



RECEIVED
Town of Durham
JUL 27 2015

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

FEE LEGAL = 150
REVIEW = 50
ABBUTTERS = 28
TOTAL = \$228.00

Planning, Assessing
and Zoning

ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

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.

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2880

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.

Appeal for Applicant State of New Hampshire Strafford, SS To: Zoning Board of Adjustment, Town of Durham NH 03824

Name of Applicant: Christopher Levesque

Phone # 603-759-2359 Email: levesquebuilders@msn.com

Owner of Property Concerned: Emily R Hart Rev Trust

Address: 14 Cedar Point Road, Durham NH

Location of Property: 16 Cedar Point Rd., Durham

Description of Property (Give Tax Map number, length of frontage, side and rear lines and other pertinent descriptive information)

Tax Map 12, Lot 1-24. The lot is 0.36 acres located on both sides of Cedar Point Rd. The total road frontage is approximately 140 ft. The water frontage is approximately 70 ft. Accurate description is best found on detailed plot plan submitted.

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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 XII-Section 175-54, Article XIII-Section 175-59(A) and Article XIV-Section 175-74(A) of the Zoning Ordinance to permit the construction of a single family residence with a detached accessory apartment within the general setbacks, inside the wetland setback and within the shoreline setback respectively.

1. No decrease in the value of surrounding properties would be suffered by building within the setbacks because the location of the proposed residence is not only similar to the existing structure with respect to sidelines but is also consistent with the magnitude of setbacks throughout the neighborhood.
Likely, by replacing the existing structures that are in poor condition and replacing them with a tasteful, modest and well-constructed home the project serves to improve the area thus raising property values on Cedar Point.
2. Granting a variance on setbacks would not be contrary to the public interest because the project maintains lot usage that is consistent with the current structure as well as many of the other properties in the area. Given that fact, new construction provides public benefit in several ways. First, by utilizing subsurface waste disposal the unsightly and otherwise undesirable chemical toilet is eliminated. Second, the proposed house has been pulled back as much as possible from

the shoreline protection area. Though not an enormous move the additional space provides greater opportunity for a vegetative buffer and greater protection for our common waterways. Third, a new highly efficient home that is 2015 IECC compliant serves the greater good through lower impact living. Fourth, the town benefits from the increased tax revenue associated with an improved property.

3. (B) Owing to the small nature of the lot the property cannot be reasonably used in strict conformance with the ordinance because all required setbacks are overlapping leaving no compliant location to rebuild a new structure. Only with variance on setbacks can one expect to continue to utilize this lot in a way that is consistent with the neighborhood and its own historical use. This is true of the proposed structure as well as any other possible replacement structure for this lot.
4. By granting variance on setbacks substantial justice would be done because it will permit the owner to utilize and enjoy their property in a way that others in the neighborhood utilize and enjoy their property and do so without adverse impact on abutters. The proposed use will be in keeping with its current use only with improvements with to aesthetics, sanitation, shoreline setback and energy consumption. Overall, proposed setbacks are more generous than many neighboring structures.
5. The use is not contrary to the spirit and intent of the ordinance because the use is unchanged. One can only assume the spirit and the intent of the setbacks are to maintain reasonable buffers for both neighbors and the environment while maintaining the character of a given area. Every attempt has been made to be mindful of the impact this structure may have on its surroundings. The structure itself is modest and was scaled to fit the existing space. The body of the proposed structure is further from the water than the present structure. Additional land along a side line was recently purchased to provide maximized space for setback. Old accessory structures are marked for removal. Overall, when comparing the proposed structure and present structure, the proposed structure is 12 inches closer on one side line and there is a 12 ft. improvement on the other. Excluding steps and wooden decks the proposed structure is over 9 ft. further from the water. Finally, with respect to front line setback the garage is far further from the street than many of the neighboring structures.

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 -Section 175-30(D)(3)(c&d) of the Zoning Ordinance to permit the construction of a single family residence that represents a footprint enlargement greater than 15% and a volume increase of greater than 30%.

1. No decrease in the value of surrounding properties would be suffered because the proposed structure is designed to be in keeping with the character and scale of its surroundings. Additionally, it would stand as a vast improvement over the current structure which is in disrepair and has several dilapidated accessory structures that would be removed. The proposed reconstruction will likely serve to raise property value.
2. Granting a variance on building size would not be in contrary to the public interest because the basic use of the lot is unchanged. Moreover, the total lot coverage, even with a small accessory apartment, is well under the 20% maximum. The additional size of the building is neither injurious nor obstructive to neighbors. In fact, much of the additional size of the primary structure is due to the addition of a single car garage which provides a measure of storage and concealment for various items such as boats, bicycles, lawn furniture and garbage cans that would otherwise be in the public eye. These benefits are in addition to the primary purpose of concealed vehicle storage on a slab which will mitigate environmental impacts associated with leaking oil or coolant that can occur. The public interest is best served by the presence of a tidy, inhabitable, efficient structure with functional sanitary systems. This will stand in contrast to the three current structures that are severely degraded, highly substandard with respect to energy and reliant on a portable chemical toilet for sanitization.
3. (A)a. Owing to the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because no fair and substantial relationship exists between the general public purpose of the ordinance and the specific application of that provision to the property. The subject property is a single bedroom structure with various outbuildings that when compared to many of the surrounding properties is very small and occupies a relatively small portion of the overall available acreage. The public purpose of the ordinance is to reasonably restrict growth and expansion that would be out of character with the surroundings and a property's historical use. The specific application of the 15% and 30% area and volume restrictions to such a small property merely result in another comparatively small building when viewed against that of neighboring properties. The specific application of the ordinance would result unnecessary hardship in that it would prohibit the owners from utilizing and enjoying their property in the same fashion and to the same degree as the rest of the neighborhood.

4. By granting the variance substantial justice would be done because a single standard would be applied across the board for Cedar Point Road. Cedar Point, like many older established coastal areas, is characterized by relatively dense development when compared to our current standards for land division and property setbacks. Despite numerous expansions and rebuilds Cedar Point has maintained its character even with many concessions made with respect to allowable building size and setback. Granting this variance would merely be an extension of flexibility given to others in recent times when they sought to improve their property in this same area.
5. The use will not be contrary to the spirit and intent of the ordinance because the use is principally unchanged. The property will still be home to a small single family dwelling that is in keeping with the scale and character of the surroundings. Overall proposed lot usage and relative building size are actually smaller than one will find in a quick visual survey of the neighborhood. The spirit and intent seeks to curb development that is too dense and to rightfully protect the character of a given area. The proposed two bedroom house is designed to be an efficient use of available space that is located in a way that is both mindful of how the abutters utilize their space and cognizant of how a new building can affect the landscape.