

February 20, 2017

Sean Starkey, Chair
Durham Zoning Board of Adjustment
8 Newmarket Road
Durham, NH 03824

RECEIVED
Town of Durham
FEB 20 2017
Planning, Assessing
and Zoning

Re: Variance Request for Katie & Kevin Jacques 2 Riverview Rd, Map 11 Lot 13-18

Dear Chairman Starkey and Board Members:

We, Kevin & Katie Jacques, owners of the subject parcel have filed an application with the Zoning Board of Adjustment for variance relief. The purpose of this letter is to provide the Board with general information related to the site and supporting documentation for their request.

EXISTING CONDITIONS

The subject parcel is located at 2 Riverview Road, and consists of approximately .92 Acres. The road frontage on Riverview Road is approximately 225' and the average depth of the lot is approximately 190'. The parcel is currently improved with a single family home, accessory shed and paved driveway. The parcel has a septic system and well.

THE PROPOSAL

We, the property owners, are proposing to construct a garage addition. The second floor of the garage will be a living room and small office. The uses are allowed in the Rural District, but the location of the existing structure, within the wetland protection overlay district, makes the structure non-conforming with respect to setback in that district. No additional bedrooms or bathrooms are proposed with this addition, therefore, no change septic system or well will be required.

Based on review of the zoning regulations, it was determined that one variances will be required. The following is the variance to be requested:

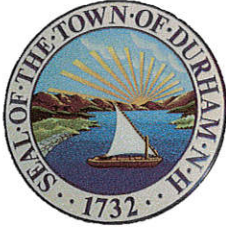
1. Article XIII Section 175-59 to allow a structure to be built within 100' of an existing wetland.

The variance application and supporting documentation are attached to this submission. Thank you for the consideration.

Sincerely,



Kevin & Katie Jacques
2 Riverview Road



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

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Planning, Assessing
and Zoning

ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

\$ 242⁰⁰
pd. 2/20
Check #
1030

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.

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.

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: Kevin & Katie Jacques

Address: 2 Riverview Rd Phone # 603-315-0378

Email: katielynn_1@yahoo.com

Owner of Property Concerned: Same
(If same as above, write "Same")

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

Location of Property: 2 Riverview Rd
(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) Map 11, lot 13-18. Frontage along Riverview Road

is 227.50 feet, west side 184 feet, east side (along Rt. 4) 200 feet, and rear is 195 feet.

The total lot area is .92 acres. The property is currently improved with a single family home and shed.

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

****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 _____

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: 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 XIII Section 175-59 of the Zoning Ordinance to permit add an attached garage addition within 100' of a wetland at 2 Riverview Road.

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 addendum

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

See attached addendum

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 addendum

and

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

See attached addendum(s)

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:

See attached addendum

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

See attached addendum

ADDENDUM A: APPLICATION FOR A VARIANCE – Katie & Kevin Jacques, 2 Riverview Road

A Variance is being requested from Article XIII, Section 175-59 of the Zoning Ordinance. The variance request is to permit a structure to be constructed within a 100' buffer of a wetland. 1) No decrease in the value of surrounding properties would be suffered because: The table of uses within the rural district allows for single family dwellings and accessory apartments. The impact to the wetland would be no greater than it is currently. The proposed construction of the attached garage addition to the existing single-family home is reasonable and not out of scale with other structures in the surrounding neighborhood. Therefore, there will be no decrease to surrounding properties due to this proposal.

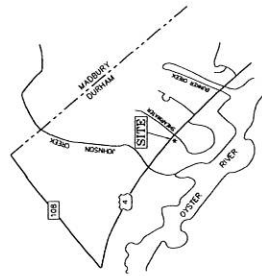
2) **Granting the variance would not be contrary to the public interest because:** the addition and use is not out of scale nor different from other properties in the neighborhood. There will be no greater detriment to the wetland because of this addition and use than what currently exists on the subject property or similar properties developed for single family uses within wetland buffers. The size and scale of the addition is reasonable. A portion of the area where the addition and use is proposed, has been previously disturbed within the WCO buffer as a paved driveway exists there, therefore no additional area is being disturbed for this proposal.

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 property is currently developed within the WCO buffer in this location, and there is no other location on the property, outside of the buffer, where the attached addition and use, within the attached addition, can be constructed, therefore creating an unnecessary hardship to the owners to accomplish their goal of constructing a reasonably sized single family home on a .92 acre lot. In addition, the buffer area where the addition and use are being proposed is currently disturbed and being used for a paved driveway. The existing wetland on the property does not show evidence of being negatively impacted by the current use on the property, therefore the proposal is not contrary to the general purpose of the ordinance provision.

b) **The proposed use is a reasonable one because:** the single-family residential dwelling exists within the wetland buffer currently and this addition is not out of scale for the proposed use. The amount of soil disturbance will be minimized to only that required for the construction of the addition, and proper erosion control will be used, therefore, this is a reasonable use.

4) **By granting the variance substantial justice would be done because:** there is no gain to the general public by denial of the variance, but the loss to the owner is significant because the use is allowed in the district and this is the only location on the parcel that is reasonable given the existing conditions of the parcel. The area in question is currently disturbed, therefore, the proposal is appropriate and will not harm abutters or the nearby wetland, to any greater extent than what currently exists.

5) **The use will not be contrary to the spirit and intent of the ordinance because:** the buffer area is currently disturbed in a portion of the area proposed to for this addition. This addition and use proposed, will not cause any additional degradation to the wetland or buffer greater than what currently exists today on the property. Consequently, a portion of the existing paved driveway will be replaced with the building, thereby reducing the total area subject to soil erosion.



Frederick W. & Lynn Ellsworth
 1400 River View Road
 Durham, NH 03824
 Tax Map 11 Lot 31-3
 SCD# 3193/782

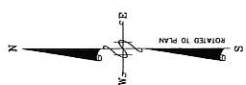
Shepherd Investments Assoc.
 PO Box 36
 Durham, NH 03824
 Tax Map 11 Lot 18-1
 SCD# 1864/278

James A. & Patsy N. Wilson
 84 Piscataqua Road
 Durham, NH 03824
 Tax Map 11 Lot 30
 SCD# 1812/785

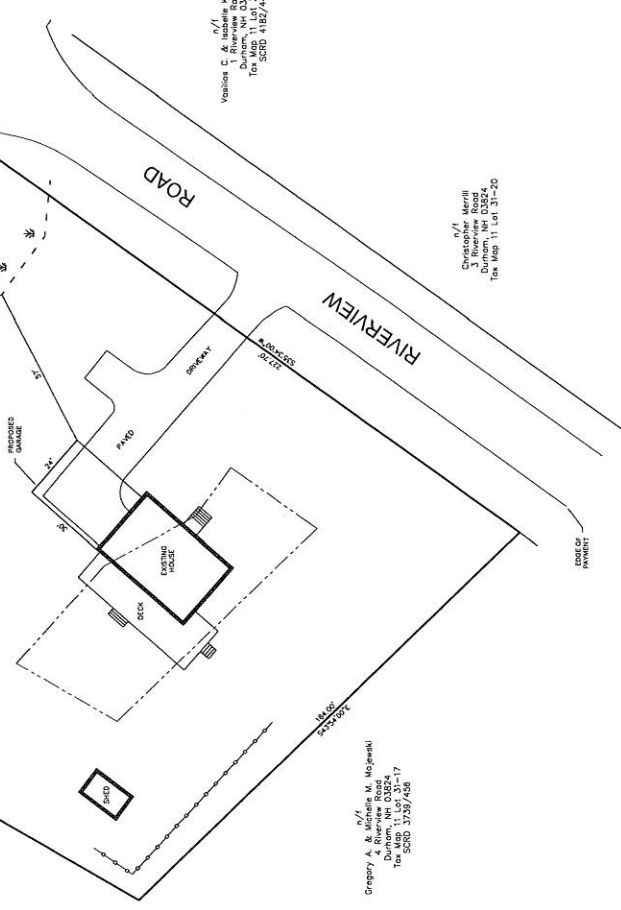
Vasilios C. & Isabelle Karpouzos
 1 River View Road
 Durham, NH 03824
 Tax Map 11 Lot 31-19
 SCD# 4182/448

Gregory A. & Michelle M. Mojski
 4 River View Road
 Durham, NH 03824
 Tax Map 11 Lot 31-17
 SCD# 3739/436

Cynthia M. Merrill
 3 River View Road
 Durham, NH 03824
 Tax Map 11 Lot 31-20



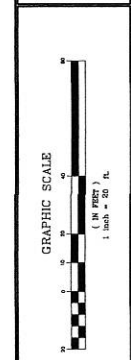
Lot 11-31-18
 40,000 SQ. FT.
 0.92 ACRES



- LEGEND**
- SCD# STRAFFORD COUNTY REGISTRY OF DEEDS
 - n/l NOW OR FORMERLY
 - BUILDING SETBACK LINE
 - - - POORLY DRAINAGE SOIL
 - - - WOOD FENCE

- NOTES**
1. RANDOM TRAVEL ERROR OF CLOSURE IS LESS THAN 1 PART IN 10,000.
 2. OWNERS OF RECORD:
 KEVIN R. & KATIE L. JACQUES
 2 RIVERVIEW ROAD
 DURHAM, NH 03824
 TAX MAP 11 LOT 31-18
 SCD# 4182/448
 3. REFERENCE PLAN:
 "PROJECT & SURVEY-CASTLES RIVER DEVELOPMENT SECTION
 -DURHAM, NEW HAMPSHIRE" BY S.L. JAMES & ASSOCIATES
 DATED FEBRUARY 21, 1999
 SCD# PLAN NO. 304 P4 T3
 4. ZONING DIMENSIONAL AND DENSITY REQUIREMENTS ARE AS FOLLOWS:
 a. ZONING DISTRICT: RESIDENTIAL C (RC)
 b. MINIMUM LOT FRONTAGE IS 300 FT.
 c. MINIMUM LOT DEPTH IS 100 FT.
 d. BUILDING SETBACKS: FRONT: 40'
 REAR: 50'
 SIDE: 50'
 PUBLICLY DRAINAGE SCALE: 100'

DATE	DESCRIPTION	BY	CHKD.	APP.



ATLANTIC SURVEY CO., LLC
 149 Mill Road, Durham, New Hampshire 03824
 603-559-8839

PREPARED BY: SURVEYORS
 PLANNERS
 SEPTIC DESIGNERS

DATE: January, 2017
 SHEET 1 of 1

FIELDWORK BY: AF
 DESIGNED BY: AF
 CAD FILE: 1814B
 PROJECT NO.: 1814B

SURVEY PLOT PLAN
 PREPARED FOR
Kevin R. & Katie L. Jacques
 LOCATED AT
 2 River View Road, Durham, N.H.