

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

JUL 10 2015

Planning, Assessing
and Zoning
Strafford, SS

Appeal for Applicant

State of New Hampshire

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

Name of Applicant: River's Edge Apartments

Address: 277 Main Street, Durham On-site Mgr - Jeff Berlin
Phone # 603-953-4014

Email: rpavone@wovenholdingsllc.com>

Owner of Property Concerned: 277 Main Street, LLC - Ralph Pavone, Mgr.
(If same as above, write "Same")

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

Location of Property: 277 Main Street, Durham
(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) Tax Map 9, Lot 8-2

*#306.
Pd. 7/10
check #
73516*

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 _____ 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: 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 175-53 Section B of the Zoning Ordinance to permit the combining of 2 two bedroom units into a single 5 bedroom unit,

Facts supporting this request:

1. No decrease in value of surrounding properties would be suffered because:
Neither the outside of the building will change, nor the apartment square footage
or occupancy. It does not change any septic system requirements or increase vehicle
traffic to the property. This large apartment building is already in a multi-unit zone.
2. Granting the variance would not be contrary to the public interest because:
The apartment building already contains numerous multi-bedroom apartments, and this
request does not change the use or number of occupants.

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:

There are no changes to the exterior or use of the building. It allows another cost option for students struggling to pay for housing for college. In the event that the building later transforms to non-student housing, this would likely be a highly sought after apartment, particularly with the inclusion of an in-unit washer/dryer, which substantially increases its value.

and

- b. the proposed use is a reasonable one because:

Combining two 2 bedroom units into a 5 bedroom unit will allow for amenity upgrades including the addition of a washer/dryer within the unit. Students will each have their own individual sleeping and study space in a shared apartment, thus cutting the cost for each of them, making the living arrangement more affordable.

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:

See below.

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

See below.

4. The owner owns one single large apartment building distance from most residences. Prior to 2014, the variance sought was possible under Town ordinances and in the summer of 2014 this Board granted a variance identical to the one sought here. In short, a denial of this variance would create a situation where an identical apartment was permitted in the same building when this would not. Such an outcome grants substantial justice to the owner.

5. The variance would continue to maintain multi-dwelling nature of the building as student housing, but would upgrade the living amenities and give students an additional option of how to share costs. In addition, River's Edge provides an atmosphere conducive to serious students, and combining these units will not change that commitment.