

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.

### Appeal for Applicant

State of New Hampshire

Strafford, SS

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

Name of Applicant: John Randolph (Harmony Homes by the Bay)

Address: 1 Stagecoach Road, Durham, NH Phone # 603-834-2317

Email: finallyhomeproperties@hotmail.com

Owner of Property Concerned: Eric Chinburg (Grant Development, LLC)  
(If same as above, write "Same")

Address: 3 Penstock Way, Newmarket, NH 03857  
(If same as above, write "Same")

Location of Property: W. Arthur Grant Circle Map 11 Lot 27-1 to 27-7  
(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) The parcel consists of 7 commercial lots all with frontage on W. Arthur Grant Circle. The lots will be consolidated into a single parcel and developed as an eldercare facility. The parcel details and proposed facility are shown on the enclosed plans.

**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.

RECEIVED  
Town of Durham

DEC 23 2015

Planning, Assessing  
and Zoning

**SECTION 2: APPLICATION FOR SPECIAL EXCEPTION**

**\*\*Any Special Exceptions 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.\*\***

Description of proposed use showing justification for a Special Exception as specified in the Zoning Ordinance Article \_\_\_\_\_ Section \_\_\_\_\_

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**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: \_\_\_\_\_

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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 175-53 of the Zoning Ordinance to permit \_\_\_\_\_

see addendum

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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:

\_\_\_\_\_  
see attached  
\_\_\_\_\_

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

\_\_\_\_\_  
see attached  
\_\_\_\_\_

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:

\_\_\_\_\_  
see attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and

b. the proposed use is a reasonable one because:

\_\_\_\_\_  
see attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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:

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see attached

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

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see attached

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ADDENDUM A: APPLICATION FOR A VARIANCE – HARMONY HOMES BY THE BAY, W. ARTHUR GRANT CIRCLE

A Variance is being requested from Article XII, Section 175-53 Table of Uses of the Zoning Ordinance to permit a horse stable as an accessory use to the eldercare facility.

- 1) No decrease in value of surrounding properties would be suffered because:  
The granting of the variance will not decrease surrounding property values because the horse stable and paddock will be on the conservation easement area which encompasses the entire front 11 +/- acres of the 28-acre parcel. The area will remain as an open meadow meeting the goal of the business park design guidelines.
- 2) Granting the variance would not be contrary to the public interest because:  
The viewshed from Route 4 will be maintained essentially in its current state. The intent of the Durham Business Park Design Guidelines is to develop the parcel in a way that preserves the significant views, vegetation, and the existing land forms. The project has been conditionally approved and meets these requirements.
- 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: This particular property has a large open meadow that has been encumbered by a conservation easement to protect it from development. Therefore, this area is ideal for agricultural use, in a way that maintains its current openness without construction of structures or changing of grades. The area is large enough and suitable for horses without overburdening the particular property or other properties in the area, and therefore no fair and substantial relationship exists between the purpose of the use restriction and its application to this parcel.
  - b) the proposed use is a reasonable one because: The area is adequate in size, the horses will not be a detriment to the viewshed from the public way, and there would be a substantial therapeutic benefit to the residents.
- 4) By granting the variance substantial justice would be done because: The viewshed and character of the parcel will not be negatively impacted either way. The general public would realize no appreciable gain from denying the variance.
- 5) The use will not be contrary to the spirit and intent of the ordinance because:  
The project as approved maintains the spirit and intent of the ordinance by fitting the development into the existing landscape, thereby preserving the existing viewshed and character of the area.

December 11, 2015

Durham Zoning Board  
Durham Town Hall  
8 Newmarket Road  
Durham, NH 03824

Dear Chairman and Members of the Board:

I hereby authorize John Randolph of Harmony Homes to file an application requesting a variance associated with a proposed eldercare facility to the Durham Zoning Board of Adjustment. The subject parcel is shown on Tax Map 11 as Lot 27-1 through 27-6 and is known as the Durham Business Park located on Route 4.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Chinburg". The signature is written in a cursive, flowing style with a large initial "E".

Eric Chinburg  
Grant Development, LLC

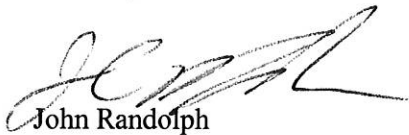
Friday, December 11, 2015

Durham Zoning Board  
Durham Town Hall  
8 Newmarket Road  
Durham, NH 03824

Dear Chairman and Members of the Board:

I hereby authorize MJS Engineering, P.C. to represent me at the Durham Zoning Board meetings as applicant for a proposed eldercare facility. The subject parcel is shown on Tax Map 11 as Lot 27-1 through 27-6 and is known as the Durham Business Park located on Route 4.

Sincerely;

A handwritten signature in black ink, appearing to read "John Randolph", is written over the typed name.

John Randolph  
Harmony Homes