



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824  
PHONE: 603/868-8064  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

RECEIVED  
Town of Durham

APR 27 2015

Planning, Assessing  
and Zoning

## ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

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**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: HENRY M. SMITH

Address: 93 PACKERS FALLS RD Phone # 659-8396

Email: hmsmith@unk.edu

Owner of Property Concerned: SAME

(If same as above, write "Same")

Address: SAME

(If same as above, write "Same")

Location of Property: SAME - 17-42

(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) frontage: 600'

Lot acres: 2.90. sq. ft.: 126,324

**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 XX Section 175-109(D)(2) of the Zoning Ordinance to permit \_\_\_\_\_

an accessory apt. larger than 25% of total square footage.

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:

*Said request regards the apt. area inside the house, not the exterior. No modifications will be made to the apt, thus no negative effects on surrounding properties.*

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

*No party in the public domain would ever see the change requested, much less be affected by it. Granting the requested variance would have no negative effect on the safety and gen. welfare of the public, the public interest.*

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:

*In order to meet the 25% rule, owner would have to make significant changes to the apt. area, thus resulting in an unnecessary hardship to the owner. The general purpose of the ordinance is thereby respected and maintained.*

b. the proposed use is a reasonable one because:

*Accessory apts. are an allowed use in Zone R, the structure remains unaltered and there would be no negative impact whatsoever on the neighborhood.*

Or

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.

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

It would prevent owner from having to make physical changes and incur unnecessary expenses and would allow him access to income needed to meet Durham's high property taxes.

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

As no physical changes or modifications are proposed, the moral character and physical scenic beauty of the neighborhood remain intact, thus preserving the essential nature of neighborhood. In addition, no detrimental effects would be felt by surrounding properties.

