

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 Art IX Section 175-30(A), of the Zoning Ordinance to permit Continuance of a Non-conforming Building or Structure (previously granted).

Article Art IX Section 175-30(D)(3)(c) of the Zoning Ordinance to permit a cumulative increase in footprint exceeding 15% in a WCO and SPO district. Proposed footprint will expand by 62%. This footprint was approved with the previous variance.

Article Art IX Section 175-30(D)(3)(d) of the Zoning Ordinance to permit useable building volume exceeding 30% in a WCO and SPO. The proposed modification is for 18854 cu ft or 142% additional cu ft.. The formerly approved variance was for 17754 cu ft or 6% less than this proposal.

Article Art XII Section 175-54 of the Zoning Ordinance as this property is non-conforming due to being less than 150,000 sf (town has listed it as 1.14 acres), contains less than the 300' minimum frontage and the approved/existing variance is for a garage being built 23' from abutting neighbor versus the 50' required (previously granted). The garage approved in the previous variance for a 30' height will be changed to 1 story (approx. 15').

Article XIII Section 175-59(A) of the Zoning Ordinance as the proposed structure falls within the wetlands buffer.

Article Art XIV Section 175-74(A) of the Zoning Ordinance as the proposed structure falls within the shoreland setback. Note that per the previous variance, we have proactively replaced and relocated the septic system to 125' to meet shoreland requirements and removed a large shed. This property meets the minimum shoreland frontage requirement and no vegetation or tree growth is being altered in this proposal within the 125' set back. One large Rhododendron outside the 125' setback will be relocated.

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:

The renovations as described will be consistent with surrounding properties and due to the surrounding vegetation, no abutting properties can or will be able to see the house, although it is

possible that the current, closest abutter may be able to see the garage and breezeway from the edge of his property. No additional impact to surrounding properties or the environment will occur after the proposed changes are completed. Approximately \$150,000 in renovations will take place, replacing all of the first floor (kitchen, bath, flooring, windows) providing for a substantial improvement in property value and energy efficiency. In addition, we have already invested \$13,000 into a new stone and pipe septic system. These renovations will improve property values as this house is assessed by the town as \$116,000 lower in value than the average of the four other properties in the neighborhood.

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

All buffers along the river are being maintained, will remain undisturbed and additional native vegetation is being planted to ensure runoff and erosion is further minimized. There is no tree cutting or removal required. New structures are being built as far from the Lamprey River as possible and the second story will have minimal visual impact to boaters as mature tree canopy prevents much of the house from being seen now. Four conifers are growing directly in front of the house now and will continue to reduce the ability of boaters to see any part of the house in the future. The proposed changes will allow for a garage that will prevent oil and vehicle residues from entering the Lamprey River. Neighbors will not be affected.

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:

The existing property is 1.14 acres according to town records versus the 150,000sf required in the Rural zone and is presently limited to a 2 bedroom septic system due to its size and proximity to wetlands. The approved variance for this two bed home/septic permits an expansion of living space which results in the two bedrooms being separated on two different floors and in two different building structures separated by two exterior doors and a breezeway. This is an unusual layout for a two bed, single family home and results in two separate structures for living quarters. Our youngest daughter has epilepsy and with the current variance, she would be forced to sleep in one structure, far enough away that we could not assist her in an emergency or even be aware of one. The proposed modifications to the property would result in a common 2-bed home layout which is consistent in layout and form to the two closest neighbors and this home would remain one of the smallest houses in the neighborhood at 1704sf of living space.

and

b. the proposed use is a reasonable one because:

The property would become significantly more valuable after full renovation and upgrades, the new layout would create a home with the most common bedroom configuration (both on same floor) appealing to most families, the changes are consistent with other homes in the neighborhood, no

impact to the wetlands or shore land will result during or after the changes are completed and potential impact of pollutants to the river will be reduced. This proposal removes the potential for an accessory apartment in a quiet, rural, waterfront 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.

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

The home would be renovated to become a conventional layout with two beds on the same floor eliminating the accessory apartment, the parents would be near their epileptic child in case of an emergency, the property would be substantially improved and upgraded with a garage to prevent any oils/gas/salts from leaching into the soil thus affording improved environmental protection, substantial energy efficiency would be realized and the home would be architecturally consistent with other homes in the neighborhood, yet would remain one of the smallest.

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

No additional encroachment into the buffer or setback is being requested beyond what has already been approved. There is no additional footprint impact to the previously approved variance. The new owners fully support the protection of the Lamprey River and have proactively replaced a failing septic system with a stone and pipe system as agreed to in the original variance request in 2004 as well as proactively removed a large shed located 60' from the river's edge. All proposed work has been and will be done within the spirit of the ordinances, with full attention to environmental impact including the use of natural red cedar shingles, minimal-impact outdoor lighting, and the use of green or brown trim paint colors which do not call attention to the home as boaters pass by in the river. The planting of additional native plants and trees will further reduce visual impact for any boaters and improve erosion control. Additionally, the requested variances will result in changes that are consistent with the surrounding homes in the neighborhood, therefore maintain the same rural character.