from the river also. These decks are common for river-bordering properties. Without this variance approval, this property would be singled out in a negative way and its comparable value to adjacent and nearby properties would be decreased.

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

This deck remains much further from the river than decks on adjacent/nearby properties along the river, with no negative impact on the river, wildlife (we have deer, foxes, beavers!), or these surrounding properties.