TOWN OF DURHAM
15 NEWMARKET RD
DURHAM, NH 03824-2898
PHONE: 603/868-8064
FAX: 603/868-8033
www.ci.durham.nh.us

ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

$242.00 pd.
9/30
Check #
1176

MEETINGS: The Zoning Board of Adjustment (ZBA) will meet on the second Tuesday of each month in the Council Meeting Room at the Town Hall.

FILING OF APPLICATION: Applications for ZBA are available at the Town Office. The application must be filed at the Town Office at least 15 days prior to a meeting, along with an application fee. A notice of the meeting will be published in the Foster's Daily Democrat and a similar notice will be sent, by certified mail, to abutters and nearby property owners. The filing fee will be used to meet these expenses. If the expenses exceed the filing fee, the applicant will be billed for the difference.

LIST OF ABUTTERS: You must prepare a list of all abutting property owners, have it verified at the Town Office, and attach it to your application. If you have any difficulty, consult the Assessor's Office, but THE ACCURACY OF THE LIST IS YOUR RESPONSIBILITY. An "abutter" means any person whose property adjoins or is directly across the street or stream from the land under consideration. The list of abutters must also include any holders of conservation, preservation, or agricultural preservation restrictions in accordance with RSA 676:4 (I) (a) of the New Hampshire Planning and Land Use Regulations.

PLOT PLAN: Applications must be accompanied by plot plans in order to be considered by the ZBA. Plans should show the location and shape of the subject structure in relation to lot lines and required setbacks, in addition to location and identification of abutters. Neither the review of any applications or plans by officials of the Town of Durham, nor any subsequent inspection of the premises, should be relied upon as an assurance of conformity to legal requirements. The applicant shall remain fully responsible for complying with all applicable United States, New Hampshire or Durham laws, ordinances, regulations or conditions.

PRESENTATION AT MEETING: The Petitioner should bring all documentation, which will assist the Board in understanding the proposal. Do not assume that anything submitted to a different Town Board will find its way to the ZBA file.

NOTE: Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. An appeal of Administrative Decision must be filed with the Board no later than 30 days from the date of the original decision as per the Zoning Board Rules of Procedure Section D(1)(b).

It is necessary that the applicant or his legal representative attend the meeting held for the review and consideration of this petition.

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: JAMES BRUNER

Address: 9 THOMPSON LN. DURHAM, N.H. Phone # (603) 397-2943

Email: brunerconstruction@comcast.net

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

Address: 9 ORCHARD DRIVE
(If same as above, write "Same")

Location of Property: 9 ORCHARD DRIVE,
(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) MAP 6/2/1, 162' FRONTAGE, 455' NORTH SIDE, 600' SOUTH SIDE, 200' REAR LINE (OYSTER RIVER)

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

Any Special Exceptions granted shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

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: 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.

Any Variances granted shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

A Variance is requested from Article 13 Section 175-59A2 of the Zoning Ordinance to permit THE CONSTRUCTION OF A 16'X16' ADDITION. THE ADDITION WILL BE USED TO ENLARGE THE EXISTING 'GALLEY' KITCHEN AND PROVIDE OFFICE SPACE IN BASEMENT.

The New Hampshire Legislature has declared that each of the following conditions must be found in order for a variance to be legally granted. Please answer the following questions in support of the variance request either on this form or on a separate sheet of paper.

1. No decrease in value of surrounding properties would be suffered because:

_____

_____

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

_____

_____

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:

_____

_____

_____

<u>and</u>

b. the proposed use is a reasonable one because:

_____

_____

_____

<u>Or</u>

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:

_____

_____

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

_____

_____

Section 4:

1. No decrease in value of surrounding properties would be suffered because:

   The proposed addition is within the appropriate setback from the side property line and will have a positive impact on the value of the house and property.

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

   There will be no negative impact on the wetland and site construction will include the use of silt fencing to prevent unintended and unpermitted impacts to the wetland.

3. 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 addition will have no negative impact to the wetland area because the area is now currently grass with no wetland vegetation affected by the proposed work. The denial of this variance will create a hardship for the property owner because there is no other viable option to increase the size and functionality of the kitchen.

   b. The proposed use is a reasonable one because the construction of this addition will add value to the house, meet the owners need for a better kitchen and it will be built with responsible and professional building techniques that will have no negative impact on the wetland.

List of Abutters:

1. 7 Orchard Dr. 6/1/8 Mark Cutter
2. 11 Orchard Dr. 6/2/2 Michael Kandle
3. 6 Orchard Dr. 6/2/5 Cedric Rothkegel
4. 9 Foss Farm Rd. 6/2/4 True Trusts, Melburn & Virginia / P.O. Box 83 East Derry NH
5. UNH – 5-1UNH
6. 18 OYSTER RIVER RD 6/4/26 STEVEN MERRIL