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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)

See Attached Site Plan

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Town of Durham

SEP 28 2015

Planning, Assessing
and Zoning

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 175-09A of the Zoning Ordinance to permit the construction of a detached accessory apartment within the general setbacks of the RC zone.

1. No decrease in the value of surrounding properties would be suffered by building within the setbacks because the location of the proposed accessory unit is located and sized in such a way that maximum possible setbacks were achieved. The setbacks on the proposed structure are greater than those of many neighboring properties.
2. Granting a variance on setbacks would not be contrary to the public interests because the proposed setbacks do not have material impact on abutters due to the highly vegetated surroundings. Additionally there is no encroachment on public ways or sensitive environmental areas.
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 or the environment. Many structures in this small community are built in much closer proximity to shore lands, wetlands and property boundaries.
5. The use is not contrary to the spirit and intent of the ordinance because the use is consistent with the use of surrounding properties. 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. Single story designs were abandoned for a smaller two story approach. Effected abutters were consulted with respect to location and plantings were offered as an additional buffer.

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 175-109(D)(3) of the Zoning Ordinance to permit the construction of an accessory dwelling unit that is greater than 25% of the total floor space of the single family dwelling to which it is accessory.

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. The dwelling unit will be located in a way that maximizes setbacks and will have only minimal visibility from neighboring lots.
2. Granting a variance on building size would not be in contrary to the public interest because the basic character of the area is unchanged. Moreover, when considering total coverage, even with a small accessory apartment, the total construction is well under the 20% maximum. The additional size of the building is neither injurious nor obstructive to neighbors. The additional size does not result in uncharacteristic encroachment on property lines or sensitive environments.
3. (A)a. Owing to the special conditions of the property that distinguish it from other properties in the area, denial or 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 general public purpose of this ordinance is to maintain the development density and general character of an area. In an effort to make the project both passable to the board and palatable to neighbors the primary dwelling unit is designed as a relatively modest two bedroom house with a single car garage. The total

useable floor space is approximately 1600 square feet. Due to the small area of the primary dwelling the accessory apartment would be limited to just 400 square feet. This is an extremely small area to include all the items needed in a stand-alone dwelling. Specific application of this ordinance would result in a dwelling that is both prohibitively small and economically inviable.

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 character and the integrity of the neighborhood is unchanged. The property will still be home to a small single family dwelling and an accessory dwelling that are 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 accessory dwelling 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.