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Town of Durham

MAR 21 2016

Planning, Assessing  
and Zoning

**Appeal for Applicant**

\$214 pd. 3/21  
check # 2628

State of New Hampshire

Strafford, SS

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

Name of Applicant: Scott Righini

Address: 79 Piscataqua Rd, Durham NH Phone: 603-868-3553 Email: [srighini@comcast.net](mailto:srighini@comcast.net)

Owner of Property Concerned: Adam Fogg, Patricia Nagle

Address: 149 Mill Rd, Durham NH

Location of Property: 149 Mill Rd, Durham NH

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

Tax Map 14, Lot 7-5

See Attached Site Plan for further details

**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 Variance 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 XX Section 175-109(D)(2) of the Zoning Ordinance to permit the expansion of an accessory apartment that will result in the apartment being greater than 25% of the total floor space of the dwelling in which it is located.

1. No decrease in value of the surrounding properties would be suffered because the proposed addition to the existing apartment will be in keeping with the character of the existing structure. Furthermore, the proposed addition will be located on the back side of the garage which will minimize visibility from the road and neighboring lots.
2. Granting the variance for the proposed addition to the accessory apartment would not be contrary to the public interest because the character of the neighborhood will unchanged and the addition will be unobtrusive to neighbors.
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 general purpose of this ordinance is to control the population density of rural and residential zones. The proposed addition will not increase the potential occupancy of the existing studio apartment.

For two years we have been searching for a residence in Durham with a house to accommodate my family and an accessory apartment which could accommodate my parents. This is the only residence we have found with the appropriate facilities, and only requiring a an increase in the apartment square footage. In addition, this property is located directly across from an assisted living facility. This property will allow my parents a smooth transition to this facility when they require more care than I can provide.

- b. The proposed use is a reasonable one because: The existing studio apartment has an area of 754 sqft (22.6% of the total area of the dwelling). The proposed addition would result in a one bedroom apartment with an area of 1066 sqft (29.7% of the total area of the dwelling). This additional 5% over the ordinance limit will allow 2 adults to occupy the apartment in a reasonable and comfortable manner.
4. By granting the variance substantial justice would be done because it would allow my family to remain in Durham while providing my parents a place to live comfortably with the independence they deserve and yet close enough for me to provide the support they will need. All while having no negative impact on the surrounding area or neighborhood.
  5. The use will not be contrary to the spirit and intent of the ordinance because the overall character of the residence will not be changed and the potential occupancy of the residence will remain the same.

Apartment Gross Square Footage

		Current	Proposed
First Floor	40' x 30'	1,200	1,200
Mudroom	(10'x16')+(2'x10')	180	180
Total First		1,380	1,380
Second Floor Home	40' x 30'	1,200	1,200
Apt	29' x 26'	754	1,066 w/ additional 312 sq ft
		1,954	2,266
Total Gross Sq Ft of Single Family Dewlling		3,334	3,646

Apt %	22.6%	29.2%
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