

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.

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Town of Durham  
MAR 24 2014

**Appeal for Applicant**

Planning, Assessing  
Strafford, SS Zoning

State of New Hampshire

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

Name of Applicant: Young Drive LLC Att: Francis Chase

Address: 14 New Zealand Rd Box 2815 Phone # 603 758 7200  
Seabrook NH 03874

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

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

Location of Property: 10 Young 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) 4-42-9 120, 130, 175, 130.

\_\_\_\_\_  
\_\_\_\_\_

**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 IX Section 175.29.B

175.29.B 1 thru 4

**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 XI Section 175-46.F.1 <sup>or</sup> of the Zoning Ordinance to permit See ATTACHED

① Parking assumed not on side or rear

② Parking assumed area in front yard

Facts supporting this request:

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

*See Attached*

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

*See Attached*

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:

and

b. the proposed use is a reasonable one because:

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.

*See Attached*

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

*See ATTACHED*

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

*See ATTACHED*

**APPLICATION FOR VARIANCE  
YOUNG DRIVE  
DURHAM NH**

**A Variance is requested from article XIII (Wetlands) of the Zoning Ordinance to permit building upon a lot utilizing former wetland setbacks rather than the newly instituted wetland setbacks.**

**In support of this request:**

**I. There will be no decrease in value of surrounding properties**

**The proposed building will take place within a Planned Development that already exists. The new construction will mirror the structures already in place and serve the same purposes. This proposal is to finish what was initially proposed for the current subdivision and will enhance rather than diminish the value of the current properties in the area.**

**II. Granting the Variance would not be contrary to the public interest**

**The proposal would finish what was initially planned by the developer and the Town of Durham. The buildings would provide secure and reasonable housing to the general public as well as students attending the University. Further, this development provides affordable housing options that assist with compliance with Workforce Housing needs for the community of Durham.**

**III. (B) Owing to the 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**

**The property is in a Planned Development with lots created given the wetland setback regulations in force at the time of approval. If required to strictly comply with the current setback requirements the proposed development could not be completed. Any building would be contrary to the original planned intent of the property as a whole.**

**IV. By granting the Variance substantial justice would be done**

**Final stages of the original Planned Development could be completed. Affordable housing would be added to the Town of Durham. The wetlands would still be protected, which is the intent of the setback requirements. The full potential of this development would have a positive impact on both the developer and the Town of Durham.**

**V. The use will not be contrary to the spirit and intent of the ordinance**

**The intent of the ordinance is to protect the wetlands while still allowing for development. The previous wetland requirements also were intended to protect the wetlands while still allowing for development. This Planned Development was proposed under the previous wetland setback requirements and approved by the Town of Durham. But for circumstances beyond the control of the present developer the lots in question would have been developed using the previous setback requirements. By granting the variance, the wetland protection concerns will be addressed and affordable housing will be added to the community as originally planned.**